

Pensions Client  
Directorate

**Consultation Document**

The Occupational and Personal  
Pension Schemes (Authorised  
Payments) Amendment  
Regulations 2009

August 2009

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## Preface

This consultation document seeks views on a draft of the **Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009**. The draft statutory instrument makes minor amendments to regulations governing occupational, personal and stakeholder pension schemes consequential to changes made to Her Majesty's Revenue and Customs' (HMRC) taxation rules. The consultation is primarily aimed at pension industry professionals, but we would be interested in views from any source.

## Subject of consultation

Existing pensions legislation allows for lump sum payments to be made in certain circumstances and operates, in the main, by cross referring to HMRC tax law, specifically the Finance Act 2004. HMRC have identified a number of situations where the tax rules treat certain lump sum payments from a pension scheme as unauthorised but where it would produce a fairer tax treatment for the recipient if they were treated as authorised payments (payments which are not subject to a high taxation charge). These changes were introduced by HMRC through the **Registered Pension Schemes (Authorised Payments) Regulations 2009** and come into force on 1 December 2009. A copy of the regulations can be found on the HMRC website at:

[http://www.opsi.gov.uk/si/si2009/uksi\\_20091171\\_en\\_1](http://www.opsi.gov.uk/si/si2009/uksi_20091171_en_1)

The Department for Work and Pensions (DWP) has decided to mirror the changes made by HMRC in its Regulations. The amendments which are the subject of this consultation seek to ensure that the administrative easement measures contained in the **Registered Pension Schemes (Authorised Payments) Regulations 2009** are reflected in DWP legislation. The intention is that DWP's Regulations will come into force on the same date as HMRC's Regulations - 1 December 2009. Therefore, where DWP regulations currently allow certain types of payments to be treated as authorised payments, such as trivial commutation lump sums and pension commencement lump sums, they now make the correct reference, where appropriate, to the additional types of permissible payments that HMRC have included under these categories.

Your comments on any aspect of the draft Regulations would be welcomed. This document is on the Department's website at:

<http://www.dwp.gov.uk/consultations/2009/>

## How to respond to this consultation

The consultation period will run from **19 August 2009 to 29 September 2009**. Please ensure that your response reaches us by that date.

Please send your responses, preferably by email, to: [contractingOut@dwp.gsi.gov.uk](mailto:contractingOut@dwp.gsi.gov.uk) or by post to:

**Neil Vosper  
Department for Work and Pensions  
7th Floor  
Caxton House  
Tothill Street  
London SW1H 9NA  
Tel: 020 7449 7397**

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

We have sent this consultation document to people and organisations who have already been involved in this work or who have expressed an interest. Please do share this document with, or tell us about, anyone you think will want to be involved in this consultation.

## **Freedom of information**

The information you send us may need to be passed to colleagues within the Department for Work and Pensions and published in a summary of responses received, and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.

If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

The Central Freedom of Information Team  
Department for Work and Pensions  
2nd Floor, Adelphi  
1-11 John Adam Street  
London, WC2N 6HT  
Email: [freedom-of-information-request@dpw.gsi.gov.uk](mailto:freedom-of-information-request@dpw.gsi.gov.uk)

More information about the Freedom of Information Act can be found on the Ministry of Justice website

<http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/guidance/guidancefoi.htm>

## The consultation arrangements

The Cabinet Office Code of Practice on Consultation advises that a minimum of 12 weeks is appropriate for public consultations, unless there are good reasons for a shorter period. In this case, the consultation document is of a technical, specialised nature and of interest to a limited number of stakeholders. The Minister has therefore agreed that a limited consultation of 6 weeks is appropriate.

The consultation is being conducted in line with the Government Code of Practice on Consultation – [www.berr.gov.uk/files/file47158.pdf](http://www.berr.gov.uk/files/file47158.pdf) – and its seven consultation criteria, which are as follows:

- **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
- **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.
- **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
- **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
- **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

## Feedback on this consultation

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Roger Pugh  
DWP Consultation Co-ordinator  
2<sup>nd</sup> Floor, Britannia House  
2 Ferensway  
Hull, HU2 8NF  
Tel: 01482 609571  
Email: [roger.pugh@dwp.gsi.gov.uk](mailto:roger.pugh@dwp.gsi.gov.uk)

In particular, please tell us if you feel that the consultation does not satisfy Cabinet Office Code of Practice on Consultation. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

