

2011 No. 733

INCOME TAX

**The Registered Pension Schemes (Transfer of Sums and Assets)
(Amendment) Regulations 2011**

<i>Made</i> - - - -	<i>14th March 2011</i>
<i>Laid before the House of Commons</i>	<i>15th March 2011</i>
<i>Coming into force</i> - -	<i>6th April 2011</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 169(1B), (1D) and (1E) of and 282(A1) of, and paragraphs 3(2B), 3(2C), 6(1B) and 6(1C) of Schedule 28 to, the Finance Act 2004 (a), and now exercisable by them (b).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Transfer of Sums and Assets) (Amendment) Regulations 2011 and shall come into force on 6th April 2011.

(2) These Regulations shall have effect from 6th April 2010.

Amendment of the Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006

2. The Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006(c) are amended as follows.

3.—(1) Regulation 4 (scheme pension payable by insurance company) is amended as follows.

(2) In Table 1 (prescribed purposes – scheme pensions) above the entry relating to section 216(1), benefit crystallisation event 2 insert—

“Section 165(1), pension rule 1	To determine whether the individual has reached the normal minimum pension age by reference to the day on which the original scheme pension was first paid.”
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4.—(1) Regulation 6(2) (lifetime annuity – unauthorised payments and prescribed purposes) is amended as follows.

(a) 2004 c. 12.

(b) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2)(a) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as it is appropriate in consequence of section 5, a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(c) S.I. 2006/499; amended by S.I. 2008/1946.

(2) In Table 2 (prescribed purposes – lifetime annuities) above the entry relating to section 172A (surrender)(a) insert the following—

“Section 165(1), pension rule 1	To determine whether the individual has reached the normal minimum pension age by reference to the day on which the original lifetime annuity was first paid.”
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5. For regulation 7 (short-term annuity – unauthorised payments) substitute—

“Short-term annuity – unauthorised payments

7.—(1) In any case within paragraph 6(1B) of Schedule 28 (transfer of sums and assets on cessation of short-term annuity) except where a new short-term annuity becomes payable, the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums and the market value of the assets transferred.

(2) In any case within paragraph 6(1B) where a new short-term annuity becomes payable, the new short-term annuity is to be treated as if it were the original short-term annuity for the purposes prescribed in paragraph (3).

(3) The prescribed purposes are to determine, in relation to pension rule 1 in section 165(1), whether the individual has reached the normal minimum pension age by reference to the day on which the original short-term annuity was first paid.”

6.—(1) Regulation 12(2) (unsecured pension fund, alternatively secured pension fund, dependants’ unsecured pension fund and dependants’ alternatively secured pension fund – recognised transfers and prescribed purposes) is amended as follows.

(2) In Table 3 (prescribed purposes – unsecured pension fund) above the entry relating to section 216(1), benefit crystallisation event 1 insert—

“Section 165(1), pension rule 1	To determine whether the individual has reached the normal minimum pension age by reference to the day on which, in the case of income withdrawal, the first payment of unsecured pension was made under the old arrangement.”
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14th March 2011

Two Commissioners for Her Majesty’s Revenue and Customs

Dave Hartnett
Steve Lamey

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Registered Pension Schemes (Transfer of Sums and Assets) Regulations 2006 (S.I. 2006/499; “the Transfer Regulations”).

Regulation 1 provides for the citation, commencement and effect of the Regulations. The Regulations have retrospective effect from 6th April 2010 pursuant to the power contained in section 282(A1) of the Finance Act 2004 (“FA 2004”).

(a) The entry relating to section 172A was inserted by regulation 2 of S.I. 2008/1946.

The remainder of the Regulations makes amendments resulting from the increase in the normal minimum pension age (“the NMPA”) from 50 to 55 with effect from 6 April 2010 as provided for in section 279 of FA 04. Pension rule 1 of section 165(1) of FA 04 (“Pension Rule 1”) provides that no payment of pension should be made prior to the day the person reaches the NMPA.

Regulation 3 inserts a new entry into Table 1 of regulation 4 of the Transfer Regulations. Regulation 4 of the Transfer Regulations provides that where there is a recognised transfer of pension sums and assets in relation to a scheme pension to which a member is entitled, and those funds are applied towards the provision of a new scheme pension, that new pension is to be treated as the original scheme pension for the purposes prescribed in Table 1. The amendment to Table 1 will enable payment of the new pension to comply with Pension Rule 1 where the member had reached the NMPA at the time the original pension was first paid.

Regulation 4 amends Table 2 of regulation 6 of the Transfer Regulations which deals with lifetime annuities. A new entry is inserted into Table 2 enabling a payment of a new lifetime annuity to comply with Pension Rule 1 where there has been a transfer of the sums and assets representing the original lifetime annuity, providing the member had reached the NMPA at the time the first payment of the original lifetime annuity was made.

Regulation 5 makes similar provision with respect to short-term annuities. It first restates regulation 7 of the Transfer Regulations. It then provides that where a new short-term annuity becomes payable after the transfer of sums and assets representing the original short-term annuity, the new short-term annuity is to be treated as if it were the original short-term annuity for the purposes of Pension Rule 1.

Regulation 6 makes similar provision with respect to income withdrawal from an unsecured pension fund. It amends regulation 12 of the Transfer Regulations by inserting a new entry into Table 3. The new entry will enable payment of an unsecured pension to comply with Pension Rule 1 where there has been a recognised transfer in relation to that unsecured pension and the member had reached the NMPA at the time the original unsecured pension was first paid.

A full and final Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sectors is anticipated.

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STATUTORY INSTRUMENTS

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£4.00