
STATUTORY INSTRUMENTS

2009 No. 1171

**The Registered Pension Schemes
(Authorised Payments) Regulations 2009**

PART 3

PENSION ERRORS

Payments of arrears of pension after death

16.—(1) A payment of pension under the pension scheme to or in respect of a member who has died if—

- (a) the payment is in respect of a defined benefits arrangement;
- (b) the member had not reached the age of 75;
- (c) the member—
 - (i) was not a controlling director of a sponsoring employer of this or any related scheme, and
 - (ii) was not a person connected to such a person; and
- (d) either—
 - (i) the conditions in paragraph (2) are satisfied, or
 - (ii) where the member died on or after 6th April 2006, the conditions in paragraph (3) are satisfied.

(2) The conditions where the member died before 6th April 2006 are that—

- (a) the payment represents accrued arrears of pension;
- (b) the payment was allowed or required by the rules of this scheme as they stood immediately before the member died; and
- (c) the existence of the rule or rules concerned would not have prejudiced approval of the scheme by the Inland Revenue or Her Majesty's Revenue and Customs.

(3) The conditions where the member died on or after 6th April 2006 are that—

- (a) the payment represents accrued arrears of scheme pension the member's entitlement to which the scheme administrator had not established until after the member's death;
- (b) the payment would not have been an unauthorised payment if the payment had been made immediately before the member's death and the member had been entitled to it; and
- (c) the scheme administrator could not reasonably have been expected to make the payment before the member's death.

(4) Regulation 4 applies to so much of the payment as does not exceed the amount accrued during the period—

- (a) beginning with the earliest date from which the member could have required the scheme administrator to make the payment if the member had been entitled to it; and

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(b) ending with the member's death.

(5) If the member died on or after 6th April 2006, the making of the payment shall be treated as a benefit crystallisation event for the purposes of the lifetime allowance charge⁽¹⁾, namely benefit crystallisation event 9⁽²⁾.

(6) The amount crystallised for the purposes of benefit crystallisation event 9 is the amount of the payment to which regulation 4 applies.

(7) For the purpose of paragraph (2)(c), whether something would have prejudiced the approval of a scheme by the Inland Revenue or by Her Majesty's Revenue and Customs is to be determined in accordance with the publication IR 12(2001) (known as the Occupational Pension Schemes Practice Notes) published by the former Inland Revenue Pension Schemes Office on 23rd March 2001, as that publication stood—

- (a) if the member died before 23rd March 2001, on that date,
- (b) otherwise, on the date of the member's death.

⁽¹⁾ Section 214 of the Finance Act 2004 establishes the lifetime allowance charge.

⁽²⁾ Benefit crystallisation event 9 was inserted in the table in section 216(1) of the Finance Act 2004 by paragraph 1 of Schedule 29 to the Finance Act 2008.