

2006 No. 9999

INCOME TAX

**The Finance Act 2004, Part 4 (Pension Schemes — Transitional
and Transitory Provisions and Savings: Pipeline Lump Sums)
Order 2006**

<i>Made</i> - - - -	<i>1st December 2006</i>
<i>Laid before the House of Commons</i>	<i>1st December 2006</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Treasury, in exercise of the powers conferred upon them by section 283(2) of the Finance Act 2004(1), make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Finance Act 2004, Part 4 (Pension Schemes— Transitional and Transitory Provisions and Savings: Pipeline Lump Sums) Order 2005, and shall come into force on 6th April 2006.

(2) In this Order—

“the 1995 Regulations” means the Retirement Benefits Schemes (Information Powers) Regulations 1995(2);

“the Act” means the Finance Act 2004;

“the commencement day” means 6th April 2006;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs and, in relation to times before 18th April 2005, includes the Commissioners of Inland Revenue;

“existing scheme” means a scheme which becomes a registered pension scheme by virtue of paragraph 1(1) of Schedule 36 (pension schemes etc.: transitional provisions and savings — deemed registration of existing schemes);

“lump sum paid in circumstances of the recipient’s serious ill-health” has the meaning given in article 3(2);

“member” means a member of an existing scheme;

“Part 4” means Part 4 of the Act; and

a reference to a numbered section or Schedule (without more) is a reference to the section or Schedule bearing that number in Part 4.

Lump sum payments — general

2.—(1) This paragraph applies to a lump sum payment—

(1) 2004 c. 12.

(2) S.I. 1995/ 3103: the relevant amendments are those made by regulation 8 of S.I. 2002/3006.

- (a) the entirety of which is made in accordance with the rules of the existing scheme as they stood immediately before the commencement day;
- (b) which is made on or after the commencement day but before 6th July 2006;
- (c) to which the member became entitled before the commencement day;
- (d) which would not have given the Commissioners grounds for withdrawing approval of the scheme had it been made before the commencement day; and
- (e) which is not a lump sum paid in circumstances of the recipient's serious ill-health.

(2) A payment to which paragraph (1) applies shall be chargeable to income tax in accordance with section 598, 599 or 599A of ICTA (which deal respectively with charges to tax on repayment of employee's contributions, on the commutation of the entire pension in special circumstances and on payments out of surplus funds), or Chapter 13 of Part 9 of ITEPA (return of employee's additional voluntary contributions) (as the case requires) —

- (a) to the same extent as it would have been if the provision in question had not been repealed; and
- (b) as if the references in section 598(2) and section 599A(2)(b) of ICTA to the administrator of the scheme were instead a reference to the scheme administrator (within the meaning of section 270) of the registered pension scheme which is treated as coming into being by virtue of paragraph 1(1) of Schedule 36.

(3) For the purposes of a lump sum payment to which paragraph (1) applies, regulation 10 of the 1995 Regulations (reporting of chargeable events) shall continue to have effect, subject to the following modifications—

- (a) in paragraph (1) for the words preceding sub-paragraph (a) substitute—
“The scheme administrator of the registered pension scheme which, immediately before the coming into force of Part 4 of the Finance Act 2004, was both a retirement benefits scheme and—”;
- (b) in paragraph (3) omit sub-paragraph (d); and
- (c) omit paragraph (4)(3).

(4) In section 98(5) of the Taxes Management Act 1970 the entry in Table 1 relating to regulations under section 605(1A) of ICTA shall continue to have effect so far as it relates to regulation 10 of the 1995 Regulations as saved, with modifications, by paragraph (3).

Lump sums — serious ill-health

3.—(1) This paragraph applies to a lump sum—

- (a) paid in circumstances of the recipient's serious ill-health; and
- (b) which satisfies the requirements set out in sub-paragraphs (a) to (d) of article 2(1).

