

2013 No. 1114

INCOME TAX

The Pension Schemes (Miscellaneous Amendments) Order 2013

Made - - - - *8th May 2013*

Laid before the House of Commons *9th May 2013*

Coming into force - - *1st June 2013*

The Treasury make the following Order in exercise of the powers conferred by sections 281(2A) and 282(A1) of the Finance Act 2004(a), section 122(4) and (5) of the Finance Act 2008(b) and section 96(5) and (6) of the Finance Act 2009(c):

Citation and commencement

1.—(1) This Order may be cited as the Pension Schemes (Miscellaneous Amendments) Order 2013 and comes into force on 1st June 2013.

(2) Article 2 has effect in relation to any information notices given under Part 1 of Schedule 36 to the Finance Act 2008(d) on or after the date on which this Order comes into force.

(3) Article 3 has effect for the tax year 2012-13 and subsequent tax years.

Amendment of section 158 of the Finance Act 2004

2.—(1) Section 158 of the Finance Act 2004 (grounds for de-registration) is amended as follows.

(2) In subsection (1)(c) after “this Part” insert “or Part 1 of Schedule 36 to the Finance Act 2008”.

(3) In subsection (5) after “this Part” insert “or Part 1 of Schedule 36 to the Finance Act 2008”.

Amendment of paragraph 34 of Schedule 36 to the Finance Act 2004

3. In paragraph 34(2) (entitlement to lump sums exceeding 25% of uncrystallised rights) of Schedule 36 (transitional provisions) to the Finance Act 2004, in the sub-paragraph (7A) treated as substituted(e)—

(a) omit the “and” at the end of the definition of “AC”; and

(a) 2004 c. 12; section 281(2A) was inserted by the Finance Act 2006 (c. 25), section 161 and Schedule 23, paragraph 34(2); section 282(A1) was inserted by the Finance Act 2009 (c. 10), section 75(1).

(b) 2008 c. 9.

(c) 2009 c.10.

(d) Schedule 36 has been amended by the Finance Act 2009, section 96 and Schedule 48, paragraph 11. There are other amending instruments which are not relevant.

(e) Sub-paragraph (7A) treated as substituted was amended by the Finance Act 2011 (c. 11), Schedule 16, paragraphs 62 and 82(1) and (5) and modified by articles 23ZA, 23ZD, 23ZE and 23D of S.I. 2006/572 (articles 23ZA, 23ZD and 23ZE were inserted by S.I. 2009/1172 and article 23D was inserted by S.I. 2011/732).

- (b) at the end of the definition of “VUR” insert—
 “, and
 CSLA is the current standard lifetime allowance(a).”

Amendments in relation to penalties

4. The following amendments are made in consequence of Schedule 24 to the Finance Act 2007(b) and Schedule 40 to the Finance Act 2008.

5. Omit section 260(6) and (7) of the Finance Act 2004 (accounting return)(c).

6.—(1) The Pensions Benefits (Insurance Company Liable as Scheme Administrator) Regulations 2006(d) are amended as follows.

(2) In regulation 2, for paragraph (4) substitute—

“(4) The insurance company is liable to the penalties under—

(a) Schedule 24 to the Finance Act 2007 (penalties for errors); and

(b) Schedule 55 to the Finance Act 2009 (penalty for failure to make returns)

if it fails to comply with the obligations imposed by section 254(1) to (7) as applied to it by virtue of paragraphs (2) and (3).”

7.—(1) The Registered Pension Schemes (Splitting of Schemes) Regulations 2006(e) are amended as follows.

(2) In the Table in Part 1 of Schedule 3, omit the entry relating to section 260(6).

(3) In Part 1A of Schedule 3 (Other Legislation)—

(a) omit “Schedule 55 to the Finance Act 2009 (penalty for failure to make returns)”; and

(b) insert—

<i>“Statutory Reference</i>	<i>Subject-matter</i>
Schedule 24 to the Finance Act 2007	Penalty for carelessly or deliberately making an incorrect return under section 254 of the Finance Act 2004
Schedule 55 to the Finance Act 2009	Penalty for failure to make returns”

8.—(1) The Registered Pension Schemes and Overseas Pension Schemes (Electronic Communication of Returns and Information) Regulations 2006(f) are amended as follows.

