STATUTORY INSTRUMENTS

2006 No. 130

INCOME TAX

The Registered Pension Schemes (Uprating Percentages for Defined Benefits Arrangements and Enhanced Protection Limits) Regulations 2006

Made - - - -	*25th January 2006*
Laid before the House of Commons	*26th January 2006*
Coming into force - -	*6th April 2006*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 235(3)(c) of, and paragraphs 15(5)(b), 16(5A)(b) and 17(6)(b) of Schedule 36 to the Finance Act 2004(**a**), and now exercisable by them(**b**):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Uprating Percentages for Defined Benefits Arrangements and Enhanced Protection Limits) Regulations 2006 and shall come into force on 6th April 2006.

(2) In these Regulations a reference to a numbered section or Schedule (without more) is a reference to the section of, or Schedule to, the Finance Act 2004 which bears that number.

(3) In the application of these Regulations to Northern Ireland, a reference to an enactment applying only in Great Britain shall be construed as including a reference to any enactment having corresponding effect in Northern Ireland.

Percentage referred to for the purposes of section 235(3)(c)

2.—(1) For the purpose of section 235(3)(c) (defined benefits arrangements: uprating of opening value) the percentage to which these Regulations refer is the percentage found as follows.

(2) In this regulation "the relevant percentage" is any of —

(a) the percentage by which the individual's guaranteed minimum pension rights falls to be adjusted by virtue of one or more orders under section 148 of the Social Security Administration Act 1992(**c**);

(**a**) 2004 c. 12. Paragraphs 16(5A) and 17(6) were inserted by sub-paragraphs (14) and (15) respectively of paragraph 53 of Schedule 10 to the Finance Act 2005 (c. 7).

(**b**) The functions of the Commissioners of Inland Revenue ("the former Commissioners") were transferred to the Commissioners for Her Majesty's Revenue and Customs ("the new Commissioners") by section 5 of the Commissioners for Revenue and Customs Act 2005. Section 50 of that Act provides that in so far as is appropriate in consequence of section 5 references to the former Commissioners in other enactments, however expressed, are to be read as references to the new Commissioners.

(**c**) 1992 c. 5. Section 148 has been amended by paragraph 27 of Schedule 8 to the Pension Schemes Act 1993 (c. 48) and section 37 of the Child Support, Pensions and Social Security Act 2000.(c. 19)

(b) the percentage by which the individual's earnings factors in respect of contracted-out employment by reference to the scheme shall be taken to be increased in accordance with section 16 of the Pension Schemes Act 1993 (revaluation of earnings factors)(**a**);

(c) the percentage by which the individual's occupational pension falls to be adjusted by virtue of the application of subsections (1) and (2) of section 84 of the Pension Schemes Act 1993 (which provide that the method of revaluation is to be the final salary method except where the trustees or managers otherwise provide) (**b**); or

(d) the percentage by which a pension, payment of which has been deferred until after normal pension age in accordance with the rules of the pension scheme in question, falls to be increased so that the scheme's trustees or managers can be reasonably satisfied that, when the member's benefit becomes payable, the total value of the benefits provided under regulation 8 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991(early retirement or deferred retirement) (**c**) is at least equal to the amount prescribed in regulation 11 of those Regulations (value of alternatives to short service benefit).

(3) The percentage in a particular case is found as follows.

Step 1

Determine whether any of the relevant percentages applies to the defined benefit arrangement.

Step 2

If any of the relevant percentages applies to the arrangement, determine whether that percentage applies to the whole of the arrangement.

Step 3

If one relevant percentage applies to the whole of the arrangement, that is the percentage to which these Regulations refer.

Step 4

If different percentages apply to different parts of the arrangement, the percentage to which these Regulations refer is that found by the formula—

$$\left(RP1 \times \frac{P1}{W}\right) + \left(RP2 \times \frac{P2}{W}\right) + \left(RP3 \times \frac{P3}{W}\right) + \left(RP4 \times \frac{P4}{W}\right) + \left[SP \times \left(1 - \frac{PT}{W}\right)\right]$$

Here—

RP is the relevant percentage;

P is the amount of that part of the individual's rights under the arrangement to which the relevant percentage applies;

W is the whole amount of the individual's rights under the arrangement; and

SP is the greater of—

(a) 5%, or

(b) the percentage (if any) by which the retail prices index for the month in which the pension input period ends is higher than it was for the month in which it began;

PT is the sum of the amounts of *P1, P2, P3* and *P4*;

(c) expressions with the suffix 1 refer to the percentage described in paragraph (2)(a);

(d) expressions with the suffix 2 refer to the percentage described in paragraph (2)(b);

(e) expressions with the suffix 3 refer to the percentage described in paragraph (2)(c);

(f) expressions with the suffix 4 refer to the percentage described in paragraph (2)(d).

