STATUTORY INSTRUMENTS

2015 No. 80

INCOME TAX

The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015

Made - - - -	*27th January 2015*
Coming into force - -	*28th January 2015*

The Treasury make the following Order in exercise of the powers conferred by sections 238A and 282(A1) of the Finance Act 2004(**1**):

A draft of this instrument has been laid before the House of Commons in accordance with section 282(1A) of that Act and approved by a resolution of that House.

Citation, commencement and effect

1. This Order may be cited as the Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 and comes into force on the day after the day it is made.

2. The amendments made by the following articles have effect in relation to pension input periods ending in tax year 2011-12 and subsequent years—

(a) article 12;

(b) article 13(a) to (d);

(c) article 15; and

(d) article 16(a) to (d),

but see article 3.

3.—(1) Where the insertion by article 12(b) of subsection (5BC) of section 230 of the Finance Act 2004 (cash balance arrangements) ("the Act") has effect in respect of times before the date on which this Order comes into force, it does so as if that subsection consisted only of the words from "In determining" to "disregarded".

(2) Where the insertion by article 15(b) of subsections (5B) to (5BE) of section 234 of the Act (defined benefits arrangements) has effect in respect of times before the date on which this Order comes into force, it does so as if—

(**1**) 2004 c. 12. Section 282(A1) was inserted by section 75(1) of the Finance Act 2009 (c. 10) and section 238A was inserted by paragraph 17 of Schedule 17 to the Finance Act 2011 (c. 11).

(a) subsection (5BD) were to consist only of the words from "In determining" to "disregarded"; and

(b) subsection (5BE) were omitted.

(3) The amendments made by paragraphs (a) and (b) of article 13 do not have effect in relation to any transfer of sums or assets that occurs before the date on which this Order comes into force if any person's liability to tax would be higher as a result of—

(a) the application of those amendments in relation to that transfer; and

(b) any application in relation to that transfer of the amendments made by article 13(c) and (d),

than it would have been if none of those amendments had effect.

(4) The insertion by article 13(e) of subsection (6D) of section 232 of the Act (cash balance arrangements: adjustments of closing value) does not have effect in relation to transfers of sums or assets that occur before the date on which this Order comes into force.

(5) The amendments made by paragraphs (a) and (b) of article 16 do not have effect in relation to any transfer of sums or assets that occurs before the date on which this Order comes into force if any person's liability to tax would be higher as a result of—

(a) the application of those amendments in relation to that transfer; and

(b) any application in relation to that transfer of the amendments made by article 16(c) and (d),

than it would have been if none of those amendments had effect.

(6) The insertion by article 16(e) of subsection (5D) of section 236 of the Act (defined benefits arrangements: adjustments of closing value) does not have effect in relation to transfers of sums or assets that occur before the date on which this Order comes into force.

4. The amendment made by article 13(f) has effect in relation to benefit crystallisation events(**2**) that occur on or after the date on which this Order comes into force.

5. The amendment made by article 13(g) has effect in relation to cases where the liability mentioned in section 232(8D) of the Act arose on or after the date on which this Order comes into force and results from a notice under section 237B given on or after that date.

6. The amendment made by article 14 has effect in relation to payments of a refund of excess contributions lump sum made in pension input periods ending in tax year 2014-15 and subsequent tax years.

7. The amendment made by article 16(f) has effect in relation to cases where the liability mentioned in section 236(8D) of the Act arose on or after the date on which this Order comes into force and results from a notice under section 237B given on or after that date.

8. The amendments made by article 17(a) have effect in relation to—

(a) the individual becoming actually entitled to benefits, and

(b) benefit crystallisation events occurring,

after the end of the period of 6 months beginning with the date on which this Order comes into force.

9. The amendment made by article 17(b) has effect in relation to transfers of sums or assets that occur on or after the date on which this Order comes into force.

Amendments to the Finance Act 2004

10. Part 4 of the Act (pension schemes etc) is amended as follows.

(**2**) Benefit crystallisation events are set out in section 216 of the Finance Act 2004.

Carry forward of unused annual allowance

11. After section 228A (carry forward of unused annual allowance)(**3**) insert—

"**Carry forward: certain periods treated as pension input periods**

228B.—(1) This section applies where the first pension input period for a relevant arrangement relating to an individual ends in the tax year 2011-12, 2012-13 or 2013-14.

(2) A period is a "carry forward period" for the purposes of this section if it—

(a) is one of the 3 consecutive periods of 12 months immediately before the commencement date of the first pension input period, and

(b) is a period in which the arrangement was in existence at any time.

(3) Any amount that would, if a carry forward period were a pension input period of the arrangement, have been unused annual allowance available to the individual for the tax year 2011-12, 2012-13 or 2013-14 is to be treated as unused annual allowance available to the individual for that tax year.

(4) In this section "relevant arrangement" means—

(a) a cash balance arrangement,

(b) a defined benefits arrangement, or

(c) a hybrid arrangement the only benefits under which may be cash balance benefits or defined benefits.".

Amendments to section 230

12. In section 230 (cash balance arrangements)—

(a) for subsection (4)(**4**) substitute—

"(4) The opening value of the individual's rights under the arrangement—

(a) where the pension input period is the first pension input period of the arrangement, is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits immediately before that pension input period (or is nil if no such amount would be available), or

(b) in any other case, is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the immediately preceding pension input period.";

(b) for subsection (5B)(**5**) substitute—

"(5B) The pension input amount in respect of the cash balance arrangement is nil where subsection (5BA) or (5BB) applies and the value of the relevant rights of the individual under the arrangement does not increase during the pension input period by more than—

(a) the relevant percentage, plus

(b) the relevant statutory increase percentage.

