STATUTORY INSTRUMENTS

2006 No. 744

TAXES

The Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006

Made - - - - -	*14th March 2006*
Laid before Parliament	*15th March 2006*
Coming into force - -	*6th April 2006*

£6.50

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ARRANGEMENT OF REGULATIONS

PART 1
Preliminary

PART 2
Amendment of Subordinate Legislation applicable to Great Britain

The Treasury makes the following Order in exercise of the powers conferred upon it by section 281(2) of the Finance Act 2004(**a**).

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Taxation of Pension Schemes (Consequential Amendments of Occupational and Personal Pension Schemes Legislation) Order 2006 and shall come into force on 6th April 2006.

PART 2

Amendment of Subordinate Legislation applicable to Great Britain

Amendment of the Occupational Pension Schemes (Managers) Regulations 1986

2.—(1) Amend the Occupational Pension Schemes (Managers) Regulations 1986(**b**) as follows.

(2) In regulation 3(**c**) (person to be treated as manager of scheme established outside the United Kingdom) for "administrator of" to the end of that regulation substitute "scheme administrator of the scheme for the purposes of section 270 of the Finance Act 2004 (meaning of "scheme administrator").".

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations 1987

3.—(1) Amend the Personal Pension Schemes (Disclosure of Information) Regulations 1987(**d**) as follows.

(2) In regulation 2 (schemes to which regulations 3 to 6 do not apply) for "trust scheme which is" to the end of that regulation substitute "trust scheme which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act.".

(3) In Schedule 1 (basic information about the scheme) for paragraph 5A(**e**) substitute—

> "**5A.** Whether the scheme is registered under section 153 of the Finance Act 2004.".

(4) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 1(a) for "section 649(2) of the Income and Corporation Taxes Act 1988" substitute "section 202(3) and (4) of the Finance Act 2004 (minimum contributions under pensions legislation)"; and

(b) in paragraph 2A(3)(b)(**f**)—

  (i) for head (ii) substitute—

    "(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004; and"; and

  (ii) in head (iii), for "the Commissioners of Inland Revenue" substitute "the Commissioners of Her Majesty's Revenue and Customs".

(**a**) 2004 c.12.
(**b**) S.I. 1986/1718, amended by S.I. 1988/476 and 1994/1062.
(**c**) Regulation 3 was inserted by S.I. 1988/476.
(**d**) S.I. 1987/1110; relevant amending instruments are S.I. 1988/474, 1992/1531, 1993/519, 1994/1062, 1996/776 and 1435, 1997/786, 2000/2691, 2001/3649, 2002/1383 and 2005/2877.
(**e**) Paragraph 5A was inserted by S.I. 1988/474.
(**f**) Paragraph 2A was inserted by S.I. 2002/1383 and was amended by S.I. 2005/2877.

Amendment of the Personal Pension Schemes (Transfer Values) Regulations 1987

4.—(1) Amend the Personal Pension Schemes (Transfer Values) Regulations 1987(**a**) as follows.

(2) For regulation 2 (requirements to be satisfied) substitute—

> **"Requirements to be satisfied**
>
> **2.**—(1) The prescribed requirements referred to in section 95(3)(a) and (b) of the Act (cash equivalent of member's rights under a personal pension scheme to be used for acquiring transfer credits or rights under another scheme) are that—
>
> (a) the receiving scheme—
>
> (i) is registered under section 153 of the Finance Act 2004 (registration of pension schemes), or
>
> (ii) is a qualifying recognised overseas pension scheme as defined in section 169 of that Act (recognised transfers),
>
> (b) if the member's cash equivalent (or any portion of it to be used under section 95(3)(a) or (b) of the Act) is or includes the cash equivalent of his protected rights then the receiving scheme is one to which a transfer payment in respect of protected rights may be made in accordance with regulation 2 of the Protected Rights (Transfer Payment) Regulations 1996.
>
> (2) Paragraph (1)(a)(i) shall not apply if the receiving scheme was immediately before the 6th April 2006 approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988(**b**) (retirement annuities), unless the transfer is from a contract or scheme which was immediately before 6th April 2006 approved under Chapter III of Part XIV of that Act.".

(3) Omit regulation 2A(**c**) (use of cash equivalents for subscribing to self-employed pension arrangements).

Amendment of the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990

5.—(1) Amend the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990(**d**) as follows.

(2) For regulations 3 and 4 (occupational and personal pension schemes that qualify under section 69 of the Pension Schemes Act 1993) substitute—

> **"Occupational pension schemes to which section 163 of the Act applies**
>
> **3.**—(1) An occupational pension scheme is a scheme to which section 163 of the Act (exemption of certain schemes from rule against perpetuities) applies at any time when it satisfies the requirements of any of paragraphs (2) to (6) of this regulation.
>
> (2) This paragraph requires the scheme to be a superannuation fund which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(b) and (3) of Schedule 36 to that Act (deemed registration of existing schemes).
>
> (3) This paragraph requires the scheme to be a superannuation fund to which section 615(3) of the Taxes Act (exemption from tax in respect of certain pensions) applies, or to which Her Majesty's Revenue and Customs give relief from income tax under section

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(**a**) 1987/1112, amended by S.I. 1988/474, 1988/1016, 1994/1062 and 1997/786.
(**b**) 1988 c.1.
(**c**) Regulation 2A was inserted by S.I. 1988/1016.
(**d**) S.I. 1990/1143, amended by S.I. 1994/1062 and 2001/943.

614(5) of the Taxes Act (exemptions and reliefs in respect of income from certain investments etc. of certain pension schemes).

(4) This paragraph requires the scheme to be a trust scheme which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act.

(5) This paragraph requires the scheme, or part of the scheme, to be either—

(a) an occupational pension scheme which is—

(i) registered under section 153 of the Finance Act 2004, or

(ii) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(a) of Schedule 36 to that Act.

(6) This paragraph requires the scheme to be an occupational pension scheme and Her Majesty's Revenue and Customs to be satisfied under section 153 of the Finance Act 2004, that the scheme corresponds to a scheme registered by Her Majesty's Revenue and Customs for the purposes of Part 4 of that Act.

Personal pension schemes to which section 163 of the Act applies

4. A personal pension scheme is a scheme to which section 163 of the Act applies at any time when the scheme, or a part of the scheme, is either—

(a) registered under section 153 of the Finance Act 2004; or

(b) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(g) of Schedule 36 to that Act.".

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

6.—(1) Amend the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(**a**) as follows.

(2) Omit regulation 23 (refunds of additional voluntary contributions).

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

7.—(1) Amend the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996(**b**) as follows.

(2) For regulation 5 substitute—

"Conditions upon which appropriate policies of insurance may be commuted

5.—(1) The requirements referred to in section 32A(2)(c) of the Act (policy of insurance appropriate where commutation conditional on satisfying prescribed requirements) are that the amount secured by the policy of insurance may only be commuted if the amount payable is authorised by section 164 of the Finance Act 2004 (authorised member payments) and satisfies the requirements of paragraph (2) or (3), together with—

(a) paragraphs (4) to (6) if the lump sum payment qualifies as a pension commencement lump sum; or

(b) paragraph (7) if the lump sum payment qualifies as a serious ill-health lump sum.

(**a**) S.I. 1991/167, to which there are amendments not relevant to these Regulations.
(**b**) S.I. 1996/775, to which there are amendments not relevant to these Regulations.

(2) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

(a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part; or

(c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part.

(3) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act.

(4) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member's protected rights.

(5) The limit referred to in paragraph (4) must not exceed—

(a) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 ("the member's benefit crystallisation events"), or

(b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events,

whichever is the lower.

(6) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(7) Where—

(a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;

(b) on the date he qualifies for the payment, the member has a spouse or civil partner; and

(c) the scheme also provides for the payment of a pension to a member's widow, widower or surviving civil partner,

then this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member's protected rights.".

(3) In regulation 6 (certain requirements applying to policies of insurance), in paragraph (1)(b), omit ", not being earlier than the age of 60,".

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

8.—(1) Amend the Occupational Pension Schemes (Contracting-out) Regulations 1996(**a**) as follows.

(2) In regulation 1(2) (interpretation)—

(a) in the definition of "administrator", for "resident" (in the second place where that word appears) to the end of that definition substitute "who is, or the persons who are, appointed in accordance with section 270 of the Finance Act 2004 (meaning of "scheme administrator");";

(**a**) S.I. 1996/1172 amended by section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), S.I. 1997/786, 1999/3198, 2000/2975, 2001/943, 2002/681, 2005/706, 2050 and 3377; there are other amending instruments but none is relevant.

(b) omit the definition of “the Taxes Act”; and

(c) in the appropriate alphabetical place insert—

““relevant statutory scheme” has the same meaning as in paragraph 1(1)(c) of Schedule 36 to the Finance Act 2004 (deemed registration of existing schemes);”.

(3) In regulation 12 (special provision for holding companies and subsidiaries), omit paragraphs (1)(b)(ii), (2)(b)(ii) and (2)(c)(ii).

(4) In regulation 19 (lump sum benefits and salary-related contracted-out schemes) for the words “pension except—” to the end of that regulation, substitute—

“pension except in accordance with—

(a) regulation 20 (payment of lump sum instead of a pension payable under a relevant scheme); or

(b) regulation 60 (payment of a guaranteed minimum pension as a lump sum).”.

(5) For regulation 20 (trivial commutation of benefits derived from section 9(2B) rights) substitute—

“Payment of a lump sum instead of a pension payable under a relevant scheme

20.—(1) For the purposes of section 12C(1)(c) of the 1993 Act (regulations may prohibit or restrict the payment of a lump sum instead of a pension under a relevant scheme except in prescribed circumstances or on prescribed conditions), a relevant scheme may not provide for the payment of a lump sum instead of a pension unless the payment to be made is authorised under section 164 of the Finance Act 2004 (authorised member payments) and the payment is permitted either—

(a) by the lump sum rule in section 166 of that Act (lump sum rule) and qualifies as—

(i) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(ii) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;

(iii) a trivial commutation lump sum for the purposes of paragraph 7 of that Part;

(iv) a winding-up lump sum for the purposes of paragraph 10 of that Part; or

(b) by the lump sum death benefit rule in section 168 of that Act (lump sum death benefit rule) and qualifies as—

(i) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

(ii) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) Where under the scheme—

(a) an earner qualifies for a lump sum payment on the ground of serious ill-health; and

(b) the earner’s widow, widower or surviving civil partner qualifies for a pension (“a survivor’s pension”),

the scheme must continue to include provision for a survivor’s pension notwithstanding the payment of a lump sum to the earner.”.

