

2009 No. 2930

PENSIONS

The Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009

<i>Made</i>	- - - -	<i>2nd November 2009</i>
<i>Laid before Parliament</i>		<i>9th November 2009</i>
<i>Coming into force</i>	- -	<i>1st December 2009</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 12C(1)(c), 21(1), 28(4), 32A(2)(c), 71(6), 101C(2), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(a), sections 74(3)(e), 91(5)(c)(ii) and (iii), 124(1) and 174(2) and (3) of the Pensions Act 1995(b) and section 83(4) and (6) of, and paragraph 7(4) of Schedule 5 to, the Welfare Reform and Pensions Act 1999(c).

In accordance with section 185(1) of the Pension Schemes Act 1993(d), section 120(1) of the Pensions Act 1995 and section 83(11) of the Welfare Reform and Pensions Act 1999, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate(e).

Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009 and shall come into force on 1st December 2009.

Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

2. For regulation 5 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(f) (short service benefit in lump sum form), substitute—

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- (a) 1993 c.48. Section 12C was inserted by section 136(5) of the Pensions Act 1995 (c.26). Section 21(1) was substituted by section 284(1) of the Pensions Act 2004 (c.35). Section 28(4) was amended by paragraph 3(2) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19) and section 284(3) of the Pensions Act 2004. Section 32A(2)(c) was inserted by section 146(1) of the Pensions Act 1995. Section 101C was inserted by section 37 of the Welfare Reform and Pensions Act 1999 (c.30). Section 181(1) is cited because of the meaning it gives to “prescribe” and “regulations”. Section 183(1) was amended by paragraph 79 of Schedule 5, and paragraph 15(a) of Schedule 6, to the Pensions Act 1995.
- (b) 1995 c.26. Section 74(3)(e) was inserted by section 270(2)(c) of the Pensions Act 2004. Section 91(5) was amended by paragraph 57(4)(a) of Schedule 12 to the Welfare Reform and Pensions Act 1999 and section 91(5)(c)(ii) was amended by S.I. 2005/2053. Section 124(1) is cited because of the meaning it gives to “prescribed” and “regulations”.
- (c) 1999 c.30.
- (d) Section 185(1) was amended by paragraph 46 of Schedule 3, and paragraph 80(a) of Schedule 5, to the Pensions Act 1995.
- (e) Some of the provisions in these Regulations were included in the draft Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615), which were consulted upon from 8th December 2008 to 30th January 2009. They were removed from those Regulations before they were made and placed into these Regulations.
- (f) S.I. 1991/167. Regulation 5 was substituted by S.I. 2007/814.

“Short service benefit in lump sum form

5. For the purposes of section 71(6) of the Act (basic principle as to short service benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of short service benefit in the form of a lump sum before normal pension age are that the payment of a lump sum—

- (a) to the member is permitted in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004^(a) (lump sum rule); or
- (b) is—
 - (i) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));
 - (ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009^(b); and
 - (iii) made to or in respect of a member.”.

Amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996

3. In regulation 5 of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996^(c) (conditions upon which appropriate policies of insurance may be commuted)—

- (a) in paragraph (1), for “paragraph (2)” substitute “paragraph (2), (2A)”, and
- (b) after paragraph (2), insert—

“(2A) This paragraph is satisfied if the lump sum payment is—

- (a) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));
- (b) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
- (c) made to or in respect of a member.”.

Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996

4.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996^(d) are amended in accordance with this regulation.

- (2) In regulation 1(2) (interpretation)^(e), after the definition of “the 2004 Act” insert—

““the 2009 Regulations” means the Registered Pension Schemes (Authorised Payments) Regulations 2009;”.

(3) In regulation 20(1) (payment of a lump sum instead of a pension payable under a relevant scheme)^(f)—

- (a) immediately before sub-paragraph (a), omit “is permitted either”,
- (b) in sub-paragraphs (a) and (b), insert at the beginning “is permitted”, and
- (c) after sub-paragraph (b), insert—

“; or

- (c) is—

(a) 2004 c.12.

(b) S.I. 2009/1171.

(c) S.I. 1996/775. Relevant amending instrument is S.I. 2006/744, which substituted regulation 5.

(d) S.I. 1996/1172.

(e) Relevant amending instrument is S.I. 2005/3377, which inserted the definition of “the 2004 Act”.

(f) Regulation 20 was substituted by S.I. 2006/744.

