
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 Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996

7.—(1) Amend the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996(1) as follows.

(2) For regulation 5 substitute—

“Conditions upon which appropriate policies of insurance may be commuted

5.—(1) The requirements referred to in section 32A(2)(c) of the Act (policy of insurance appropriate where commutation conditional on satisfying prescribed requirements) are that the amount secured by the policy of insurance may only be commuted if the amount payable is authorised by section 164 of the Finance Act 2004 (authorised member payments) and satisfies the requirements of paragraph (2) or (3), together with—

- (a) paragraphs (4) to (6) if the lump sum payment qualifies as a pension commencement lump sum; or
- (b) paragraph (7) if the lump sum payment qualifies as a serious ill-health lump sum.

(2) This paragraph is satisfied if the lump sum payment is permitted by the lump sum rule in section 166 of the Finance Act 2004 and qualifies as—

- (a) a pension commencement lump sum for the purposes of paragraph 1 of Part 1 of Schedule 29 to that Act;
- (b) a serious ill-health lump sum for the purposes of paragraph 4 of that Part; or
- (c) a trivial commutation lump sum for the purposes of paragraph 7 of that Part.

(3) This paragraph is satisfied if the lump sum payment is permitted by the lump sum death benefit rule in section 168 of the Finance Act 2004 and qualifies as a trivial commutation lump sum death benefit for the purposes of paragraph 20 of Part 2 of Schedule 29 to that Act.

(4) This paragraph is satisfied if the rules of the scheme impose a limit on the maximum payment which may be taken by way of a pension commencement lump sum from funds available for a member’s protected rights.

(5) The limit referred to in paragraph (4) must not exceed—

(1) [S.I. 1996/775](#), to which there are amendments not relevant to these Regulations.

- (a) 25 per cent. of the member's protected rights which are crystallised by the member's benefit crystallisation event 6 and the relevant pension benefit crystallisation event connected with event 6 ("the member's benefit crystallisation events"), or
- (b) the amount which represents the proportion (expressed in percentage terms) of the value of the protected rights which is equal to the percentage that the pension commencement lump sum bears to the amount crystallised by the member's benefit crystallisation events,

whichever is the lower.

(6) For the purpose of this regulation, section 216 of the Finance Act 2004 sets out the events which are benefit crystallisation events and the amount which is crystallised by such an event.

(7) Where—

- (a) under the scheme, a member qualifies for a lump sum payment on the ground of serious ill-health;
- (b) on the date he qualifies for the payment, the member has a spouse or civil partner; and
- (c) the scheme also provides for the payment of a pension to a member's widow, widower or surviving civil partner,

then this paragraph is satisfied if the scheme retains a sum equal to at least one half of the value on that date of the funds required to provide for a member's protected rights."

(3) In regulation 6 (certain requirements applying to policies of insurance), in paragraph (1)(b), omit " , not being earlier than the age of 60,".