### **What will we do after the consultation?**

A Government Response to the consultation will be published. We will aim to publish this summary within three months of the consultation closing. The summary of responses will be available on the Department's website: <http://www.dwp.gov.uk/consultations/2009/>

### **Impact Assessment**

The amendments to the pensions taxation rules were provided for in the **Registered Pension Schemes (Authorised Payments) Regulations 2009** and the **Taxation of Pension Schemes (Transitional Provisions) (Amendment) Order 2009**. Regulatory and equality impacts were addressed in the context of those provisions (and the results have been published on the following website: <http://www.hmrc.gov.uk/budget2008/widen-scope-authpyt.pdf>). The draft **Occupational and Personal Pension Schemes (Authorised Payments) Amendments Regulations 2009** reflect this change in policy and do not propose new policy, so there are no additional regulatory or equality impacts.

The impact on business, charities or voluntary bodies is negligible and the instrument should provide an administrative easement for them, where they are involved in pensions administration.

## Commentary on the draft regulations

The following summary explains the purpose of each of the provisions:

1. **Regulation 1** contains the citation and commencement arrangements.
2. **Regulation 2** inserts an additional paragraph (b) into regulation 5 of the **Occupational Pension Schemes (Preservation of Benefit) Regulations 1991**. Regulation 5 prescribes the circumstances when a short service pension may be paid as a lump sum before normal pension age. The new sub-paragraph specifies that small uneconomic pension funds that cannot be commuted under the existing trivial commutation (the conversion of small pension pots into cash lump sums) rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum (payments which are not subject to a high taxation charge). In addition, a reference to Part 4 of those regulations allows commencement lump sums paid in error to be treated as taxed lump sums. This paragraph also allows, in prescribed circumstances, for the payment of a lump sum from a defined contribution scheme, after the member has died, to be treated as a taxed lump sum.
3. **Regulation 3** inserts an additional paragraph (2A) into regulation 5 of the **Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996**. The new paragraph specifies that small uneconomic pension funds that cannot be commuted under the existing trivial commutation rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum. In addition, a reference to regulation 17 and 18 of those regulations allows commencement lump sums paid in error to be treated as taxed lump sums.
4. **Regulation 4** inserts an additional sub-paragraph - (c) - into regulation 20(1) of the **Occupational Pension Schemes (Contracting-out) Regulations 1996**. The new sub-paragraph specifies that small uneconomic pension funds that cannot be commuted under the existing trivial commutation (the conversion of small pension pots into cash lump sums) rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum. In addition, a reference to Part 4 of those regulations allows commencement lump sums paid in error to be treated as taxed lump sums. This sub-paragraph also allows, in prescribed circumstances, for the payment of a lump sum from a defined contribution scheme, after the member has died, to be treated as a taxed lump sum.

5. It also inserts a further sub-paragraph - (cc) - into regulation 60(1) of the **Occupational Pension Schemes (Contracting-out) Regulations 1996**. This makes reference to Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** and allows commencement lump sums paid in error to be treated as taxed lump sums. This sub-paragraph also allows, in prescribed circumstances, for the payment of a lump sum from a defined contribution scheme, after the member has died, to be treated as a taxed lump sum.
6. **Regulation 5** inserts an additional paragraph (1AA) into regulation 8 of the **Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**. The new paragraph specifies that small uneconomic pension funds that cannot be commuted under the existing trivial commutation rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum. In addition, a reference to regulation 17 and 18 of those regulations allows commencement lump sums paid in error to be treated as taxed lump sums.
7. **Regulation 6** inserts an additional sub-paragraph into regulation 8(6)(b)(i) of the **Occupational Pension Schemes (Winding Up) Regulations 1996** – (bb). These sub-paragraphs specify that small uneconomic pension funds that cannot be commuted under the existing trivial commutation rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum.
8. **Regulation 7** inserts an additional paragraph into regulation 2 of the **Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997**. Regulation 2 prescribes the circumstances in which an occupational pension can be commuted as a lump sum. The new paragraph – 2(1)(a)(iii) – specifies that small uneconomic pension funds that cannot be commuted under the existing trivial commutation rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum.
9. **Regulation 8** inserts an additional paragraph into regulation 15 of the **Pension Sharing (Implementation and Discharge of Liability) Regulations 2000**. Regulation 15 describes the circumstances when a pension credit (arising from a pension share on divorce) can be discharged into an annuity contract. The new paragraph (5A) provides the contract may provide that benefits can be commuted as a lump sum if they arise from a small uneconomic pension funds as an

authorised lump sum permitted under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009**.