(6) In regulation 21 (payable age in salary related contracted-out schemes) for “which” (in the second place where the word appears) to the end of that regulation substitute “which is permitted under section 164 of the Finance Act 2004 (authorised member payments).”.

(7) In regulation 29 (schemes which cannot be certified under section 9(2B) of the Pension Schemes Act 1993), for paragraph (a) substitute—

“(a) a scheme which is not registered under section 153 of the Finance Act 2004, unless it is, or was formerly, a relevant statutory scheme.”.

(8) In regulation 40 (schemes which may not be contracted-out under section 9(3) of the Pension Schemes Act 1993) for "an exempt approved scheme" to the end of that regulation substitute "registered under section 153 of the Finance Act 2004.".

(9) In regulation 48 (special provision for overseas schemes), in paragraph (3) for "for the" to the end of that paragraph substitute "who is appointed in accordance with section 270 of the Finance Act 2004 (meaning of "scheme administrator").".

(10) For regulation 60 (trivial commutation of guaranteed minimum pensions), substitute—

"Payment of a guaranteed minimum pension as a lump sum

60.—(1) For the purposes of section 21(1) of the 1993 Act (payment of a lump sum instead of a pension in prescribed circumstances and subject to prescribed restrictions and conditions) the circumstances are where—

(a) a guaranteed minimum pension has become payable; and

(b) the payment of a lump sum is authorised under section 164 of the Finance Act 2004 and the payment is permitted either—

(i) by the lump sum rule in section 166 of that Act and qualifies as—

(aa) a trivial commutation lump sum for the purposes of paragraph 7 of that Part; or

(bb) a winding-up lump sum for the purposes of paragraph 10 of that Part; or

(ii) by the lump sum death benefit rule in section 168 of that Act and qualifies as—

(aa) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

(bb) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) The condition in paragraph (1)(a) shall not apply in cases where the scheme is being wound up or an earner retires before pensionable age, and a premium under section 55(2) of the 1993 Act (contributions equivalent premium) has been paid or treated as paid under Part VI or the scheme has made the provisions mentioned in section 16(2) and (3) of the 1993 Act, provided that—

(a) for the purposes of paragraph (1)(b), where the aggregate amount of the benefits which has accrued to the earner at the date of winding-up or, as the case may be, of his retirement, increased—

(i) in accordance with section 16(2) and (3) of the 1993 Act, or

(ii) in a case where that section 16(2) and (3) applies, to the amount that would have been payable at pensionable age,

that aggregate amount shall be treated as the amount of benefits currently payable to him under the scheme;

(b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme's early retirement provisions;

(c) in cases where the earner is a member of more than one scheme relating to the same employment, all those schemes are being wound up or, as the case may be, he is treated by all those schemes as having retired and, in each case, all those schemes have paid a contributions equivalent premium or have made the provisions mentioned in section 16(2) and (3) of the 1993 Act.".

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations 1996

9.—(1) Amend the Contracting-out (Transfer and Transfer Payment) Regulations 1996(**a**) as follows.

(2) In regulation 1(2) (interpretation), in the definition of "“connected employer transfer” and “connected employer transfer payment”" in sub-paragraph (b)—

(a) in head (i) after the word “employers,” insert “or”;

(b) in head (ii), for “1985, or” substitute “1985;”; and

(c) omit head (iii).

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

10.—(1) Amend the Personal and Occupational Pension Schemes (Protected Rights) Regulations(**b**) as follows.

(2) In regulation 3(f) (options under section 10(2) and (3) of the Pension Schemes Act 1993 for schemes to designate which rights are protected rights) for “having the meanings” to the end of that paragraph substitute “have the meanings given to them by section 202(3) and (4) of the Finance Act 2004 (minimum contributions under pensions legislation).”.

(3) In regulation 8 (giving effect to protected rights by provision of a lump sum), for paragraph (1) substitute—

“(1) For the purposes of section 28(4) of the 1993 Act (effect may be given to protected rights by the provision of a lump sum but subject to prescribed restrictions), the restrictions are that the payment must be authorised under section 164 of the Finance Act 2004 (authorised member payments) and either paragraph (1A) or (1B) must be satisfied, together with—

(a) paragraphs (1C) to (1E) if the lump sum payment qualifies as a pension commencement lump sum; or

(b) paragraph (1F) if the lump sum payment qualifies as a serious ill-health lump sum.

(1A) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

(a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;

(c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part; or

(d) a winding-up lump sum for the purposes of paragraph 10 of that Part.

(1B) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as—

(a) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

(b) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(1C) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member’s protected rights.

(1D) The limit referred to in paragraph (1C) must not exceed—

(a) 25 per cent. of the member’s protected rights which are crystallised by the member’s benefit crystallisation event 6 and the relevant pension benefit

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(**a**) S.I. 1996/1462; relevant amending instruments are S.I. 1997/786 and 1999/3198.
(**b**) S.I. 1996/1537; relevant amending instruments are S.I. 1997/786, 2002/681, 2005/704, 2050 and 3164.

crystallisation event connected with event 6 (“the member’s benefit crystallisation events”), or

(b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member’s benefit crystallisation events,

whichever is the lower.

(1E) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(1F) Where—

(a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;

(b) on the date he qualifies for the payment, the member has a spouse or civil partner; and

(c) the scheme also provides for the payment of a pension to a member’s widow, widower or surviving civil partner,

this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member’s protected rights.”.

(4) In regulation 10 (choice of insurance company by annuitant), in paragraph (a), in both sub-paragraph (i) and sub-paragraph (ii), omit “if that age is not less than 60 years”.

(5) In regulation 12 (death of member before effect given to his protected rights), for paragraph (14), substitute—

“(14) The lump sum referred to in paragraph (3) is one which—

(a) is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; and

(b) is paid to the widow, widower or surviving civil partner where—

(i) effect is given to all the member’s protected rights by the payment of a lump sum; and

(ii) either—

(aa) the member, when he died, had no rights under the scheme other than his protected rights; or

(bb) effect is given to all those of his rights under the scheme which are not protected rights by the payment of a lump sum.”.

(6) For regulation 17 (tax-exemption and tax-approval) substitute—

“Tax registration

17. For the purposes of section 33 of the 1993 Act (tax requirements to prevail over certification requirements) tax-exemption and tax-approval mean tax registration under section 153 of the Finance Act 2004.”.

Amendment of the Occupational Pension Schemes (Indexation) Regulations 1996

11.—(1) Amend the Occupational Pension Schemes (Indexation) Regulations 1996(**a**) as follows.

(**a**) S.I. 1996/1679 as amended by S.I. 2005/704.

(2) In regulation 1(2) (interpretation), in the definition of "pension scheme" for "scheme, a personal pension scheme" to the end of that definition substitute "scheme, or a personal pension scheme registered under section 153 of the Finance Act 2004; and".

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations 1996

12.—(1) Amend the Occupational Pension Schemes (Transfer Values) Regulations 1996(**a**) as follows.

(2) In regulation 12 (requirements to be met by receiving schemes, annuities and arrangements)—

(a) for sub-paragraph (d) of paragraph (1) substitute—

"(d) if the scheme from which rights are transferred or from which a transfer payment is made is registered under section 153 of the Finance Act 2004, the scheme or personal pension scheme to which rights are transferred or to which a transfer payment in respect of rights is made is registered under that section (except a scheme which was immediately before 6th April 2006 approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988) or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.";

(b) in sub-paragraph (b) of paragraph (2) for "of a kind" to the end of that sub-paragraph substitute "registered under section 153 of the Finance Act 2004, the annuity satisfies requirements of Her Majesty's Revenue and Customs.";

(c) omit paragraph (3);

(d) in paragraph (5)—

(i) in sub-paragraph (a), after "arrangement" (where the word first appears) omit "or a self-employed pension arrangement",

(ii) in sub-paragraph (b), omit "it is an overseas arrangement and", and

(iii) in sub-paragraph (c), for "is of a kind described" to the end of that sub-paragraph substitute "is registered under section 153 of the Finance Act 2004 or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.", and

(e) omit sub-paragraph (a) of paragraph (6).

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997

13.—(1) Amend the Occupational Pension Schemes (Discharge of Liability) Regulations 1997(**b**) as follows.

(2) In regulation 4 (conditions on which policies of insurance and annuity contracts may be commuted)—

(a) for paragraph (1) substitute—

"(1) The requirements referred to in section 19(4)(c) of the 1993 Act (policy of insurance or annuity contract appropriate where commutation conditional on satisfying prescribed requirements) are that—

(a) the amount secured by the policy of insurance or annuity contract does not exceed the amount for the time being permitted for a lump sum payment by—

(i) the lump sum rule in section 166 of the Finance Act 2004 and qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act; or

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(**a**) S.I. 1996/1847; the relevant amending instrument is S.I. 1997/786.
(**b**) S.I. 1997/784; relevant amending instruments are S.I. 1999/3198, 2005/704, 2050 and 3164.

(ii) the lump sum death benefit rule in section 168 of that Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

(b) subject to paragraph (2), the earner requests or consents to the amount secured by the policy of insurance or annuity contract being paid as a lump sum and that payment does not exceed the amount for the time being permitted for a lump sum payment by the lump sum rule in section 166 of that Act and qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act.";

(b) in paragraph (2) omit "the earner's and";

(c) in paragraph (3) omit sub-paragraph (a); and

(d) omit paragraph (4).

(3) In regulation 11 (conditions on which liability to provide pensions under a relevant scheme may be discharged), in paragraph (3)(d)(i), omit "has attained the age of 50 and".

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

14.—(1) Amend the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997(**a**) as follows.

