
EXPLANATORY NOTE

(This note is not part of the Order)

This order contains amendments to the Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I.2006/572) (“the principal Order”).

Section 283(3C) of the Finance Act 2004 (inserted by paragraph 34 of Schedule 23 to the Finance Act 2006 (c. 25)) provides that an Order under subsection (3A) of that section may have retrospective effect if it does not increase any person’s liability to tax. The provisions of this Order reduce, rather than increase, taxpayers' liabilities, and accordingly has effect from 6th April 2006 (commonly referred to as “A Day”).

Article 1 provides for citation and commencement.

Article 2 introduces the amendments.

Article 3 inserts a new article 29A into the principal Order. The new article modifies section 216 so that benefit crystallisation event 5A (inserted by paragraph 29 of Schedule 23 to the Finance Act 2006 (c. 25)), is not triggered where the individual had a drawdown fund in payment immediately prior to A Day. This new article is necessary because the provisions in the second column of that benefit crystallisation event, preventing overlap with other such events, will not apply appropriately to funds that were in existence before A Day.

Articles 4 and 5 amend articles 40(1)(b) and (e) and 41(1)(c) and (e) of the principal Order respectively. They extend the transitional protection afforded to lump sum death benefits paid by schemes in existence before A Day in respect of members, and dependants of members, who died before that day.

The periods within which a lump sum death benefit can be paid by virtue of article 40(1)(b) and article 41(1)(c) have been extended to two years from the date on which the pension scheme administrator could reasonably have known of the death of the member or dependant concerned, rather than from the date of death, to reflect the fact that scheme administrators do not always learn of the death immediately.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004, as amended by the Finance Act 2005 and the Finance Act 2006 is available on the website of HM Revenue and Customs at www.hmrc.gov.uk/ria/simplifying-pensions.pdf and may be obtained by writing to The Ministerial Correspondence Unit, 1st Floor, HM Revenue and Customs, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.