10. **Regulation 9** replaces regulation 3 of the **Pension Sharing (Pension Credit Benefit) Regulations 2000**. Regulation 3 prescribes the circumstances when pension credit benefit may be paid as a lump sum before normal pension age. The substituted regulation prescribes that small uneconomic pension funds that cannot be commuted under the existing trivial commutation rules but are captured under Part 2 of the **Registered Pension Schemes (Authorised Payments) Regulations 2009** can be treated as an authorised lump sum. In addition, a reference to Part 4 of those regulations allows commencement lump sums paid in error to be treated as taxed lump sums. This section also allows, in prescribed circumstances, for the payment of a lump sum from a defined contribution scheme, after the member has died, to be treated as a taxed lump sum.

### **Consultation Question**

- You are invited to comment on whether you consider that the draft Regulations capture the easements introduced by HMRC.

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 STATUTORY INSTRUMENTS
 

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**2009 No. [consultation draft]****PENSIONS****The Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009***Made* - - - -*Laid before Parliament**Coming into force* - -*1st December 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 12C(1)(c), 21(1), 28(4), 32A(2)(c), 71(6), 101C(2), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993<sup>(a)</sup>, sections 74(3)(e), 91(5)(c)(ii) and (iii), 124(1) and 174(2) and (3) of the Pensions Act 1995<sup>(b)</sup> and section 83(4) and (6) of, and paragraph 7(4) of Schedule 5 to, the Welfare Reform and Pensions Act 1999<sup>(c)</sup>.

[In accordance with section 185(1) of the Pension Schemes Act 1993<sup>(d)</sup>, section 120(1) of the Pensions Act 1995 and section 83(11) of the Welfare Reform and Pensions Act 1999, the Secretary of State has consulted with such persons as the Secretary of State considers appropriate<sup>(e)</sup>.]

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<sup>(a)</sup> 1993 c.48. Section 12C was inserted by section 136(5) of the Pensions Act 1995 (c.26). Section 21(1) was substituted by section 284(1) of the Pensions Act 2004 (c.35). Section 28(4) was amended by paragraph 3(2) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19) and section 284(3) of the Pensions Act 2004. Section 32A(2)(c) was inserted by section 146(1) of the Pensions Act 1995. Section 101C was inserted by section 37 of the Welfare Reform and Pensions Act 1999 (c.30). Section 181(1) is cited because of the meaning it gives to “prescribe” and “regulations”. Section 183(1) was amended by paragraph 79 of Schedule 5, and paragraph 15(a) of Schedule 6, to the Pensions Act 1995.

<sup>(b)</sup> 1995 c.26. Section 74(3)(e) was inserted by section 270(2) of the Pensions Act 2004. Section 91(5)(c)(ii) was amended by paragraph 57(4)(a) of Schedule 12 to the Welfare Reform and Pensions Act 1999 and S.I. 2005/2053. Section 124(1) is cited because of the meaning it gives to “prescribed” and “regulations”.

<sup>(c)</sup> 1999 c.30.

<sup>(d)</sup> Section 185(1) was amended by paragraph 46 of Schedule 3, and paragraph 80(a) of Schedule 5, to the Pensions Act 1995.

<sup>(e)</sup> Some of the provisions in these Regulations were included in the draft Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/615), which were consulted upon from 8th December 2008 to 30th January 2009. They were removed from those Regulations before they were made and placed into these Regulations.

## Citation and commencement

1. These Regulations may be cited as the Occupational and Personal Pension Schemes (Authorised Payments) Amendment Regulations 2009 and shall come into force on 1st December 2009.

## Amendment of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

2. In regulation 5 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991<sup>(a)</sup> (short service benefit in lump sum form)—

- (a) the words “permitted in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004<sup>(b)</sup> (lump sum rule)” become paragraph (a) of regulation 5, and
  - (b) after paragraph (a), insert—
    - “; or
    - (b) made by a registered pension scheme and is a payment that is described in—
      - (i) Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(c)</sup> and is made to or in respect of a member; or
      - (ii) Part 4 of those Regulations,
- and in this paragraph, “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”).”.

