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STATUTORY INSTRUMENTS

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**2013 No. 1818**

**INCOME TAX**

**The Registered Pension Schemes (Authorised Payments) (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>19th July 2013</i>
<i>Laid before the House of Commons</i>	- - - -	<i>22nd July 2013</i>
<i>Coming into force</i>	- -	<i>12th August 2013</i>

The Commissioners for Her Majesty's Revenue and Customs make the following regulations in exercise of the powers conferred by sections 164(1)(f) and (2)(1), and now exercisable by them(2), and 282(A1) of the Finance Act 2004(3).

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Authorised Payments) (Amendment) Regulations 2013 and come into force on 12 August 2013.

(2) Regulation 2(2) has effect from 6th April 2013.

(3) Regulation 2(3) has effect from 6th April 2015.

**Amendment of the Registered Pension Schemes (Authorised Payments) Regulations 2009**

2.—(1) The Registered Pension Schemes (Authorised Payments) Regulations 2009(4) are amended as follows.

(2) After regulation 20(4) (part refund payments relating to short service) insert—

“(5) In paragraph (1)(d) the reference to the member's contributions includes—

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- (1) Section 164(1) was numbered as such and section 164(2) was inserted by paragraph 1(2) of Schedule 29 to the Finance Act 2008 (c. 9); there are other amendments to sections 164(1) and (2) but none is relevant.
- (2) The powers in sections 164(1)(f) and (2) were conferred on the Board of Inland Revenue. Section 279(1) defines “the Board of Inland Revenue” for these purposes as meaning “the Commissioners of Inland Revenue”. These functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in consequence, a reference to the Commissioners of Inland Revenue (however expressed) is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (3) 2004 c. 12; section 282(A1) was inserted by section 75(1) of the Finance Act 2009 (c. 10).
- (4) S.I. 2009/1171; regulation 20 was inserted by S.I. 2012/1881; there are other amending instruments but none is relevant.

- (a) any amount paid under section 7 of the Social Security Act 1986 (incentive payments to schemes becoming contracted-out between 1986 and 1993),
  - (b) any amount paid by the Commissioners for Her Majesty's Revenue and Customs under section 42A(3) of the Pension Schemes Act 1993<sup>(5)</sup> or section 38A(3) of the Pension Schemes (Northern Ireland) Act 1993<sup>(6)</sup> (rebates), and
  - (c) any amount recovered by the member's employer under regulations falling within paragraph (6) in respect of minimum payments made to the scheme in relation to any period before 6th April 2012.
- (6) Those regulations are regulations which were made under—
- (a) section 8(3)<sup>(7)</sup> of the Pension Schemes Act 1993 (recovery of minimum payments), or
  - (b) section 4(3)<sup>(8)</sup> of the Pension Schemes (Northern Ireland) Act 1993 (corresponding provisions for Northern Ireland).".
- (3) In regulation 7 (meaning of "relevant accretion") omit paragraph (5).

*Edward Troup*

*Ruth Owen*

Two of the Commissioners for Her Majesty's  
Revenue and Customs

19th July 2013

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(5) 1993 c. 48; section 42A(3) was inserted by section 137(5) of the Pensions Act 1995 (c. 26), amended by paragraphs 46(1) and (2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2) and S.I. 2011/1730 and will be repealed by paragraphs 46 and 51 of Part 2 of Schedule 4 and Part 7 of Schedule 7 to the Pensions Act 2007 (c. 22) on a day to be appointed.

(6) 1993 c. 49; section 38A(3) was inserted by S.I. 1995/3213 (N.I. 22), amended by S.I. 1999/671 and will be repealed by paragraphs 45 and 50 of Part 2 of Schedule 4 and Part 7 of Schedule 6 to the Pensions Act (Northern Ireland) 2008 (c. 1) (N.I.) on a day to be appointed.

(7) Section 8(3) was amended by paragraph 34(b) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 and will be repealed by paragraphs 46 and 47 of Part 2 of Schedule 4 and Part 7 of Schedule 7 to the Pensions Act 2007 on 6th April 2015 under S.I. 2011/1267, as amended by S.I. 2012/911.

(8) Section 4(3) was amended by S.I. 1999/671 and will be repealed by paragraphs 45 and 46 of Part 2 of Schedule 4 and Part 7 of Schedule 6 to the Pensions Act (Northern Ireland) 2008 on 6th April 2015 under S.R. (NI) 2012 No 115.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Contracting out in relation to defined contribution pension schemes was abolished from 6th April 2012. The Finance Act 2013 (c. 29) made amendments to the pensions tax legislation in the Finance Act 2004 (c. 12) (“FA 2004”) to reflect this. These Regulations amend the Registered Pension Schemes (Authorised Payments) Regulations 2009 (S.I. 2009/1171) for the same reason.

Regulation 2(2) amends regulation 20 of S.I. 2009/1171 to make it clear that incentive payments and age-related rebates paid by Her Majesty’s Revenue and Customs and “minimum payments” made by employers to registered pension schemes and recovered from employees are “member’s contributions” for the purpose of the limit on part refund payments relating to short service. This reflects the repeal of sections 188(3)(c) and 188(6) of FA 2004 and the amendment of paragraph 5 of Schedule 29 to that Act and is effective on the date that amendment comes into force: under regulation 1, regulation 2(2) has retrospective effect from 6th April 2013. Power to make legislation with retrospective effect is contained in section 282(A1) of FA 2004, which allows regulations made under Part 4 of FA 2004 to include provision having effect in relation to times before they are made if that provision does not increase any person’s liability to tax.

Regulation 2(3) removes the reference to “minimum contributions” in regulation 7 of S.I. 2009/1171. Entitlement to “minimum contributions” ceased from 6th April 2012 so they no longer need to be excluded from the definition of “relevant accretion”. Under regulation 1, regulation 2(3) has effect from 6th April 2015, in line with the repeal of section 188(3)(c) of FA 2004.

A Tax Information and Impact Note concerning this instrument was published on 11th December 2012 alongside the draft Finance Bill 2013 clauses and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.