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of "approved scheme";

(b) in the appropriate alphabetical place, insert—

""normal minimum pension age" has the meaning given by section 279(1) of the Finance Act 2004;

"registered scheme" means—

(a) a scheme registered under section 153 of the Finance Act 2004;

(b) a scheme which was formerly registered under section 153 of that Act; or

(c) a scheme which was formerly approved under section 590 or 591 of the Income and Corporation Taxes Act 1988 immediately before 6th April 2006.".

(3) In regulation 2 (commutation of a pension under an occupational pension scheme)—

(a) for paragraph (1), substitute—

"(1) For the purposes of section 91(5)(c)(ii) and (iii) of the 1995 Act (inalienability of occupational pension does not apply to commutation in prescribed circumstances) the prescribed circumstances are where—

(a) any amount payable as a lump sum to—

(i) the earner is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act; or

(ii) the earner's widow, widower or surviving civil partner is permitted by the lump sum death benefit rule in section 168 of that Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act; or

(b) the scheme is being wound up and the aggregate amount of all benefits payable as a lump sum to—

(i) the earner is permitted by the lump sum rule in section 166 of that Act and qualifies as a winding-up lump sum for the purposes of paragraph 10 of Part 1 of Schedule 29 to that Act; or

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(**a**) S.I. 1997/785; relevant amending instruments are S.I. 1999/1849, 2002/681, 2005/438, 706 and 2877.

(ii) the earner's widow, widower or surviving civil partner is permitted by the lump sum death benefit rule in section 168 of that Act and qualifies as a winding-up lump sum death benefit for the purposes of paragraph 21 of Part 2 of Schedule 29 to that Act.".

(b) after paragraph (1A)(**a**) insert—

"(1B) There are also prescribed for the purposes of—

(a) section 91(5)(c)(ii) of the 1995 Act the circumstances where the payment of a lump sum to a person is permitted in accordance with any of paragraphs (a) to (e) of the lump sum death benefit rule in section 168 of the Finance Act 2004 (lump sum death benefit rule);

(b) section 91(5)(c)(iii) of the 1995 Act the circumstances where a person has reached normal minimum pension age but has not retired from the employment of the employer in relation to the scheme, the payment of a lump sum to the person is permitted in accordance with paragraph (a) or (g) of the lump sum rule in section 166 of the Finance Act 2004 (lump sum rule).";

(c) omit paragraph (2);

(d) in paragraph (3), for "paragraph (1)(a)(ii)", substitute "paragraph (1)(b)".

(4) In regulation 8 (exemptions from the inalienability and forfeiture provisions)—

(a) in paragraph (3), for the word "approved" substitute the word "registered"; and

(b) after paragraph (5) add—

"(6) Section 91(1)(a) of the 1995 Act (inalienability of occupational pension) shall not apply to a scheme to the extent that it would prevent the making of any arrangement to effect a surrender of excess rights, at the option of the person in question, for the purposes of paragraph 12 of Schedule 36 to the Finance Act 2004 (pension schemes etc: transitional provisions and savings).".

Amendment of the Pensions on Divorce etc. (Provision of Information) Regulations 2000

15.—(1) Amend the Pensions on Divorce etc. (Provision of Information) Regulations 2000(**b**) as follows.

(2) In regulation 1(2) (interpretation), in the definition of "retirement annuity contract" for "approved" to the end of that definition substitute "which is to be treated as becoming a registered pension scheme under 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act;".

Amendment of the Pension Sharing (Valuation) Regulations 2000

16.—(1) Amend the Pension Sharing (Valuation) Regulations 2000(**c**) as follows.

(2) In regulation 1(2) (interpretation), omit the definition of "relevant benefits".

(3) In regulation 2 (rights under a pension arrangement which are not shareable)—

(a) in paragraph (1)(b), for head (iv) substitute—

"(iv)dependants' income withdrawal within the meaning of paragraph 21 of Schedule 28 to the Finance Act 2004 (dependants' income withdrawal),", and

(b) for paragraph (1)(c) substitute—

"(c) any rights which will result in the payment of a benefit which is to be provided solely by reason of the—

(i) disablement, or

(**a**) Paragraph 1A was inserted by S.I. 2002/681.
(**b**) S.I. 2000/1048; relevant amending instruments are S.I. 2000/2691 and 2005/2877.
(**c**) S.I. 2000/1052 the relevant amending instruments are S.I. 2000/2691, 2003/1727, 2005/2877 and 3377.

(ii) death,

due to an accident suffered by a person occurring during his pensionable service.”.

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

17.—(1) Amend the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(**a**) as follows.

(2) In regulation 6 (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit), in paragraph (2), for “Part XIV of the Income and Corporation Taxes Act 1988” substitute “Part 4 of the Finance Act 2004 (pension schemes etc)”.

(3) In regulation 8 (unfunded occupational pension schemes other than public service pension schemes)—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for the words “an approved” substitute “a registered”,

(ii) in sub-paragraph (b), for the word “unapproved” substitute “unregistered”, and

(b) for paragraph (3) substitute—

“(3) In this regulation—

(a) “registered scheme” means an occupational pension scheme which is registered under section 153 of the Finance Act 2004; and

(b) “unregistered scheme” means an occupational pension scheme which is not a registered scheme under section 153 of the Finance Act 2004.”.

(4) In regulation 15(5) (disqualification as a destination for pension credit – annuity contracts and insurance policies)—

(a) in sub-paragraph (a) omit “, and the aggregate of those benefits does not exceed £260 per annum”; and

(b) for sub-paragraph (b) substitute—

“(b) any lump sum payment—

(i) is permitted by the lump sum rule in section 166 of the Finance Act 2004; and

(ii) qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act; and”.

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

18.—(1) Amend the Pension Sharing (Pension Credit Benefit) Regulations 2000(**b**) as follows.

(2) In regulation 3 (commutation of the whole of pension credit benefit)—

(a) in paragraph (1) omit “paragraphs (3) and (4) and”;

(b) for paragraph (2), substitute—

“(2) The circumstances described in this paragraph are that the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004, and either—

(a) qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act; or

(b) qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of that Schedule.”; and

(c) omit paragraphs (3) and (4).

(3) In regulation 4 (commutation of part of pension credit benefit)—

(**a**) S.I. 2000/1053; the relevant amending instrument is S.I. 2000/2691 and 2005/2877.
(**b**) S.I. 2000/1054, to which there are amendments not relevant to these Regulations.

(a) in sub-paragraph (b) of paragraph (1), for "approval or" to the end of that sub-paragraph substitute "the registration or continuing registration of the scheme under section 153 of the Finance Act 2004."; and

(b) omit paragraph (4).

(4) In regulation 21 (requirements of other pension arrangements)—

(a) in sub-paragraph (c) of paragraph (1), omit "any of sub-paragraphs (a) to (e) of", and

(b) for paragraph (2) substitute—

"(2) The kind of scheme mentioned in paragraph (1)(c) is a scheme which is registered under section 153 of the Finance Act 2004.".

Amendment of the Pension Sharing (Safeguarded Rights) Regulations 2000

19.—(1) Amend the Pension Sharing (Safeguarded Rights) Regulations 2000(**a**) as follows.

(2) In regulation 9 (ways of giving effect to safeguarded rights - salary related schemes) for paragraph (9) substitute—

"(9) For the purposes of paragraph (7)—

(a) the benefits secured for a beneficiary suffering from serious ill-health shall become payable only if the payment is permitted by the lump sum rule in section 166 of the Finance Act 2004, and qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act;

(b) "beneficiary" means a member of a salary related contracted-out scheme, in respect of whose safeguarded rights the trustees or managers of that scheme have discharged their liability by entering into an insurance policy or an annuity contract;

(c) "incapacity" means physical or mental deterioration which is sufficiently serious to prevent a person from following his normal employment or which seriously impairs his earning capacity.".

(3) For regulation 10 (payable age in salary related contracted-out schemes) substitute—

"Payable age in salary related contracted-out schemes

10. In respect of pension credit benefit arising out of safeguarded rights, schemes must provide for pension credit benefit to be paid by reference to an age which is equal for men and women and which, in the case of a scheme which is registered under section 153 of the Finance Act 2004, is permitted under the rules of that scheme in accordance with that registration.".

Amendment of the Stakeholder Pension Schemes Regulations 2000

20.—(1) Amend the Stakeholder Pension Schemes Regulations 2000(**b**) as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) In paragraph (3)—

(i) in the definition of "pension arrangement" for paragraph (c) substitute—

"(c) a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004;"; and

(ii) for the definition of "tax relief" substitute—

""tax relief" has the meaning given by Chapter 4 of Part 4 of the Finance Act 2004 (registered pension schemes: tax reliefs and exemptions);"; and

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(**a**) S.I. 2000/1055; relevant amending instruments are S.I. 2000/2691 and 2005/2877.
(**b**) S.I. 2000/1403 as amended by S.I. 2001/104, 2001/934, 2001/3649, 2002/1383, 2002/1555, 2002/2098 and 2005/577.

(b) in paragraph (6), for "“tax-exemption”“ to the end of that paragraph substitute "“tax-registration” and “tax-registered” mean registration or, as the case may be, registered under section 153 of the Finance Act 2004.”.

(3) In regulation 3 (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes), in paragraphs (5A)(**a**) and (5B)(**b**), for “has tax-exemption or tax-approval” in both places substitute “maintains its tax-registration”.

(4) In sub-paragraph (b) of regulation 6(4) (procedure for discharging rights on winding-up)—

(a) for “tax-approval or tax-exemption” substitute “tax-registration”, and

(b) for “approval or exemption” substitute “registration”.

(5) In regulation 17 (restrictions on contributions)—

(a) in paragraph (3), for “section 639” to “(tax reliefs: member’s contributions)” substitute “section 192 of the Finance Act 2004 (relief at source)”;

(b) in paragraph (4) for “tax-exemption” to the end of that paragraph substitute “tax-registration”; and

(c) after paragraph (4) insert—

“(4A) the trustees or manager of a stakeholder pension scheme may refuse to accept any contribution by, or on behalf of any member of the scheme who—

(a) has not given the declaration specified in regulation 5(2) of the Registered Pension Schemes (Relief at Source) Regulations 2005(**c**) (declaration of entitlement to tax relief in respect of net contributions); or

(b) is not a relevant UK individual for the purposes of section 189 of the Finance Act 2004 (relevant UK individual) for the tax year in respect of which the contribution is made.”.