## Amendment of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996

3. In regulation 5 of the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996<sup>(d)</sup> (conditions upon which appropriate policies of insurance may be commuted)—

- (a) in paragraph (1), for “paragraph (2)” substitute “paragraph (2), (2A)”, and
  - (b) after paragraph (2), insert—
    - “(2A) This paragraph is satisfied if the lump sum payment is made by a registered pension scheme and is a payment that is described in—
      - (a) Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member; or
      - (b) regulations 17 or 18 of those Regulations,
- and in this paragraph, “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”).”.

## Amendment of the Occupational Pension Schemes (Contracting-out) Regulations 1996

4.—1 The Occupational Pension Schemes (Contracting-out) Regulations 1996<sup>(e)</sup> are amended in accordance with this regulation.

- (1) In regulation 1(2) (interpretation)<sup>(f)</sup>, after the definition of “the 2004 Act” insert—

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<sup>(a)</sup> S.I. 1991/167. Regulation 5 was substituted by S.I. 2007/814.

<sup>(b)</sup> 2004 c.12.

<sup>(c)</sup> S.I. 2009/1171.

<sup>(d)</sup> S.I. 1996/775. Relevant amending instrument is S.I. 2006/744, which substituted regulation 5.

<sup>(e)</sup> S.I. 1996/1172.

<sup>(f)</sup> Relevant amending instrument is S.I. 2005/3377, which inserted the definition of “the 2004 Act”.

“the 2009 Regulations” means the Registered Pension Schemes (Authorised Payments) Regulations 2009;”.

(2) In regulation 20(1) (payment of a lump sum instead of a pension payable under a relevant scheme)<sup>(a)</sup>—

- (a) immediately before sub-paragraph (a), omit “permitted either”,
- (b) in sub-paragraphs (a) and (b), insert at the beginning “permitted”, and
- (c) after sub-paragraph (b), insert—

“; or

- (c) made by a registered pension scheme and is a payment that is described in—
  - (i) Part 2 of the 2009 Regulations and is made to or in respect of a member; or
  - (ii) Part 4 of the 2009 Regulations,

and in this sub-paragraph, “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”).”.

(3) In regulation 60(1)(b)(i) (payment of a guaranteed minimum pension as a lump sum)<sup>(b)</sup>—

- (a) omit “qualifies as”,
- (b) in sub-paragraphs (aa) and (bb), insert at the beginning “qualifies as”, and
- (c) after sub-paragraph (bb), insert—

“(cc) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)), is a payment that is described in Part 2 of the 2009 Regulations and is made to or in respect of a member; or”.

#### **Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996**

**5.** In regulation 8 of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996<sup>(c)</sup> (giving effect to protected rights by the provision of a lump sum)—

- (a) in paragraph (1), for “either paragraph (1A)” substitute “paragraph (1A), (1AA)”, and
- (b) after paragraph (1A), insert—

“(1AA) This paragraph is satisfied if the lump sum payment is made by a registered pension scheme and is a payment that is described in—

- (a) Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member; or
- (b) regulations 17 or 18 of those Regulations,

and in this paragraph, “registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”).”.

#### **Amendment of the Occupational Pension Schemes (Winding Up) Regulations 1996**

**6.** In regulation 8(6)(b)(i) of the Occupational Pension Schemes (Winding Up) Regulations 1996<sup>(d)</sup> (requirements to be satisfied by transferee schemes, annuities etc.)—

- (a) the words from “a trivial commutation lump sum” to the end become sub-paragraph (aa) of paragraph (i), and

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<sup>(a)</sup> Regulation 20 was substituted by S.I. 2006/744.

<sup>(b)</sup> Regulation 60 was substituted by S.I. 2006/744 and amended by S.I. 2006/1337.

<sup>(c)</sup> S.I. 1996/1537. Relevant amending instrument is S.I. 2006/744.

<sup>(d)</sup> S.I. 1996/3126. Regulation 8(6) was inserted by S.I. 2005/706 and amended by S.I. 2007/1930.

(b) at the end of sub-paragraph (aa), for “; and” substitute—

“; or

(bb) made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member; and”.

#### **Amendment of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997**

7. In regulation 2(1)(a) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997<sup>(a)</sup> (commutation of a pension under an occupational pension scheme), after paragraph (ii) insert—

“(iii) the earner or the earner’s widow, widower or surviving civil partner is made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member; or”.