(2) A lump sum is paid in circumstances of the recipient's serious ill-health if—

- (a) before it is paid the scheme administrator, or the administrator of the scheme which became a registered pension scheme on the commencement day, received evidence from a registered medical practitioner that the member is expected to live for less than one year; and
- (b) all of the beneficiary's rights are uncrystallised rights under the scheme making the payment are paid out as a lump sum.

(3) There is no charge to tax under Part 4 on a lump sum to which paragraph (1) applies.

Lump sum death benefits— death of member

4.—(1) This paragraph applies to a lump sum paid—

(3) Paragraph (4) was inserted by regulation 8(b) of S.I. 2002/3006.

- (a) in respect of the death, occurring before the commencement day, of a member of a pension scheme;
- (b) within two years of the member's death;
- (c) by a scheme which is treated as becoming a registered pension scheme on the commencement day by virtue of paragraph 1(1) of Schedule 36;
- (d) in accordance with the rules of that scheme as they stood—
 - (i) immediately before the death; or
 - (ii) immediately before the commencement day; and
- (e) in circumstances which would not have given the Commissioners grounds for withdrawing the approval of the scheme.

(2) A lump sum to which paragraph (1) applies is not a relevant lump sum death benefit as defined in paragraph 16 of Schedule 32 to the Act, and the payment of such a death benefit is to be disregarded for the purposes of benefit crystallisation event 7.

(3) A lump sum to which paragraph (1) applies shall be chargeable to income tax in accordance with section 648B of ICTA(4) as if—

- (a) that section had not been repealed;
- (b) references in that section to the administrator of the scheme were references to the scheme administrator of the registered pension scheme which is treated as coming into being by virtue of paragraph 1(1)(g) of Schedule 36;
- (c) subsection (3) were omitted; and
- (d) the reference in subsection (4) to the rules of the scheme is a reference to the rules of the personal pension scheme as they stood immediately before the commencement day.

(4) For the purposes of a lump sum payment to which paragraph (1) applies, regulation 5 of the Personal Pension Schemes (Information Powers) Regulations 2000(5) (reporting of chargeable events) shall continue to have effect, subject to the following modifications—

- (a) references to the scheme administrator of the personal pension scheme are to be read as references to the scheme administrator of the scheme treated as coming into being by virtue of paragraph 1(1)(g) of Schedule 36; and
- (b) in paragraph (2) of that regulation for “an approved personal pension scheme” substitute “the registered pension scheme”.

(5) In section 98(5) of the Taxes Management Act 1970 the entry in Table 1 relating to regulations under section 651A(1)(b) to (d) of ICTA shall continue to have effect, so far as it relates to regulation 5 of the 2000 Regulations as saved, with modifications, by paragraph (3).

Lump sum death benefits — death of a dependant

5.—(1) This paragraph applies to a lump sum paid—

- (a) in respect of the death, occurring before the commencement day, of a dependant of a former member of a pension scheme;
- (b) by a scheme which is treated as becoming a registered pension scheme on the commencement day by virtue of paragraph 1(1)(g) of Schedule 36 (personal pension schemes);
- (c) within two years of the dependant's death
- (d) in accordance with the rules of that scheme as they stood—
 - (i) immediately before the dependant's death; or
 - (ii) immediately before the commencement day; and

(4) Section 648B was inserted by paragraph 12 of Schedule 11 to the Finance Act 1995, amended by paragraph 266 of Schedule 1 to the Income Tax (Trading and Other Income Act 2005, and repealed by Part 3 of Schedule 42 to the Finance Act 2004.

(5) S.I. 2000/2316.

(e) in circumstances which would not have given the Commissioners grounds for withdrawing the approval of the scheme.

(2) Paragraphs (3) to (5) of article 4 apply for the purposes of paragraph (1) as they apply for the purposes paragraph (1) of that article.

A. Commissioner

A. N. Other

December 2005

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further transitional provision in respect of Part 4 of the Finance Act 2004.