(6) In regulation 18 (disclosure of information to members)—

(a) for sub-paragraph (n) of paragraph (5) substitute—

“(n) any amount paid to the member by way of income withdrawal or dependants’ income withdrawal as defined in paragraph 7 or, as the case may be, 21 of Schedule 28 to the Finance Act 2004 (income withdrawal or dependants’ income withdrawal);”;

(b) in sub-paragraph (b) of paragraph (5D)—

(i) for head (ii) substitute—

“(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004; and”; and

(ii) in head (iii), for “Commissioners of Inland Revenue” substitute “Commissioners of Her Majesty’s Revenue and Customs”; and

(c) for paragraph (10) substitute—

“(10) For the purposes of this regulation “member” shall include a dependant making income withdrawals from the scheme in accordance with paragraph 21 of Schedule 28 to the Finance Act 2004.”.

(7) In regulation 25 (disclosure of information to relevant employees), in paragraph (2)(e)(i) for the “tax-exemption or tax-approval” substitute “tax-registration”.

(**a**) Paragraph 5A was inserted by S.I. 2001/104 and amended by S.I. 2001/934.
(**b**) Paragraph 5B was inserted by S.I. 2001/934.
(**c**) S.I. 2005/3448.

Amendment of the Occupational and Personal Pension Schemes (Bankruptcy) (No. 2) Regulations 2002

21.—(1) Amend the Occupational and Personal Pension Schemes (Bankruptcy) (No. 2) Regulations 2002(**a**) as follows.

(2) In regulation 1(4) (interpretation)—

(a) in sub-paragraph (a)—

(i) for the definition of "relevant benefits" substitute—

""relevant benefits" means any pension, lump sum, gratuity or other like benefit which is, or is to be, provided—

(a) by reason, or in anticipation, of retirement,

(b) by reason of death,

(c) by reason of a pension sharing order or provision,

(d) in connection with past service,

(e) after retirement or death,

(f) in anticipation of, or in connection with, any change in the nature of the service of the employee in question,

but does not include any benefit which is to be provided solely by reason of the disablement or death due to an accident suffered by a person during his pensionable service;";

(ii) in the appropriate alphabetical place insert—

""the 2003 Act" means the Income Tax (Earnings and Pensions) Act 2003(b);"; and

(b) in paragraph (b), in the appropriate alphabetical place insert—

""employer-financed retirement benefits scheme" has the same meaning given by section 393A of the 2003 Act(**c**) (employer-financed retirement benefits scheme);".

(3) In regulation 2 (prescribed pension arrangements)—

(a) in paragraph (1)—

(i) in head (i) of sub-paragraph (a), for "foreign emoluments which" to the end of that head substitute "earnings which have been allowed as a deduction under paragraph 51 of Schedule 36 to the Finance Act 2004 (individuals with pre-commencement entitlement to corresponding relief),",

(ii) for sub-paragraph (b) substitute—

"(b) made with a scheme which is an occupational pension scheme—

(i) registered under section 153 of the Finance Act 2004, or

(ii) which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with Part 1 of Schedule 36 to that Act,",

(iii) for sub-paragraph (c) substitute—

"(c) to which section 308A of the 2003 Act (exemption of contributions to overseas pension scheme) applies;";

(iv) in sub-paragraph (d), for "section 614, 615 or 616 of the Taxes Act" to the end of that sub-paragraph substitute "section 614 or 615 of the Taxes Act (exemptions and reliefs in respect of income from investments etc of certain pension schemes and other overseas pensions), or section 629, 630 or 643 of the 2003 Act (pre-1973

(**a**) S.I. 2002/836.
(**b**) 2003 c.1.
(**c**) Section 393A was inserted by the Finance Act 2004.

pensions paid under the Overseas Pensions Act 1973 and Malawi, Trinidad and Tobago and Zambia government pensions),",

(v) omit sub-paragraph (f),

(b) for paragraph (2) substitute—

"(2) Paragraph (1)(e) above does not apply to any employer-financed retirement benefits scheme arrangement which has been provided to an employee as part of or in addition to any pension arrangement referred to in paragraph (1)(e) above."; and

(c) omit sub-paragraphs (a) and (d) of paragraph (3).

(4) In regulation 3 (unapproved pension arrangements), for paragraph (1) substitute—

"(1) For the purposes of section 12 of the 1999 Act (effect of bankruptcy on pension rights: unapproved arrangements), a pension arrangement falling within—

(a) section 157 of the Finance Act 2004 (de-registration);

(b) paragraphs 52 to 57 of Schedule 36 to that Act; or

(c) section 393A of the 2003 Act,

shall be an "unapproved pension arrangement" if it satisfies the conditions specified in paragraph (2) below.".

(5) In head (ii) of sub-paragraph (a) of regulation 5(1) (exclusion orders), for "3(1)(a) or (b)" to the end of that head substitute "3(1)(a) above, the date, if later than that referred to in head (i) above, on which any rights of the bankrupt vest in the trustee in bankruptcy on the de-registration of the scheme by Her Majesty's Revenue and Customs by virtue of section 157 of the Finance Act 2004; or".

(6) In sub-paragraph (b) of regulation 6(1) (qualifying agreements), for "3(1)(a) or (b)" to the end of that sub-paragraph substitute "3(1)(a) above, the date, if later than that referred to in sub-paragraph (a) above, on which any rights of the bankrupt vest in the trustee in bankruptcy on the de-registration of the scheme by Her Majesty's Revenue and Customs by virtue of section 157 of the Finance Act 2004.".

(7) In regulation 12 (unapproved pension arrangements), for paragraph (1) substitute—

"(1) For the purposes of section 12 of the 1999 Act, a pension arrangement falling within—

(a) section 157 of the Finance Act 2004;

(b) paragraphs 52 to 57 of Schedule 36 to that Act; or

(c) section 393A of the 2003 Act,

shall be an "unapproved pension arrangement" if it satisfies the conditions specified in paragraph (2) below.".

(8) In head (ii) of sub-paragraph (a) of regulation 14(1) (exclusion orders), for "12(1)(a) or (b)" to the end of that head substitute "12(1)(a) above, the date, if later than that referred to in head (i) above, on which any rights of the debtor vest in the permanent trustee or judicial factor on the de-registration of the scheme by Her Majesty's Revenue and Customs by virtue of section 157 of the Finance Act 2004; or".

(9) In sub-paragraph (b) of regulation 15(1) (qualifying agreements), for "12(1)(a) or (b)" to the end of that sub-paragraph substitute "12(1)(a) above, the date, if later than that referred to in sub-paragraph (a) above, on which any rights of the debtor vest in the permanent trustee or judicial factor on the de-registration of the scheme by Her Majesty's Revenue and Customs by virtue of section 157 of the Finance Act 2004.".

PART 3

Amendment of Subordinate Legislation applicable to Northern Ireland

Amendment of the Occupational Pension Schemes (Managers) Regulations (Northern Ireland) 1986

22.—(1) Amend the Occupational Pension Schemes (Managers) Regulations (Northern Ireland) 1986(**a**) as follows.

(2) In regulation 3(**b**) (person to be treated as manager of schemes established outside the United Kingdom) for "administrator of" to the end of that regulation substitute "scheme administrator of the scheme for the purposes of section 270 of the Finance Act 2004 (meaning of "scheme administrator").".

Amendment of the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987

23.—(1) Amend the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**c**) as follows.

(2) In regulation 2 (schemes to which regulations 3 to 6 do not apply) for "trust scheme which is" to the end of that regulation substitute "trust scheme which is treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act (deemed registration of existing schemes).".

(3) In Schedule 1 (basic information about the scheme) for paragraph 5A(**d**) substitute—

"**5A.** Whether the scheme is registered under section 153 of the Finance Act 2004.".

(4) In Schedule 2 (information to be made available to individuals)—

(a) in paragraph 1(a)(**e**) for "section 649(2) of the Income and Corporation Taxes Act 1988(**f**)" substitute "section 202(3) and (4) of the Finance Act 2004 (minimum contributions under pensions legislation)"; and

(b) in paragraph 2A(3)(b)(**g**)—

(i) for sub-head (ii) substitute—

"(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004, and"; and

(ii) in sub-head (iii) for "the Commissioners of Inland Revenue" substitute "the Commissioners of Her Majesty's Revenue and Customs".

Amendment of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987

24.—(1) Amend the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987(**h**) as follows.

(2) For regulation 2 (requirements to be satisfied) substitute—

(**a**) S.R. (NI) 1986 No. 320, amended by S.R. (NI) 1988 No. 109 and S.R. (NI) 1994 No. 300.
(**b**) Regulation 3 was inserted by regulation 7(2) of S.R. (NI) 1988 No. 109 and was amended by paragraph 7 of Schedule 2 to S.R. (NI) 1994 No. 300.
(**c**) S.R. (NI) 1987 No. 288; relevant amending Regulations are S.R. (NI) 1988 No. 107, S.R. (NI) 1992 No. 304, S.R. (NI) 1994 No. 300, S.R. (NI) 2002 No. 410 and S.R. (NI) 2005 No. 536.
(**d**) Paragraph 5A was inserted by regulation 6(d) of S.R. (NI) 1988 No. 107.
(**e**) Paragraph 1(a) was amended by regulation 6(e) of S.R. (NI) 1988 No. 107.
(**f**) 1988 c. 1.
(**g**) Paragraph 2A was inserted by regulation 2(4) of S.R. (NI) 2002 No. 410 and was amended by paragraph 1 of Schedule 2 to S.R. (NI) 2005 No. 536.
(**h**) S.R. (NI) 1987 No. 290; relevant amending Regulations are S.R. (NI) 1988 Nos. 107 and 214, S.R. (NI) 1994 No. 300 and S.R. (NI) 1997 No. 160.