#### **Amendment of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000**

8. In regulation 15 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000<sup>(b)</sup> (disqualification as a destination for pension credit – annuity contracts and insurance policies)—

(a) in paragraph (4)—

(i) omit the word “either”, and

(ii) after sub-paragraph (a), insert—

“(aa) the condition set out in paragraph (5A) is satisfied; or”, and

(b) after paragraph (5), insert—

“(5A) The condition referred to in paragraph (4)(aa) is that the lump sum payment is made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)), is a payment that is described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member.”.

#### **Amendment of the Pension Sharing (Pension Credit Benefit) Regulations 2000**

9. For regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (pension credit benefit in lump sum form)<sup>(c)</sup>, substitute—

##### **“Pension credit benefit in lump sum form**

3. For the purposes of section 101C(2) of the 1993 Act (basic principle as to pension credit benefit), the circumstances in which the trustees or managers of a scheme may provide for payment of pension credit benefit in the form of a lump sum before normal benefit age are—

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<sup>(a)</sup> S.I. 1997/785. Regulation 2(1) was substituted by S.I. 2006/744.

<sup>(b)</sup> S.I. 2000/1053. Relevant amending instrument is S.I. 2006/744.

<sup>(c)</sup> S.I. 2000/1054. Regulation 3 was substituted by S.I. 2009/615.

- (a) those which permit payment of a lump sum in accordance with paragraph (a), (b), (e), (f) or (g) of the lump sum rule in section 166(1) of the Finance Act 2004 (lump sum rule); or
- (b) that the lump sum payment is made by a registered pension scheme (within the meaning given in section 150(2) of the Finance Act 2004 (meaning of “pension scheme”)) and is a payment that is described in—
  - (i) Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 and is made to or in respect of a member; or
  - (ii) Part 4 of those Regulations.”.

Signed by authority of the Secretary of State for Work and Pensions.

Date	<i>Name</i> Parliamentary Under-Secretary of State, Department for Work and Pensions
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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend occupational and personal pensions legislation to update references to certain tax legislation.

The Registered Pension Schemes (Authorised Payments) Regulations 2009 (S.I. 2009/1171) (“the 2009 Regulations”) introduce new tax rules for pension schemes. They provide that some payments made by pension schemes will be authorised payments, so will not attract some tax charges.

These Regulations update the following occupational and personal pensions legislation so that it refers to the new tax rules in the 2009 Regulations.

- The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167).
- The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775).
- The Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172).
- The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537).
- The Occupational Pension Schemes (Winding Up) Regulations 1996 (S.I. 1996/3126).
- The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (S.I. 1997/785).
- The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053).
- The Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054).

A full impact assessment has not been produced for this instrument as it has only a negligible impact on the private and voluntary sectors. An impact assessment was produced by Her Majesty’s Revenue and Customs of the Government’s intention to make the changes to the tax legislation. This accompanied the Budget announcement made on 12th March 2008 and is available on the HMRC website at <http://www.hmrc.gov.uk/budget2008/widen-scope-authpyt.pdf>.

### List of those consulted

Age Concern  
Association of British Insurers  
Association of Consulting Actuaries  
Association of Independent Financial Advisers  
Association of Member-Directed Pension Schemes  
Association of Pension Lawyers  
British Chambers of Commerce  
Confederation of British Industry  
Consumers Association  
DBERR  
EBS  
Engineering Employers Federation  
Equality and Human Rights Commission  
Fawcett Society  
Federation of Small Businesses  
Financial Services Authority  
Government Actuaries Dept  
Help the Aged  
Hewitt  
HM Treasury  
HMRC  
HSBC  
Institute and Faculty of Actuaries  
Institute of Chartered Accountants  
Institute of Chartered Accountants in Scotland  
Institute of Directors  
Lane Clark & Peacock  
Law Society  
Law Society of Scotland  
Legal & General  
Linklaters  
Ministry of Justice  
Northern Ireland  
Norwich Union  
NAPF  
National Consumers Council  
Office of Fair Trading  
TPAS  
Pensions Management Institute  
Pensions Policy Institute  
Pensions Ombudsman  
Pension Protection Fund  
Premier Pensions Management  
Price Waterhouse Coopers  
Prudential  
Punter Southall

Resolution  
Scottish Executive  
Scottish Equitable  
Scottish Life  
Scottish Executive  
Scottish Widows  
Technical Connection  
Society of Pension Consultants  
Standard Life  
The Pensions Regulator  
Trades Union Congress  
Watson Wyatt  
Welsh Assembly