
STATUTORY INSTRUMENTS

2010 No. 429

**The Special Annual Allowance Charge
(Protected Pension Input Amounts) Order 2010**

Amendment of Schedule 35 to the Finance Act 2009

5.—(1) In sub-paragraph (4) of paragraph 9 (protected pension input amounts: existing cash balance arrangements) omit paragraphs (a) and (b) and after “if” substitute “the conditions set out in sub-paragraph (4A) or (4B) are met.”.

(2) After that sub-paragraph insert—

“(4A) The conditions in this sub-paragraph are that—

- (a) benefits have been accruing to or in respect of the individual under the arrangement since before 22 April 2009 and until the relevant end date, and
- (b) there is no material change in the rules of the pension scheme under which benefits to or in respect of the individual are calculated under the arrangement in the period beginning with 22 April 2009 and ending with the relevant end date.

(4B) The conditions in this sub-paragraph are that—

- (a) benefits began accruing to or in respect of the individual under the arrangement on or after 22 April 2009 but before the relevant end date and continued until that date,
- (b) the arrangement was made in accordance with the terms of a written agreement between the individual and the employer made not later than 22 April 2009, and
- (c) there is no material change in the rules of the pension scheme under which benefits to or in respect of the individual are calculated under the arrangement in the period beginning with the date on which benefits began accruing under that arrangement and ending with the relevant end date.

(4C) If the conditions in sub-paragraph (4D) are met, the amount arrived at under paragraph 3(2) in relation to the arrangement which is attributable otherwise than to the paying of relevant additional voluntary contributions is a protected pension input amount to the extent specified in sub-paragraph (4E).

(4D) The conditions in this sub-paragraph are that—

- (a) the arrangement was made no later than the end of the period of 3 months beginning with the date on which the individual ceased being an active member of a pension scheme other than that under which it is an arrangement (“the cessation date”),
- (b) the cessation date was on or after 22 April 2009,
- (c) the arrangement under that other pension scheme by reference to which the individual was an active member of that pension scheme (“the old arrangement”) was one in the case of which some or all of the benefits accruing under the arrangement were accruing in circumstances in which the amount arrived at under paragraph 3(2) in relation to the old arrangement was to any extent a protected pension input amount by virtue of this paragraph,

- (d) the individual does not make more than one arrangement under a pension scheme other than that under which the old arrangement was an arrangement in the period of 3 months beginning with the cessation date,
- (e) the individual made the arrangement for one of the reasons set out in paragraph 8(4E),
- (f) the old arrangement has not been re-activated within the meaning of paragraph 13(7) on or after the cessation date,
- (g) there is no material difference between the rules of the pension scheme under which benefits to or in respect of the individual are calculated under the arrangement and the rules of the pension scheme under which such benefits were calculated under the old arrangement, and
- (h) there is no material change in the rules of the pension scheme under which benefits to or in respect of the individual are calculated under the arrangement in the period beginning with the date on which benefits started accruing under the arrangement and ending with the relevant end date.

(4E) The amount arrived at under paragraph 3(2) is a protected pension input amount to the extent that it does not exceed the amount which would have been a protected pension input amount in respect of the old arrangement for the accrual period had the old arrangement continued during that period.

(4F) For the purposes of sub-paragraph (4E) the accrual period has the meaning set out in paragraph 8(4G).”.

(3) For sub-paragraph (5) of paragraph 9 substitute—

“(5) If—

- (a) there is a material change in the rules of a pension scheme under which benefits are calculated under an arrangement during a period referred to in sub-paragraph (4A) (b), (4B)(c) or (4D)(h), and
- (b) the amount arrived at under paragraph 3(2) in relation to the arrangement would have been a protected pension input amount under sub-paragraph (4) or (4C) had it not been for the material change,

the amount so arrived at, to the extent that it is attributable otherwise than to the paying of relevant additional voluntary contributions, is a protected pension input amount to the extent that it is not attributable to that change.”.