“Requirements to be satisfied

2.—(1) The prescribed requirements referred to in section 91(3)(a) and (b) (cash equivalent of member’s rights under a personal pension scheme to be used for acquiring transfer credits or rights under another scheme) are that—

(a) the receiving scheme—

(i) is registered under section 153 of the Finance Act 2004, or

(ii) is a qualifying recognised overseas pension scheme as defined in section 169 of that Act (recognised transfers),

(b) if the member’s cash equivalent (or any portion of it to be used under section 91(3)(a) or (b)) is or includes the cash equivalent of his protected rights then the receiving scheme is one to which a transfer payment in respect of protected rights may be made in accordance with regulation 2 of the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996(**a**) (general).

(2) Paragraph 1(a)(i) shall not apply if the receiving scheme was immediately before the 6th April 2006 approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988(**b**) (retirement annuities), unless the transfer is from a contract or scheme which was immediately before the 6th April 2006 approved under Chapter III of Part XIV of that Act.”.

(3) Omit regulation 2A(**c**) (use of cash equivalents for subscribing to self-employed pension arrangements).

Amendment of the Personal and Occupational Pension Schemes (Perpetuities) Regulations (Northern Ireland) 1990

25.—(1) Amend the Personal and Occupational Pension Schemes (Perpetuities) Regulations (Northern Ireland) 1990(**d**) as follows.

(2) For regulations 3 and 4 (occupational and personal pension schemes that qualify under Article 65) substitute—

“Occupational pension schemes to which section 159 of the Act applies

3.—(1) An occupational pension scheme is a scheme to which section 159 of the Act (exemption of certain schemes from rule against perpetuities) applies at any time when it satisfies the requirements of any of paragraphs (2) to (6).

(2) This paragraph requires the scheme to be a superannuation fund which is treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(b) and (3) of Schedule 36 to that Act (deemed registration of existing schemes).

(3) This paragraph requires the scheme to be a superannuation fund to which section 615(3) (exemption from tax in respect of certain pensions) applies, or to which Her Majesty’s Revenue and Customs give relief from income tax under section 614(5) (exemptions and reliefs in respect of income from certain investments etc. of certain pension schemes).

(4) This paragraph requires the scheme to be a trust scheme which is treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act.

(5) This paragraph requires the scheme, or part of the scheme, to be either—

(a) an occupational pension scheme which is—

(**a**) S.R. (NI) 1996 No. 509; relevant amending Regulations are S.R. (NI) 2005 No. 467.
(**b**) 1988 c. 1.
(**c**) Regulation 2A was inserted by regulation 3(c) of S.R. (NI) 1988 No. 214.
(**d**) S.R. (NI) 1990 No. 204; relevant amending Regulations are S.R. (NI) 1994 No. 300 and S.R. (NI) 1996 No. 620.

(i) registered under section 153 of the Finance Act 2004, or

(ii) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(a) of Schedule 36 to that Act.

(6) This paragraph requires the scheme to be an occupational pension scheme and Her Majesty's Revenue and Customs to be satisfied under section 153 of the Finance Act 2004, that the scheme corresponds to a scheme registered by Her Majesty's Revenue and Customs for the purposes of Part 4 of that Act.

Personal pension schemes to which section 159 of the Act applies

4. A personal pension scheme is a scheme to which section 159 of the Act applies at any time when the scheme, or a part of the scheme, is either—

(a) registered under section 153 of the Finance Act 2004, or

(b) to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(g) of Schedule 36 to that Act. ".

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

26.—(1) Amend the Occupational Pension Schemes (Preservation of Benefit) Regulations (Northern Ireland) 1991(**a**) as follows.

(2) Omit regulation 23 (refunds of additional voluntary contributions).

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

27.—(1) Amend the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996(**b**) as follows.

(2) For regulation 5 (conditions on which appropriate policies of insurance may be commuted), substitute—

"Conditions upon which appropriate policies of insurance may be commuted

5.—(1) The requirements referred to in section 28A(2)(c) of the Act(**c**) (policy of insurance appropriate where commutation conditional on satisfying prescribed requirements) are that the amount secured by the policy of insurance may only be commuted if the amount payable is authorised by section 164 of the Finance Act 2004 (authorised member payments) and satisfies the requirements of paragraph (2) or (3), together with—

(a) paragraphs (4) to (6) if the lump sum payment qualifies as a pension commencement lump sum, or

(b) paragraph (7) if the lump sum payment qualifies as a serious ill-health lump sum.

(2) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

(a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part, or

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(**a**) S.R. (NI) 1991 No. 37 to which there are amendments not relevant to these Regulations.
(**b**) S.R. (NI) 1996 No. 94; relevant amending Regulations are S.R. (NI) 2005 No. 433.
(**c**) 1993 c. 49; section 28A was inserted by Article 143(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

(c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part.

(3) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act.

(4) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member's protected rights.

(5) The limit referred to in paragraph (4) must not exceed—

(a) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 ("the member's benefit crystallisation events"), or

(b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events,

whichever is the lower.

(6) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(7) Where—

(a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;

(b) on the date he qualifies for the payment, the member has a spouse or civil partner, and

(c) the scheme also provides for the payment of a pension to a member's widow, widower or surviving civil partner,

then this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member's protected rights.".

(3) In regulation 6 (other requirements applying to policies of insurance), in paragraph (1)(b) omit ", not being earlier than the age of 60,".

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

28.—(1) Amend the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**a**) as follows.

(2) In regulation 1(2) (interpretation)—

(a) in the definition of "administrator" for "resident" (in the second place where that word appears) to the end of that definition substitute "who is, or the persons who are, appointed in accordance with section 270 of the Finance Act 2004 (meaning of "scheme administrator");";

(b) omit the definition of "the Taxes Act"; and

(c) in the appropriate alphabetical places insert—

""the 2004 Act" means the Finance Act 2004(**b**)"; and

(**a**) S.R. (NI) 1996 No. 493; relevant amending Regulations are S.R. (NI) 1997 No. 160, S.R. (NI) 1999 No. 486, S.R. (NI) 2000 No. 336, S.R. (NI) 2001 No. 118, S.R. (NI) 2002 No. 109 and S.R. (NI) 2005 Nos. 171 and 433.

(**b**) 2004 c. 12.

““relevant statutory scheme” has the same meaning as in paragraph 1(1)(c) Schedule 36(1)(c) to the 2004 Act (deemed registration of existing schemes);”.

(3) In regulation 12 (special provision for holding companies and subsidiaries) omit paragraphs (1)(b)(ii), (2)(b)(ii) and (2)(c)(ii).

(4) In regulation 19 (lump sum benefits and salary-related contracted-out schemes) for the words “pension except—” to the end of that regulation, substitute—

““pension except in accordance with—

(a) regulation 20 (payment of a lump sum instead of a pension payable under a relevant scheme), or

(b) regulation 60 (payment of a guaranteed minimum pension as a lump sum).”.

(5) For regulation 20 (trivial commutation of benefits derived from section 5(2B) rights), substitute—

“Payment of a lump sum instead of a pension payable under a relevant scheme

20.—(1) For the purposes of section 8C(1)(c) of the Act (**a**)(regulations may prohibit or restrict the payment of a lump sum instead of a pension under a relevant scheme except in prescribed circumstances or on prescribed conditions), a relevant scheme may not provide for the payment of a lump sum instead of a pension unless the payment to be made is authorised under section 164 of the 2004 Act (authorised member payments) and the payment is permitted either—

(a) by the lump sum rule in section 166 of that Act and qualifies as—

(i) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(ii) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;

(iii) a trivial commutation lump sum for the purposes of paragraph 7 of that Part;

(iv) a winding-up lump sum for the purposes of paragraph 10 of that Part, or

(b) by the lump sum death benefit rule in section 168 of that Act and qualifies as—

(i) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act, or

(ii) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) Where under the scheme—

(a) an earner qualifies for a lump sum payment on the ground of serious ill-health, and

(b) the earner’s widow, widower or surviving civil partner qualifies for a pension (“a survivor’s pension”),

the scheme must continue to include provision for a survivor’s pension notwithstanding the payment of a lump sum to the earner.”.

(6) In regulation 21 (payable age in salary related contracted-out schemes) for “which” (in the second place where the word appears) to the end of that regulation substitute “which is permitted under section 164 of the 2004 Act.”.

(7) In regulation 29 (schemes which cannot be certified under section 5(2B) of the Act), for paragraph (a) substitute—

“(a) a scheme which is not registered under section 153 of the 2004 Act, unless it is, or was formerly, a relevant statutory scheme.”.

(**a**) 1993 c. 49; section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995.

(8) In regulation 40 (schemes which may not be contracted out under section 5(3) of the Act) for "an exempt approved scheme" to the end of that regulation substitute "registered under section 153 of the 2004 Act.".

(9) In regulation 48 (special provision for overseas schemes), in paragraph (3) for "for the" to the end of that paragraph substitute "who is appointed in accordance with section 270 of the 2004 Act (meaning of "scheme administrator").".

(10) For regulation 60 (trivial commutation of guaranteed minimum pensions), substitute—

"Payment of a guaranteed minimum pension as a lump sum

60.—(1) For the purposes of section 17(1) of the Act(**a**) (payment of a lump sum instead of a pension in prescribed circumstances and subject to prescribed restrictions and conditions) the circumstances are where—

(a) a guaranteed minimum pension has become payable, and

(b) the payment of a lump sum is authorised under section 164 of the 2004 Act and the payment is permitted either—

(i) by the lump sum rule in section 166 of that Act and qualifies as—

(aa) a trivial commutation lump sum for the purposes of paragraph 7 of that Part, or

(bb) a winding-up lump sum for the purposes of paragraph 10 of that Part, or

(ii) by the lump sum death benefit rule in section 168 of that Act and qualifies as—

(aa) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act, or

(bb) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(2) The condition in paragraph (1)(a) shall not apply in cases where the scheme is being wound up or an earner retires before pensionable age, and a premium under section 51(2) of the Act(**b**) (contributions equivalent premium) has been paid or treated as paid under Part VI or the scheme has made the provisions mentioned in section 12(2) and (3) of the Act(**c**) (revaluation of earnings factors for purposes of section 10: early leavers, etc.), provided that—

(a) for the purposes of paragraph (1)(b), where the aggregate amount of the benefits which has accrued to the earner at the date of winding-up or, as the case may be, of his retirement, increased—

(i) in accordance with section 12 (2) and (3) of the 1993 Act, or

(ii) in a case where that section 12 (2) and (3) applies, to the amount that would have been payable at pensionable age,

that aggregate amount shall be treated as the amount of benefits currently payable to him under the scheme;

(b) in the case of an earner who retires before normal pension age, commutation is not permitted before the date on which benefits become payable to the earner under the scheme's early retirement provisions;

(c) in cases where the earner is a member of more than one scheme relating to the same employment, all those schemes are being wound up or, as the case may be,

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(**a**) 1993 c. 49; section 17(1) is substituted by Article 261(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)).

