
STATUTORY INSTRUMENTS

2006 No. 572

**The Taxation of Pension Schemes
(Transitional Provisions) Order 2006**

Lump sum payments — general

38.—(1) This paragraph applies to a lump sum payment—

- (a) the entirety of which is made in accordance with the rules of the existing scheme as they stood immediately before the 6th April 2006;
- (b) which is made on or after the 6th April 2006 but before 6th July 2006;
- (c) to which the member became entitled before the 6th April 2006;
- (d) which would not have given the Commissioners grounds for withdrawing approval of the scheme had it been made before the 6th April 2006; and
- (e) which is not a lump sum paid in circumstances of the member's serious ill-health.

(2) In this article and articles 39, 40 and 41—

“the 1995 Regulations” means the Retirement Benefits Schemes (Information Powers) Regulations 1995(1);

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs and, in relation to times before 18th April 2005, includes the Commissioners of Inland Revenue;

“existing scheme” means a scheme which becomes a registered pension scheme by virtue of paragraph 1(1) of Schedule 36 (pension schemes etc.: transitional provisions and savings — deemed registration of existing schemes);

“lump sum paid in circumstances of the member's serious ill-health” has the meaning given in article 39(3);

“member” means a member of an existing scheme;

(3) A payment to which paragraph (1) applies shall be chargeable to income tax in accordance with section 598, 599 or 599A of ICTA (which deal respectively with charges to tax on repayment of employee's contributions, on the commutation of the entire pension in special circumstances and on payments out of surplus funds), or Chapter 13 of Part 9 of ITEPA 2003 (return of employee's additional voluntary contributions) (as the case requires) —

- (a) to the same extent as it would have been if the provision in question had not been repealed; and
- (b) as if the references in section 598(2), 599(3) and section 599A(2)(b) of ICTA to the administrator of the scheme were instead references to the scheme administrator (within the meaning of section 270) of the registered pension scheme which is treated as coming into being by virtue of paragraph 1(1) of Schedule 36.

(4) For the purposes of a lump sum payment to which paragraph (1) applies, regulations 10 and 11 of the 1995 Regulations (reporting of chargeable events) shall continue to have effect, subject to the following modifications—

(1) [S.I. 1995/3103](#): the relevant amendments are those made by regulation 8 of [S.I. 2002/3006](#).

- (a) in paragraph (1) for the words preceding sub-paragraph (a) substitute—
“The scheme administrator of the registered pension scheme which, immediately before the coming into force of Part 4 of the Finance Act 2004, was both a retirement benefits scheme and—”;
 - (b) in paragraph (3) omit sub-paragraph (d); and
 - (c) omit paragraph (4)(2).
- (5) In section 98(5) of the Taxes Management Act 1970 the entry in Table 1 relating to regulations under section 605(1A) of ICTA shall continue to have effect so far as it relates to regulations 10 and 11 of the 1995 Regulations as saved, with modifications, by paragraph (4).

(2) Paragraph (4) was inserted by regulation 8(b) of [S.I. 2002/3006](#).