
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Registered Pension Schemes (Meaning of Pension Commencement Lump Sum) Regulations 2006 (“the 2006 Regulations”). These are essentially consequential amendments required as a result of changes to the Finance Act 2004, which contains the main tax provisions relating to pensions.

Paragraph 1(1) of Schedule 29 to the Finance Act 2004 has been amended. Paragraph 1(1) describes the conditions that must be satisfied for a lump sum to qualify as a pension commencement lump sum (lump sums otherwise attract a charge to tax as unauthorised payments). Originally, conditions (c) and (e) were respectively that the lump sum is paid within three months of the pension scheme member becoming entitled to it, and that it is paid before they are 75. Paragraph 1(6) allows the making of regulations prescribing when lump sums may qualify despite their not satisfying those conditions and that is what the 2006 Regulations do.

Paragraph 11 of Schedule 20 to the Finance Act 2007 amended paragraph 1(1) of Schedule 29 to the Finance Act 2004. The period of three months in condition (c) was extended to twelve months after the date of entitlement (and to six months before), and condition (e) (the age 75 limitation) was re-enacted as condition (a). Regulation 2 of these Regulations accordingly updates the references to those conditions in the 2006 Regulations accordingly. The change to condition (b) of regulation 4 (the time within which a tax repayment must be paid over to the pension scheme member) is not a consequential amendment, but it maintains consistency by adopting the same period as that in condition (c) of paragraph 1(1), as the original regulation had done.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. On 21st March 2007 Her Majesty’s Revenue & Customs (“HMRC”) published a regulatory impact assessment in respect of the provisions of Schedule 20 to the Finance Act 2007 (pension schemes etc: miscellaneous) and the subordinate legislation that was expected to be made under it. The assessment is available on HMRC’s website at <http://www.hmrc.gov.uk/ria/simplifying-pensions.pdf> or (for hard copies) by writing to the Ministerial Correspondence Unit, 2nd Floor Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.