(2) In Schedule 2 (information which may be supplied either to or by Revenue and Customs by an approved method of electronic communications), in the entry which begins “a notice of appeal against the imposition of a penalty”—

(a) omit “(d) section 260 (fraudulently or negligently making an incorrect return)”; and

(b) after entry (j) insert—

“(ja)Schedule 24 to the Finance Act 2007 (penalties for errors) in respect of an error in a return under section 254 of the Finance Act 2004;”

*Mark Lancaster
 Desmond Swayne*

8th May 2013

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) The amount of the “standard lifetime allowance” is given in section 218(2) for the tax year 2012-13 and subsequent tax years, subject to increase (for tax years subsequent to 2012-13) by the Treasury (by order under section 218(3)).
 (b) 2007 c. 11.
 (c) Section 260 has been amended by article 14 of S.I. 2011/702.
 (d) S.I. 2006/136 as amended by article 17 of S.I. 2011/702.
 (e) S.I. 2006/569 as amended by article 18 of S.I. 2011/702.
 (f) S.I. 2006/570 as amended by regulation 2 of S.I. 2010/652 and article 19 of S.I. 2011/702. There are other amending instruments which are not relevant.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes three distinct changes to legislation relating to pension schemes.

Article 2 makes provision for the first change. It amends the Finance Act 2004 (“FA 2004”) to give Her Majesty’s Revenue and Customs^(a) (“HMRC”) the power to withdraw the registration of a pension scheme where the scheme administrator has failed to provide information required by HMRC under Part 1 of Schedule 36 to the Finance Act 2008 (“FA 2008”).

Schedule 36 to FA 2008 contains the information and inspection powers available to HMRC. Paragraphs 34B and 34C contain specific provisions in respect of information notices relating to pensions matters. Upon those paragraphs entering into force on 1 April 2010, the provisions relating to pension scheme information notices in Part 4 of FA 2004 were repealed^(b). As a consequence, the power to withdraw the registration of a pension scheme on the grounds of failing to provide required information is updated to include a failure to comply with an information notice made under Part 1 of Schedule 36 to FA 2008.

Article 3 makes provision for the second change. It amends FA 2004 in consequence of amendments made to it by the Finance Act 2011 (“FA 2011”).

Schedule 36 to FA 2004 contains modifications to Schedule 29 to FA 2004 which determine how the permitted maximum for a scheme specific lump sum is calculated. Paragraphs 8 and 11 of Schedule 18 to FA 2011 amended these modifications to ensure that the permitted maximum was not reduced when the lifetime allowance was reduced. Those amendments deleted the definition of CSLA from the modifications even though CSLA is still used in the calculation of the permitted maximum. Article 3 re-establishes the definition of CSLA.

Article 1(3) provides that Article 3 has retrospective effect from 6 April 2012 (when the amendments made by FA 2011 came into force (Schedule 18, paragraph 13)). Section 282(A1) of FA 2004 provides that orders made under Part 4 of that Act may include provision having effect in relation to times before the order was made if that provision does not increase any person’s liability to tax.

Articles 4 to 8 make provision for the third change. They make amendments in consequence of Schedule 24 to the Finance Act 2007 (“FA 2007”) and Schedule 40 to FA 2008.

As a result of the introduction of Schedule 24 to FA 2007 and Schedule 40 to FA 2008, the penalty in section 260(6) of FA 2004 is redundant. Article 5 repeals section 260(6) and the connected provision in section 260(7) of FA 2004. Articles 6 to 8 make consequential changes to secondary legislation. As a consequence of the amendments in respect of section 260 of FA 2004 provided for by Articles 6 and 7, it was also incidentally necessary to remove and re-insert references to Schedule 55 to FA 2009 in the secondary legislation.

A Tax Information and Impact Note covering the change provided for by Article 3 was published on 9 December 2010 alongside the draft legislation for Finance Bill 2011 which became Schedule 18 to FA 2011 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to Article 3.

(a) The power to withdraw the registration of a pension scheme is conferred on the Inland Revenue under section 157 of the Finance Act 2004. As a consequence of section 50 of the Commissioners for Revenue and Customs Act 2005 (c. 11) that power is now exercisable by an officer of Her Majesty’s Revenue and Customs.

(b) Sections 252, 253 and 259 of the Finance Act 2004 were repealed by paragraph 13 of the Schedule to the Finance Act 2009, section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054).

A Tax Information and Impact Note has not been prepared for the remaining Articles in the Instrument as they contain no substantive changes to tax policy.

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