(**3**) Section 228A was inserted by paragraph 5 of Schedule 17 to the Finance Act 2011.
(**4**) Subsection (4) was amended by paragraph 7 of Schedule 17 to the Finance Act 2011.
(**5**) Subsections (5B) and (5C) were inserted by paragraph 7 of Schedule 17 to the Finance Act 2011.

(5BA) This subsection applies where the individual—

(a) is, throughout the pension input period, a deferred member of the pension scheme that the arrangement is under,

(b) is such a deferred member for part of the pension input period and a pensioner member for the rest of it, or

(c) would meet the condition in paragraph (a) or (b) if the arrangement were the only arrangement under the pension scheme relating to that individual.

(5BB) This subsection applies where—

(a) during the pension input period all the sums or assets held for the purposes of, or representing accrued rights under, the arrangement are transferred so as to become held for the purposes of, or to represent rights under—

(i) a registered pension scheme, or

(ii) a qualifying recognised overseas pension scheme,

in connection with the individual,

(b) the individual is a deferred member of the pension scheme that the arrangement is under from the beginning of the pension input period until the transfer (or would be if the arrangement were the only arrangement under the pension scheme relating to that individual), and

(c) rights do not accrue under the arrangement to or in respect of the individual during so much of the pension input period as falls after the transfer.

(5BC) In determining for the purposes of this section whether or not a member of a pension scheme is a deferred member (see particularly the definition of "active member" in section 151(2)), arrangements made under the pension scheme for benefits to accrue, as a consequence of (and immediately after) a relevant inward transfer (as defined in section 232(6)) to or in respect of that member, are to be disregarded—

(a) if condition B in section 232(6A) is met in relation to the accrual of benefits under the arrangements, or

(b) so far as the accrual of benefits under the arrangements is to be an increase in the rights of the individual which falls to be subtracted by virtue of section 232(6A)(b).";

and

(c) in subsection (5C)—

(i) for the definition of "the relevant percentage" substitute—

""the relevant percentage" means—

(a) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate which is an RPI-related rate specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 6th April 2012, that rate,

(b) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate, other than an RPI-related rate, specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 14th October 2010, that rate, and

(c) in a case not falling within paragraph (a) or (b), the percentage by which the consumer prices index for a month falling within the pension input period and nominated by the scheme administrator is higher than it was

for the same month in the previous period of 12 months (or nil per cent if it is not higher);"; and

(ii) after the definition of "the relevant rights of the individual" insert—

""the relevant statutory increase percentage" in relation to a pension input period means the percentage increase in the value of the individual's rights under the arrangement during the pension input period so far as it is attributable solely to one or more of the following—

(a) an increase in accordance with section 15 of the Pension Schemes Act 1993(**6**) or section 11 of the Pension Schemes (Northern Ireland) Act 1993(**7**) (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed);

(b) a revaluation in accordance with section 16(**8**) of the Pension Schemes Act 1993 or section 12(**9**) of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of earning factors);

(c) a revaluation in accordance with Chapter 2 of Part 4 of the Pension Schemes Act 1993(**10**) or the Pension Schemes (Northern Ireland) Act 1993(**11**) (early leavers: revaluation of accrued benefits);

(d) a revaluation in accordance with Chapter 3 of Part 4 of the Pension Schemes Act 1993(**12**) or the Pension Schemes (Northern Ireland) Act 1993(**13**) (early leavers: protection of increases in guaranteed minimum pensions);

(e) the application of section 67 of the Equality Act 2010(**14**) (sex equality rule for occupational pension schemes);

"RPI-related rate" (in the definition of "the relevant percentage") means—

(a) a rate produced solely by movement in the retail prices index, or

(b) a rate which (however expressed) is the lower of such a rate and a percentage figure;".

Amendments to section 232

13. In section 232 (cash balance arrangements: adjustments of closing value)—

(**6**) 1993 c. 48.
(**7**) 1993 c. 49.
(**8**) Section 16 was amended by paragraph 28 of Schedule 5 to the Pensions Act 1995 (c. 26) and by paragraph 4 of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30).
(**9**) Section 12 was amended by paragraph 21 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) (N.I.22), and by paragraph 3 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) (N.I.11).
(**10**) Chapter 2 was amended by paragraph 62 of Schedule 5 and Part 3 of Schedule 7 to the Pensions Act 1995, by paragraphs 28, 31 and 32 of Schedule 12 to the Welfare Reform and Pensions Act 1999, by section 281 of the Pensions Act 2004 (c. 35), by section 19 of the Pensions Act 2011 (c. 19) and by paragraphs 18 and 25 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013 (c. 30).
(**11**) Chapter 2 was amended by section 20 of the Pensions Act (Northern Ireland) 2012 (c. 3), by paragraph 52 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) (N.I.22), by paragraphs 20 and 21 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) (N.I.11), by article 258 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) (N.I.1) and by paragraph 13 of Schedule 1 to the Civil Partnership (Benefits and Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.I. 2005/434).
(**12**) Chapter 3 was amended by paragraph 28 of Schedule 4 to the Pensions Act 2007 (c. 22) and paragraphs 18 to 21 of Schedule 1 to the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 (S.I. 2005/2050).
(**13**) Chapter 3 was amended by paragraphs 18 to 21 of Schedule 1 to the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.I. 2005/433) and by paragraph 28 of Schedule 4 to the Pensions Act (Northern Ireland) 2008 (c. 1).
(**14**) 2010 c. 15.