(**a**) 1993 c. 48. Section 16 has been amended by paragraph 28 of Schedule 5 to the Pensions Act 1995, and paragraph 4 of Schedule 2 to the Welfare Reform and Pensions Act 1999.

(**b**) Section 84 has been amended by paragraph 62 of Schedule 5 and the relevant entry in Part III of Schedule 7 to the Pensions Act 1995.

(**c**) S.I. 1991/167. Regulation 11 has been amended by S.I. 1994/1062.

This step is subject to paragraph (4).

(4) If—

(a) any relevant percentage is a value less than the greater of—

(i) 5%, or

(ii) the percentage (if any) by which the retail prices index for the month in which the pension input period ends is higher than it was for the month in which it began;

the value shall instead be taken to be whichever is the greater of the two values given in this sub-paragraph;

(b) two or more relevant percentages apply to the same part of the arrangement, the value of P1, P2, P3 or P4 (as the case may be) is found by determining which of those relevant percentages produces the greatest increase in the opening value in the pension input period in question.

Percentage increases in enhanced protection limits

3.—(1) For the purposes of paragraph 15(5)(b) of Schedule 36 (relevant indexation percentage for the purposes of the appropriate limit in relation to a relevant event), the annual percentage rate referred to in these Regulations is found by the formula—

$$\left[\left(RP1\times\frac{P1}{W}\right)+\left(RP2\times\frac{P2}{W}\right)+\left(RP3\times\frac{P3}{W}\right)+\left(RP4\times\frac{P4}{W}\right)+\left(PP\times\left(1-\frac{PT}{W}\right)\right)\right]\div\frac{MRE}{12}$$

(2) In paragraph (1)—

terms defined in regulation 2(3) bear the same meaning as they do there;

MRE is the number of complete tax months which have elapsed since 6th April 2006 at the time when the relevant event occurs; and

PP is the greater of—

(a) an annual rate of 5% for the period beginning on 6th April 2006 and ending with the last day of the tax month in which the relevant event occurs, or

(b) the percentage (if any) by which the retail prices index for the month in which the relevant event occurs is higher than it was for April 2006;

(3) For the purposes of paragraphs 16(5A)(b) and 17(6)(b) of Schedule 36 (relevant indexation percentages for the purposes of limit on post-commencement earnings) the annual percentage rate referred to in these Regulations is that which would be found by the formula in paragraph (1) if—

(a) for MRE there were substituted MBE, where MBE is the number of complete tax months between the date on which the appropriate three year period ends and the date of the first relevant event; and

(b) in the definition of PP—

(i) in paragraph (a) for "6th April 2006" there were substituted "the first day of the tax month in which the appropriate period ends"; and

(ii) in paragraph (b) for "April 2006" there were substituted "the month in which the appropriate period ends".

(4) In this regulation "tax month" means the period beginning on the 6th day of a calendar month and ending on the 5th day of the following calendar month.

Paul Gray
Mike Eland

25th January 2006 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the alternative percentages by reference to which the opening value of defined benefits arrangements, and enhanced protection limits in paragraphs 15, 16 and 17 of Schedule 36 to the Finance Act 2004 (c. 12) are to be increased.

Section 235(2) of the Finance Act 2004 provides that the opening value is to be increased by the appropriate percentage. Subsection (3) provides that the appropriate percentage is whichever is the greatest of—

(a) 5%,

(b) the percentage by which the retail price index for the month in which the pension input period ends is higher than it was for the month in which it began, and

(c) the percentage to which regulations made by the Board of Inland Revenue refer.

Section 5(2)(a) of the Commissioners for Revenue and Customs Act 2005 transferred the functions of the Commissioners of Inland Revenue to the Commissioners for Her Majesty's Revenue and Customs ("the new Commissioners"). Section 50(1) of the 2005 Act provides that a reference to the Commissioners of Inland Revenue (however expressed) in an enactment, instrument or document is to be construed as a reference to the new Commissioners.

These Regulations prescribe the percentages mentioned in section 235(3)(c) and in paragraphs 15(5)(b), 16(5A)(b) and 17(6)(b) of Schedule 36 (each of which contains provisions similar to section 235(3)(b) in respect of increases in the amounts of earnings taken into account in computing the amount of enhanced protection of the lifetime allowance to be afforded in transitional cases).

Regulation 1 provides for the citation and commencement of the Regulations, and the interpretation of certain terms used in them.

Regulation 2 prescribes the percentages for the purposes of section 235.

Regulation 3 prescribes the percentages for the purposes of paragraphs 15, 16 and 17 of Schedule 36.

The Board of Inland Revenue published a regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it, on 8th April 2004. The assessment is now available on the website for Her Majesty's Revenue and Customs at www.hmrc.gov.uk/ria/simplifying-pensions.pdf or (for hard copies) by writing to the Ministerial Correspondence Unit, 1st Floor Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

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