(**b**) Section 51(2) was substituted by Article 138(1) of the Pensions (Northern Ireland) Order 1995 and amended by paragraph 7(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30).

(**c**) Section 12(3) was amended by paragraph 21(a) of Schedule 3 to the Pensions (Northern Ireland) Order 1995.

he is treated by all those schemes as having retired and, in each case, all those schemes have paid a contributions equivalent premium or have made the provisions mentioned in section 12(2) and (3) of the Act.”.

Amendment of the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996

29.—(1) Amend the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996(**a**) as follows.

(2) In regulation 1(2) (interpretation) in the definition of ““connected employer transfer” and “connected employer transfer payment”“ in paragraph (b)—

(a) in sub-paragraph (i) after the word “employers,” insert “or”;

(b) in sub-paragraph (ii) for “1986, or” substitute “1986;”, and

(c) omit sub-paragraph (iii).

Amendment of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996

30.—(1) Amend the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**b**) as follows.

(2) In regulation 12 (requirements to be met by receiving schemes, annuities and arrangements)—

(a) for sub-paragraph (d) of paragraph (1) substitute—

“(d) if the scheme from which rights are transferred or from which a transfer payment is made is registered under section 153 of the Finance Act 2004, the scheme or personal pension scheme to which rights are transferred or to which a transfer payment in respect of rights is made is registered under that section (except a scheme which was immediately before 6th April 2006 approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988) or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004 (recognised transfers).”;

(b) in sub-paragraph (b) of paragraph (2) for “of a kind” to the end of that sub-paragraph substitute “registered under section 153 of the Finance Act 2004, the annuity satisfies requirements of Her Majesty’s Revenue and Customs.”;

(c) omit paragraph (3);

(d) in paragraph (5)—

(i) in sub-paragraph (a) after “arrangement” (where the word first appears) omit “or a self-employed pension arrangement”,

(ii) in sub-paragraph (b) omit “it is an overseas arrangement and”, and

(iii) in sub-paragraph (c) for “is of a kind described” to the end of that sub-paragraph substitute “is registered under section 153 of the Finance Act 2004 or is a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004.”, and

(e) omit sub-paragraph (a) of paragraph (6).

(**a**) S.R. (NI) 1996 No. 618 to which there are amendments not relevant to these Regulations.
(**b**) S.R. (NI) 1996 No. 619; relevant amending Regulations are S.R. (NI) 1997 No. 160.

Amendment of the Occupational Pension Schemes (Indexation) Regulations (Northern Ireland) 1997

31.—(1) Amend the Occupational Pension Schemes (Indexation) Regulations (Northern Ireland) 1997(**a**) as follows.

(2) In regulation 1(2) (interpretation), in the definition of "pension scheme" for "scheme, a personal pension scheme" to the end of that definition substitute "scheme, or a personal pension scheme registered under section 153 of the Finance Act 2004;".

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997

32.—(1) Amend the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997(**b**) as follows.

(2) In paragraph (f) of regulation 3 (options under section 6(2) and (3) of the Pension Schemes (Northern Ireland) Act 1993 for schemes to designate which rights are protected rights) for "having the meanings" to the end of that paragraph substitute "have the meanings given to them by section 202(3) and (4) of the Finance Act 2004 (minimum contributions under pensions legislation).".

(3) In regulation 8 (giving effect to protected rights by provision of a lump sum) for paragraph (1), substitute—

"(1) For the purposes of section 24(4)(b)(**c**) (effect may be given to protected rights by the provision of a lump sum but subject to prescribed restrictions), the restrictions are that the payment must be authorised under section 164 of the Finance Act 2004 (authorised member payments) and either paragraph (1A) or (1B) must be satisfied, together with—

(a) paragraphs (1C) to (1E) if the lump sum payment qualifies as a pension commencement lump sum, or

(b) paragraph (1F) if the lump sum payment qualifies as a serious ill-health lump sum.

(1A) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

(a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;

(b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part;

(c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part, or

(d) a winding-up lump sum for the purposes of paragraph 10 of that Part.

(1B) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as—

(a) a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act, or

(b) a winding-up lump sum death benefit for the purposes of paragraph 21 of that Part.

(1C) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member's protected rights.

(1D) The limit referred to in paragraph (1C) must not exceed—

(**a**) S.R. (NI) 1997 No. 8 to which there are amendments not relevant to these Regulations.

(**b**) S.R. (NI) 1997 No. 56; relevant amending Regulations are S.R. (NI) 1997 No. 160, S.R. (NI) 2002 No. 109 and S.R. (NI) 2005 No. 433.

(**c**) 1993 c. 49; section 24(4) was amended by paragraph 3(2) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)). Section 24(4) is also amended by Article 261(3) of the Pensions (Northern Ireland) Order 2005.

(a) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 ("the member's benefit crystallisation events"), or

(b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events,

whichever is the lower.

(1E) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(1F) Where—

(a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;

(b) on the date he qualifies for the payment, the member has a spouse or civil partner, and

(c) the scheme also provides for the payment of a pension to a member's widow, widower or surviving civil partner,

this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member's protected rights.".

(4) In regulation 10 (choice of insurance company by annuitant), in paragraph (a), in both sub-paragraph (i) and sub-paragraph (ii), omit "if that age is not less than 60 years".

(5) In regulation 12 (death of member before effect given to his protected rights), for paragraph (14), substitute—

"(14) The lump sum referred to in paragraph (3) is one which—

(a) is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act, and

(b) is paid to the widow, widower or surviving civil partner where—

(i) effect is given to all the member's protected rights by the payment of a lump sum, and

(ii) either—

(aa) the member, when he died, had no rights under the scheme other than his protected rights, or

(bb) effect is given to all those of his rights under the scheme which are not protected rights by the payment of a lump sum.".

(6) For regulation 17 (tax-exemption and tax-approval) substitute—

"Tax registration

17. For the purposes of section 29 (tax requirements to prevail over certification requirements) "tax-exemption" and "tax-approval" mean tax registration under section 153 of the Finance Act 2004.".

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

33.—(1) Amend the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997(**a**) as follows.

(2) In regulation 1(2) (interpretation)—

(a) omit the definition of "approved scheme";

(b) in the appropriate alphabetical places, insert—

""the 2004 Act" means the Finance Act 2004(**b**);";

""normal minimum pension age" has the meaning given by section 279(1) of the 2004 Act;"; and

""registered scheme" means—

(a) a scheme registered under section 153 of the 2004 Act;

(b) a scheme which was formerly registered under section 153 of that Act, or

(c) a scheme which was formerly approved under section 590 or 591 of the Income and Corporation Taxes Act 1988 immediately before the 6th April 2006.".

(3) In regulation 2 (commutation of a pension under an occupational pension scheme)—

(a) for paragraph (1), substitute—

"(1) For the purposes of Article 89(5)(c)(ii) and (iii)(**c**) (inalienability of occupational pension does not apply to commutation in prescribed circumstances) the prescribed circumstances are where—

(a) any amount payable as a lump sum to—

(i) the earner is permitted by the lump sum rule in section 166 of the 2004 Act and qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act, or

(ii) the earner's widow, widower or surviving civil partner is permitted by the lump sum death benefit rule in section 168 of that Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act, or

(b) the scheme is being wound up and the aggregate amount of all benefits payable as a lump sum to—

(i) the earner is permitted by the lump sum rule in section 166 of that Act and qualifies as a winding-up lump sum for the purposes of paragraph 10 of Part 1 of Schedule 29 to that Act, or

(ii) the earner's widow, widower or surviving civil partner is permitted by the lump sum death benefit rule in section 168 of that Act and qualifies as a winding-up lump sum death benefit for the purposes of paragraph 21 of Part 2 of Schedule 29 to that Act.".

(b) after paragraph (1A)(**d**) insert—

"(1B) There are also prescribed for the purposes of—

(a) Article 89(5)(c)(ii) the circumstances where the payment of a lump sum to a person is permitted in accordance with any of paragraphs (a) to (e) of the lump sum death benefit rule in section 168 of the 2004 Act;

(b) Article 89(5)(c)(iii) the circumstances where a person has reached normal minimum pension age but has not retired from the employment of the employer in

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(**a**) S.R. (NI) 1997 No. 153; relevant amending Regulations are S.R. (NI) 1999 No. 309 and S.R. (NI) 2002 No. 109.
(**b**) 2004 c. 12.
(**c**) S.I. 1995/3213 (N.I. 22); Article 89 was amended by paragraph 46 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).
(**d**) Paragraph (1A) was inserted by regulation 8 of S.R. (NI) 2002 No. 109.

relation to the scheme, the payment of a lump sum to the person is permitted in accordance with paragraph (a) or (g) of the lump sum rule in section 166 of the 2004 Act.";

(c) omit paragraph (2);

(d) in paragraph (3) for "paragraph (1)(a)(ii)" substitute "paragraph (1)(b)".

(4) In regulation 8 (exemptions from the inalienability and forfeiture provisions)—

(a) in paragraph (3) for the word "approved" substitute the word "registered"; and

(b) after paragraph (5) add—

"(6) Article 89(1)(a) (inalienability of occupational pension) shall not apply to a scheme to the extent that it would prevent the making of any arrangement to effect a surrender of excess rights, at the option of the person in question, for the purposes of paragraph 12 of Schedule 36 to the 2004 Act (pension schemes etc: transitional provisions and savings).".