- (i) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));
 - (ii) a payment that is described in Part 2 of the 2009 Regulations; and
 - (iii) made to or in respect of a member.”
- (4) In regulation 60(1)(b)(i) (payment of a guaranteed minimum pension as a lump sum)(a)—
- (a) omit “qualifies as”,
 - (b) in sub-paragraphs (aa) and (bb), insert at the beginning “qualifies as”, and
 - (c) after sub-paragraph (bb), insert—
 - “(cc) is made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)), is a payment that is described in Part 2 of the 2009 Regulations and is made to or in respect of a member; or”.

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

5. In regulation 8 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(b) (giving effect to protected rights by the provision of a lump sum)—

- (a) in paragraph (1), for “either paragraph (1A)” substitute “paragraph (1A), (1AA)”, and
- (b) after paragraph (1A), insert—

“(1AA) This paragraph is satisfied if the lump sum payment is—

- (a) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));
- (b) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
- (c) made to or in respect of a member.”.

Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996

6. For regulation 8(6)(b)(i) of the Occupational Pension Schemes (Winding Up) Regulations 1996(c) (requirements to be satisfied by transferee schemes, annuities etc.), substitute—

“(i) of a lump sum—

- (aa) that is a trivial commutation lump sum or a winding up lump sum for the purposes of Part 1 of Schedule 29 to the Finance Act 2004(d) is made to a member; or
- (bb) is made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member; and”.

(a) Regulation 60 was substituted by S.I. 2006/744 and amended by S.I. 2006/1337.
 (b) S.I. 1996/1537. Relevant amending instrument is S.I. 2006/744.
 (c) S.I. 1996/3126. Regulation 8(6) was inserted by S.I. 2005/706 and amended by S.I. 2007/1930.
 (d) See paragraphs 7 to 10 of Schedule 29 to the Finance Act 2004 (registered pension schemes: authorised lump sums: trivial commutation lump sum and winding up lump sum).

Amendment of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997

7. In regulation 2(1)(a) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(a) (commutation of a pension under an occupational pension scheme), after paragraph (ii) insert—

- “(iii) the earner or the earner’s widow, widower or surviving civil partner is a payment—
 - (aa) by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)); and
 - (bb) that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; or”.

Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000

8. In regulation 15 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(b) (disqualification as a destination for pension credit – annuity contracts and insurance policies)—

- (a) in paragraph (4)—
 - (i) omit the word “either”, and
 - (ii) after sub-paragraph (a), insert—
 - “(aa) the condition set out in paragraph (5A) is satisfied; or”, and
- (b) after paragraph (5), insert—
 - “(5A) The condition referred to in paragraph (4)(aa) is that the lump sum payment is—
 - (a) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));
 - (b) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
 - (c) made to or in respect of a member.”.

Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000

9. For regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations 2000(c) (pension credit benefit in lump sum form), substitute—

“Pension credit benefit in lump sum form

3. For the purposes of section 101C(2) of the 1993 Act (basic principle as to pension credit benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of pension credit benefit in the form of a lump sum before normal benefit age are—

- (a) those which permit payment of a lump sum in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004 (lump sum rule); or
- (b) that the lump sum payment is—
 - (i) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”));

(a) S.I. 1997/785. Regulation 2(1) was substituted by S.I. 2006/744.
(b) S.I. 2000/1053. Relevant amending instrument is S.I. 2006/744.
(c) S.I. 2000/1054. Regulation 3 was substituted by S.I. 2009/615.

- (ii) a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
- (iii) made to or in respect of a member.”.

Signed by authority of the Secretary of State for Work and Pensions.

2nd November 2009

Angela Eagle
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend occupational and personal pensions legislation to update references to certain tax legislation.

The Registered Pension Schemes (Authorised Payments) Regulations 2009 (S.I. 2009/1171) (“the 2009 Regulations”) introduce new tax rules for pension schemes. They provide that some more payments made by pension schemes will be authorised payments, so will not attract some tax charges.

These Regulations update the following occupational and personal pensions legislation so that it refers to the new tax rules in the 2009 Regulations.

- The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167).
- The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775).
- The Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172).
- The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537).
- The Occupational Pension Schemes (Winding Up) Regulations 1996 (S.I. 1996/3126).
- The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (S.I. 1997/785).
- The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053).
- The Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054).

A full impact assessment has not been produced for this instrument as it has only a negligible impact on the private and voluntary sectors. An impact assessment was produced by Her Majesty’s Revenue and Customs of the Government’s intention to make the changes to the tax legislation. This accompanied the Budget announcement made on 12th March 2008 and is available on the HMRC website at <http://www.hmrc.gov.uk/budget2008/widen-scope-authpyt.pdf>.

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STATUTORY INSTRUMENTS

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