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STATUTORY INSTRUMENTS

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**2005 No.**

**INCOME TAX**

**The Finance Act 2004 (Part 4) (Transitional Provisions) Order  
2004**

*Made* - - - - 2005  
*Coming into force* - - 6<sup>th</sup> April 2006

The Treasury, in exercise of the power conferred upon them by section 283(2) of the Finance Act 2004(a) make the following Order:

**Citation and commencement**

1. This Order may be cited as The Finance Act 2004 (Part 4) (Transitional Provisions) Order 2005 and shall come into force on 6<sup>th</sup> April 2006.

**Transitional modification of section 161 in respect of existing schemes**

2.—(1) In its application to any pension scheme which by virtue of paragraph 1(1) of Schedule 36 to the Finance Act 2004 (pension schemes: transitional provisions)—

- (a) is to be treated as becoming a registered pension scheme on 6<sup>th</sup> April 2006, or
- (b) would have been so treated if it were in existence on that date,

section 161 of that Act (meaning of “payment” etc) is modified as follows.

(2) In subsection (3) after the words “of a registered pension scheme” add—

“or, if the purchase took place before 6<sup>th</sup> April 2006, a pension scheme which at the time of purchase fell within one of the categories set out in paragraph 1(1)(a) to (g) of Schedule 36.”.

(3) After subsection (3) add—

“(3A) But subsection (4) does not apply to a payment made or benefit provided under or in connection with an annuity which fulfils the following conditions.

*Condition 1*

The annuity was purchased from an insurance company.

*Condition 2*

The annuity was purchased by a pension scheme which at the time of purchase fell within one of the categories set out in paragraph 1(1) (a) to (g) of Schedule 36.

*Condition 3*

The annuity was purchased in order to secure or provide benefits under the scheme referred to in Condition 2.

*Condition 4*

The terms of the annuity, or of any arrangement or agreement made in connection with that annuity do not permit a payment, the making of which would have given the Board of Inland Revenue grounds for withdrawing approval of the pension scheme under section 591B of the Taxes Act 1988 if it had been made before 6<sup>th</sup> April 2006.

*Condition 5*

The terms of the annuity contract have not been altered on or after 6<sup>th</sup> April 2006 to allow a payment that would be an unauthorised payment if it had been made by a registered pension scheme.”.

(4) In its application to any pension scheme which falls within sub-paragraph (1)(b) section 161(4) is modified as follows.

(5) For the words “held for the purposes of the pension scheme” substitute “held for the purposes of a registered pension scheme”.