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997

34.—(1) Amend the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997(**a**) as follows.

(2) In regulation 4 (conditions on which policies of insurance and annuity contracts may be commuted)—

(a) for paragraph (1) substitute—

"(1) The requirements referred to in section 15(4)(c) (policy of insurance or annuity contract appropriate where commutation conditional on satisfying prescribed requirements) are that—

(a) the amount secured by the policy of insurance or annuity contract does not exceed the amount for the time being permitted for a lump sum payment by—

(i) the lump sum rule in section 166 of the Finance Act 2004 and qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act, or

(ii) the lump sum death benefit rule in section 168 of that Act and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act, or

(b) subject to paragraph (2), the earner requests or consents to the amount secured by the policy of insurance or annuity contract being paid as a lump sum and that payment does not exceed the amount for the time being permitted for a lump sum payment by the lump sum rule in section 166 of that Act and qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act.";

(b) in paragraph (2) omit "the earner's and";

(c) in paragraph (3) omit sub-paragraph (a), and

(d) omit paragraph (4).

(3) In regulation 11 (conditions on which liability to provide pensions under a relevant scheme may be discharged), in paragraph (3)(d)(i), omit "has attained the age of 50 and".

Amendment of the Pensions on Divorce etc. (Provision of Information) (Northern Ireland) Regulations 2000

35.—(1) Amend the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(**a**) as follows.

(**a**) S.R. (NI) 1997 No. 159; relevant amending regulations are S.R. (NI) 1999 No. 486 and S.R. (NI) 2005 Nos. 170 and 433.

(2) In regulation 1(2) (interpretation) in the definition of "retirement annuity contract" for "approved" to the end of that definition substitute "which is to be treated as becoming a registered pension scheme under section 153(9) of the Finance Act 2004 in accordance with paragraph 1(1)(f) of Schedule 36 to that Act (deemed registration of existing schemes);".

Amendment of the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000

36.—(1) Amend the Pension Sharing (Valuation) Regulations (Northern Ireland) 2000(**b**) as follows.

(2) In regulation 1(2) (interpretation) omit the definition of "relevant benefits".

(3) In regulation 2 (rights under a pension arrangement which are not shareable)—

(a) in paragraph (1)(b) for head (iv) substitute—

"(iv) dependants' income withdrawal within the meaning of paragraph 21 of Schedule 28 to the Finance Act 2004 (dependants' income withdrawal),", and

(b) for paragraph (1)(c) substitute—

"(c) any rights which will result in the payment of a benefit which is to be provided solely by reason of the—

(i) disablement, or

(ii) death,

due to an accident suffered by a person occurring during his pensionable service.".

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

37.—(1) Amend the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000(**c**) as follows.

(2) In regulation 6 (discharge of liability in respect of a pension credit following the death of the person entitled to a pension credit), in paragraph (2), for "Part XIV of the Income and Corporation Taxes Act 1988" substitute "Part 4 of the Finance Act 2004 (pension schemes etc)".

(3) In regulation 8 (unfunded occupational pension schemes other than public service pension schemes)—

(a) in paragraph (1)—

(i) in sub-paragraph (a) for the words "an approved" substitute "a registered",

(ii) in sub-paragraph (b) for the word "unapproved" substitute "unregistered", and

(b) for paragraph (3) substitute—

"(3) In this regulation—

(a) "registered scheme" means an occupational pension scheme which is registered under section 153 of the Finance Act 2004, and

(b) "unregistered scheme" means an occupational pension scheme which is not a registered scheme under section 153 of that Act.".

(4) In regulation 15(5) (disqualification as a destination for pension credit-annuity contracts and insurance policies)—

(a) in sub-paragraph (a) omit ", and the aggregate of those benefits does not exceed £260 per annum"; and

(b) for sub-paragraph (b) substitute—

"(b) any lump sum payment—

(**a**) S.R. (NI) 2000 No. 142 to which there are amendments not relevant to these Regulations.
(**b**) S.R. (NI) 2000 No. 144; relevant amending Regulations are S.R. (NI) 2005 No. 536.
(**c**) S.R. (NI) 2000 No. 145; relevant amending Regulations are S.R. (NI) 2000 No. 335.

(i) is permitted by the lump sum rule in section 166 of the Finance Act 2004, and

(ii) qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of Schedule 29 to that Act, and”.

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

38.—(1) Amend the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**a**) as follows.

(2) In regulation 3 (commutation of the whole of pension credit benefit)—

(a) in paragraph (1) omit “paragraphs (3) and (4) and”;

(b) for paragraph (2), substitute—

“(2) The circumstances described in this paragraph are that the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004, and either—

(a) qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act, or

(b) qualifies as a trivial commutation lump sum for the purposes of paragraph 7 of Part 1 of that Schedule.”; and

(c) omit paragraphs (3) and (4).

(3) In regulation 4 (commutation of part of pension credit benefit)—

(a) in sub-paragraph (b) of paragraph (1) for “approval or” to the end of that sub-paragraph substitute “the registration or continuing registration of the scheme under section 153 of the Finance Act 2004.”, and

(b) omit paragraph (4).

(4) In regulation 21 (requirements of other pension arrangements)—

(a) in sub-paragraph (c) of paragraph (1) omit “any of sub-paragraphs (a) to (e) of”, and

(b) for paragraph (2) substitute—

“(2) The kind of scheme mentioned in paragraph (1)(c) is a scheme which is registered under section 153 of the Finance Act 2004.”.

Amendment of the Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000

39.—(1) Amend the Pension Sharing (Safeguarded Rights) Regulations (Northern Ireland) 2000(**b**) as follows.

(2) In regulation 9 (ways of giving effect to safeguarded rights – salary related schemes) for paragraph (9) substitute—

“(9) For the purposes of paragraph (7)—

(a) the benefits secured for a beneficiary suffering from serious ill-health shall become payable only if the payment is permitted by the lump sum rule in section 166 of the Finance Act 2004, and qualifies as a serious ill-health lump sum for the purposes of paragraph 4 of Part 1 of Schedule 29 to that Act;

(b) “beneficiary” means a member of a salary related contracted-out scheme, in respect of whose safeguarded rights the trustees or managers of that scheme have discharged their liability by entering into an insurance policy or an annuity contract;

(**a**) S.R. (NI) 2000 No. 146 to which there are amendments not relevant to these Regulations.
(**b**) S.R. (NI) 2000 No. 147 to which there are amendments not relevant to these Regulations.

(c) "incapacity" means physical or mental deterioration which is sufficiently serious to prevent a person from following his normal employment or which seriously impairs his earning capacity.".

(3) For regulation 10 (payable age in salary related contracted-out schemes) substitute—

"Payable age in salary related contracted-out schemes

10. In respect of pension credit benefit arising out of safeguarded rights, schemes must provide for pension credit benefit to be paid by reference to an age which is equal for men and women and which, in the case of a scheme which is registered under section 153 of the Finance Act 2004, is permitted under the rules of that scheme in accordance with that registration.".

Amendment of the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000

40.—(1) Amend the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000(**a**) as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) In paragraph (3)—

(i) in the definition of "pension arrangement" for paragraph (c) substitute—

"(c) a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004,", and

(ii) for the definition of "tax relief" substitute—

""tax relief has the meaning given by Chapter 4 of Part 4 of the Finance Act 2004 (registered pension schemes: tax reliefs and exemptions);", and

(b) in paragraph (9) for ""tax-exemption"" to the end of that paragraph substitute ""tax-registration" and "tax-registered" mean registration or, as the case may be, registered under section 153 of the Finance Act 2004.".

(3) In regulation 3 (requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes), in paragraphs (5A)(**b**) and (5B)(**c**), for "has tax-exemption or tax-approval" in both places substitute "maintains its tax-registration".

(4) In sub-paragraph (b) of regulation 6(4) (procedure for discharging rights on winding-up)—

(a) for "tax-approval or tax-exemption" substitute "tax-registration", and

(b) for "approval or exemption" substitute "registration".

(5) In regulation 17 (restrictions on contributions)—

(a) in paragraph (3), for "section 639" to "(tax reliefs: member's contributions)" substitute "section 192 of the Finance Act 2004 (relief at source)";

(b) in paragraph (4) for "tax-exemption" to the end of that paragraph substitute "tax-registration", and

(c) after paragraph (4) insert—

"(4A) The trustees or manager of a stakeholder pension scheme may refuse to accept any contribution by, or on behalf of any member of the scheme who—

(a) has not given the declaration specified in regulation 5(2) of the Registered Pension Schemes (Relief at Source) Regulations 2005(**d**) (declaration of entitlement to tax relief in respect of net contributions), or

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(**a**) S.R. (NI) 2000 No. 262; relevant amending Regulations are S.R. (NI) 2001 Nos. 13 and 119 and S.R. (NI) 2002 No. 410.
(**b**) Paragraph (5A) was inserted by regulation 3(3) of S.R. (NI) 2001 No. 13 and was amended by regulation 3(3) of S.R. (NI) 2001 No. 119.
(**c**) Paragraph (5B) was inserted by regulation 3(4) of S.R. (NI) 2001 No. 119.
(**d**) S.I. 2005/3448.

(b) is not a relevant UK individual for the purposes of section 189 of the Finance Act 2004 for the tax year in respect of which the contribution is made.”.

(6) In regulation 18 (disclosure of information to members)—

(a) for sub-paragraph (n) of paragraph (5) substitute—

“(n) any amount paid to the member by way of income withdrawal or dependants’ income withdrawal as defined in paragraph 7 or, as the case may be, 21 of Schedule 28 to the Finance Act 2004 (income withdrawal or dependants’ income withdrawal);”;

(b) in sub-paragraph (b) of paragraph (5D)(**a**)—

(i) for head (ii) substitute—

“(ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004, and”, and

(ii) in head (iii) for “the Inland Revenue” substitute “Her Majesty’s Revenue and Customs”, and

(c) for paragraph (10)(**b**) substitute—

“(10) For the purposes of this regulation “member” shall include a dependant making income withdrawals from the scheme in accordance with paragraph 21 of Schedule 28 to the Finance Act 2004.”.

