
STATUTORY INSTRUMENTS

2006 No. 744

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

PART 2

Amendment of Subordinate Legislation applicable to Great Britain

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⁽¹⁾ 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⁽²⁾;”;
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⁽³⁾ (employer-financed retirement benefits scheme);”.

⁽¹⁾ S.I. 2002/836.

⁽²⁾ 2003 c. 1.

⁽³⁾ Section 393A was inserted by the Finance Act 2004.

(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 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.”.