

2011 No. 1791

INCOME TAX

The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011

<i>Made</i>	- - - -	<i>20th July 2011</i>
<i>Laid before the House of Commons</i>		<i>21st July 2011</i>
<i>Coming into force</i>	- -	<i>11th August 2011</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the power conferred by section 237F of the Finance Act 2004(a).

Citation and commencement

1.— These Regulations may be cited as the Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011 and come into force on 11th August 2011.

Modification of scheme rules

2.—(1) This regulation applies where a scheme administrator of a registered pension scheme (“the scheme”) satisfies all or part of a member's liability to the annual allowance charge, either on a voluntary basis or pursuant to a liability under section 237B of the Finance Act 2004(b).

(2) The rules of the scheme shall be modified so as to allow for a consequential adjustment to be made to the entitlement of the member to benefits under the scheme on a basis that is just and reasonable having regard to normal actuarial practice. This paragraph is subject to paragraph (3).

(3) Any modification to the scheme's rules made by virtue of paragraph (2) is subject to section 159 of the Pension Schemes Act 1993(c) or section 155 of the Pension Schemes (Northern Ireland) Act 1993(d) (inalienability of guaranteed minimum pension etc).

Melanie Dawes
Dave Hartnett

20th July 2011

Two of the Commissioners for Her Majesty's Revenue and Customs

(a) 2004 c. 12. Section 237F was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c.11).
(b) Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011.
(c) 1993 c. 48. Section 159 was amended by paragraph 41 of Schedule 3 to the Pensions Act 1995 (c. 26) and section 14(2) and Schedule 13 to the Welfare Reform and Pensions Act 1999 (c. 30).
(d) 1993 c. 49. Section 155 was amended by S.I.1995/3213 (N.I. 22) and S.I. 1993/3147 (N.I. 11).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are part of a package of pension measures made in the Finance Act 2011 (“FA 2011”). Schedule 17 of FA 2011 amends Part 4 of the Finance Act 2004 (“FA 2004”) so as to reduce the annual allowance from £255,000 to £50,000 with effect from the 2011-12 tax year. In order to assist scheme members, in particular those who become liable for large one off annual allowance tax charges, the legislation contains provisions (sections 237B to 237E of FA 2004, as inserted by paragraph 15 of Schedule 17 to FA 2011) enabling the member to require the scheme administrator of a pension scheme to pay the annual allowance charge in certain circumstances. The legislation provides that a consequential adjustment must be made to the entitlement of the member to reflect the payment. It is also envisaged that scheme administrators may pay some or all of the member’s annual allowance charge on a voluntary basis in return for a consequential adjustment to the member’s benefits.

Regulation 2 provides that where a scheme administrator satisfies all or part of a member’s liability to the annual allowance charge, either pursuant to the procedure set out in section 237B of FA 2004 or on a voluntary basis, the scheme rules are modified so as to allow a consequential adjustment to be made to the member’s entitlement to benefits under the scheme. Any such modification is subject to the provisions in the Pensions Schemes Act 1993 and the Pension Schemes (Northern Ireland) Act 1993 governing the inalienability of guaranteed minimum pension and protected rights payments.

A Tax Information and Impact Note, covering this instrument was published on 9 December 2010 alongside draft legislation for the Finance (No.3) Bill 2011 concerning the restriction of pensions tax relief. This was updated on 3 March 2011 to reflect further decisions relating to the restriction of pensions tax relief and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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