(7) In regulation 25(2)(e)(i)(**c**) (disclosure of information to relevant employees) for the words “tax-exemption or tax-approval” substitute “tax-registration”.

Amendment of the Occupational and Personal Pension Schemes (Bankruptcy) Regulations (Northern Ireland) 2002

41.—(1) Amend the Occupational and Personal Pension Schemes (Bankruptcy) Regulations (Northern Ireland) 2002(**d**) as follows.

(2) In regulation 1(2) (interpretation)—

(a) for the definition of “relevant benefits” substitute—

““relevant benefits” means any pension, lump sum, gratuity or other like benefit which is, or is to be, provided—

(a) by reason, or in anticipation, of retirement,

(b) by reason of death,

(c) by reason of a pension sharing order or provision,

(d) in connection with past service,

(e) after retirement or death,

(f) in anticipation of, or in connection with, any change in the nature of the service of the employee in question,

but does not include any benefit which is to be provided solely by reason of the disablement or death due to an accident suffered by a person during his pensionable service;”; and

(b) in the appropriate alphabetical places insert—

““the 2003 Act” means the Income Tax (Earnings and Pensions) Act 2003(e);”;

““the 2004 Act” means the Finance Act 2004(**f**);”;

(**a**) Paragraph (5D) was inserted by regulation 4(3)(b) of S.R. (NI) 2002 No. 410.
(**b**) Paragraph (10) was numbered by regulation 13(9) of S.R. (NI) 2001 No. 119.
(**c**) Sub-paragraph (e) was inserted by regulation 17(3)(d) of S.R. (NI) 2001 No. 119.
(**d**) S.R. (NI) 2002 No. 127, to which there are amendments not relevant to these Regulations.
(**e**) 2003 c. 1.
(**f**) 2004 c. 12.

"“employer-financed retirement benefit scheme” has the same meaning given by section 393A of the 2003 Act(**a**);”.

(3) In regulation 2 (prescribed pension arrangements)—

(a) in paragraph (1)—

(i) in head (i) of sub-paragraph (a) for “foreign emoluments which” to the end of that head substitute “earnings which have been allowed as a deduction under paragraph 51 of Schedule 36 to the 2004 Act (individuals with pre-commencement entitlement to corresponding relief),”,

(ii) for sub-paragraph (b) substitute—

“(b) made with a scheme which is an occupational pension scheme—

(i) registered under section 153 of the 2004 Act, or

(ii) which is to be treated as becoming a registered pension scheme under section 153(9) of the 2004 Act in accordance with Part 1 of Schedule 36 to that Act (pre-commencement pension schemes);”,

(iii) for sub-paragraph (c) substitute—

“(c) to which section 308A of the 2003 Act(**b**) (exemption of contributions to overseas pension scheme) applies;”;

(iv) in sub-paragraph (d) for “section 614, 615 or 616 of the Taxes Act” to the end of that sub-paragraph substitute “section 614 or 615 of the Taxes Act (exemptions and reliefs in respect of income from investments etc. of certain pension schemes and other overseas pensions), or section 629, 630 or 643 of the 2003 Act (pre-1973 pensions paid under the Overseas Pensions Act 1973 and Malawi, Trinidad and Tobago and Zambia government pensions),”,

(v) omit sub-paragraph (f),

(b) for paragraph (2) substitute—

“(2) Paragraph (1)(e) does not apply to any employer-financed retirement benefits scheme arrangement which has been provided to an employee as part of or in addition to any pension arrangement referred to in paragraph (1)(e).”, and

(c) omit sub-paragraphs (a) and (d) of paragraph (3).

(4) In regulation 3 (unapproved pension arrangements) for paragraph (1) substitute—

“(1) For the purposes of Article 13 of the 1999 Order(**c**) (effect of bankruptcy on pension rights: unapproved arrangements), a pension arrangement falling within—

(a) section 157 of the 2004 Act (de-registration);

(b) paragraphs 52 to 57 of Schedule 36 to that Act, or

(c) section 393A of the 2003 Act,

shall be an “unapproved pension arrangement” if it satisfies the conditions specified in paragraph (2).”.

(5) In head (ii) of sub-paragraph (a) of regulation 5(1) (exclusion orders) for “3(1)(a) or (b)” to the end of that head substitute “3(1)(a), the date, if later than that referred to in head (i), on which any rights of the bankrupt vest in the trustee in bankruptcy on the de-registration of the scheme by Her Majesty’s Revenue and Customs by virtue of section 157 of the 2004 Act, or”.

(6) In sub-paragraph (b) of regulation 6(1) (qualifying agreements), for “3(1)(a) or (b)” to the end of that sub-paragraph substitute “3(1)(a), the date, if later than that referred to in sub-paragraph (a), on which any rights of the bankrupt vest in the trustee in bankruptcy on the de-registration of the scheme by Her Majesty’s Revenue and Customs by virtue of section 157 of the 2004 Act.”.

(**a**) Section 393A was inserted by section 249(3) of the Finance Act 2004.
(**b**) Section 308A was inserted by paragraph 3 of Schedule 33 to the Finance Act 2004.
(**c**) S.I. 1999/3147 (N.I. 11).

Tom Watson
Vernon Coaker
14th March 2006 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends various Regulations as a consequence of changes to the tax system in relation to pension schemes made by Part 4 of the Finance Act 2004 (c.12) which is due to come into force on 6th April 2006.

This Order applies to Great Britain and Northern Ireland. It makes provision for the tax registration of occupational and personal pension schemes and prescribes the circumstances in which an occupational pension may be commuted.

Part 2 of this Order, which consists of articles 2 to 21, applies to Great Britain.

Article 2 amends the Occupational Pension Schemes (Managers) Regulations 1986 (S.I. 1986/1718) to prescribe the person who is to be treated as the manager of a scheme established outside the United Kingdom.

Article 3 amends the Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110) to make provision for the registration of schemes.

Article 4 amends the Personal Pension Schemes (Transfer Values) Regulations 1987 (S.I. 1987/1112) to prescribe that a member's transfer credits and rights must be acquired under a registered scheme.

Article 5 amends the Personal and Occupational Pension Schemes (Perpetuities) Regulations 1990 (S.I. 1990/1143) to substitute new regulations 3 and 4. The new regulations prescribe the schemes excepted from the rules of law relating to perpetuities.

Article 6 amends the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167) so as to revoke regulation 23.

Article 7 substitutes a new regulation 5 in the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775) enabling the amount secured by a policy of insurance in respect of a member's protected rights to be commuted where the payment satisfies requirements contained in the Finance Act 2004 for lump sum payments by pension schemes.

Article 8 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) to prescribe that an unregistered scheme cannot be a contracted-out scheme or certified as a salary-related contracted-out scheme. Also, it enables benefits which are payable under an occupational pension scheme to be commuted into lump sum payments in certain circumstances.

Article 9 amends the interpretation provision of the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462).

Article 10 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537) to substitute new definitions of "employee share" and "grossed-up equivalent". The amendment further enables a member's protected rights to be commuted into a lump sum payment if the payment satisfies the requirements for lump sum payments by pension schemes contained in the Finance Act 2004.

Article 11 amends the interpretation provision of the Occupational Pension Schemes (Indexation) Regulations 1996 (S.I. 1996/1679).

Article 12 amends the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847) to provide for registered schemes and prescribe the requirement an annuity must satisfy.

Article 13 amends the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (S.I. 1997/784) and prescribes the requirements which must be satisfied before the amount secured by a policy of insurance or annuity contract may be commuted.

Article 14 amends the Occupational Pension Schemes (Assignment, Forfeiture and Bankruptcy etc.) Regulations 1997 (S.I. 1997/785) to modify the interpretation provision and prescribe a further exception from the inalienability provisions and the circumstances in which an occupational pension may be commuted.

Article 15 amends the interpretation provision of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048).

Article 16 amends the Pension Sharing (Valuation) Regulations 2000 (S.I. 2000/1052) to modify the interpretation provision and prescribe the rights which are not shareable.

Article 17 amends the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053) to prescribe a further condition on which liability may be discharged in relation to pension credit benefit and to enable an occupational pension to be commuted. For an annuity contract or insurance policy to be a destination for a pension credit, it must provide that benefits secured by the contract or policy may be commuted if the payment qualifies as a trivial commutation lump sum payment under the Finance Act 2004.

Article 18 amends the Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054) to make provision for the registration of schemes. In addition, it enables schemes to provide for the payment of pension credit benefit in the form of a lump sum before normal benefit age where the payment qualifies as either a serious ill-health lump sum payment or a trivial commutation lump sum payment under the Finance Act 2004.

Article 19 amends the Pension Sharing (Safeguarded Rights) Regulations 2000 (S.I. 2000/1055) to substitute new regulation 10 which specifies the circumstances in which pension credit benefit arising from safeguarded rights can be paid by a registered scheme. Also, it requires benefits payable in consequence of serious ill-health to have satisfied provisions of the Finance Act 2004 for the commutation of lump sum payments.

Article 20 amends the Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403) to make provision for registered schemes.

Article 21 amends the Occupational and Personal Pension Schemes (Bankruptcy) (No. 2) Regulations 2002 (S.I. 2002/836) to substitute new arrangements which qualify as "approved pension arrangements" and "unapproved pension arrangements".

Part 3, which consists of articles 22 to 41, applies to Northern Ireland.

Articles 22 to 41 provide for the tax registration of schemes and prescribes the circumstances in which occupational pension may be commuted in like manner to the provisions which apply to Great Britain by virtue of articles 2 to 21.

A full regulatory impact assessment of the effect that the provisions relating to the tax registration of schemes will have on the cost of businesses, charities and the voluntary sector has been prepared. Copies may be obtained from the Pensions Correspondence Unit, HM Revenue and Customs, 1st Floor, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham NG2 1BB.

An assessment of the impact on business, charities or the voluntary sector of the provisions relating to the commutation of occupational pensions was included in the Regulatory Impact Assessment relating to the Pensions Act 2004 (c.35). A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the Department for Work and Pensions, Regulatory Impact Unit, level 3, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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