

alert

TRIVIAL COMMUTATION REGULATIONS PUBLISHED!

1 INTRODUCTION

Although the Budget 2009 has been grabbing recent headlines, promises made in last year's Budget¹ to ease the administrative burden on occupational pension schemes are finally coming to fruition. Coming into force on 1 June 2009, the Registered Pension Schemes (Authorised Payments) Regulations 2009 will extend the list of "authorised payments" which can be made from a registered pension scheme.

2 KEY POINTS

- The Regulations will facilitate the commutation of small pensions in occupational schemes.
- Certain unauthorised payments will be reclassified as authorised (such as payments of pension and lump sums in error).
- Whilst the lump sum and pension error changes will apply retrospectively from 6 April 2006 (A Day), the new commutation provisions will not come into force until 1 December 2009.

3 BACKGROUND

The Finance Act 2004 sets out the payments which a registered pension scheme is authorised to make to members and sponsoring employers. Any payments which do not come within the scope of "authorised payments" are either unauthorised member or employer payments, attracting significant tax charges.

¹ See our Alert, "Budget 2008: What's in it for pensions?" (dated 14 March 2008)

alert

Continued

TRIVIAL COMMUTATION REGULATIONS PUBLISHED!

Since the authorised and unauthorised payments regime was introduced on A-Day, the Government has become aware of several circumstances in which payments seem unfairly caught by the regime. For example, the ability to commute pension rights which give rise to small entitlements into a lump sum has been seen as unduly restrictive. This is because the limit on the amount of benefits which may be commuted in this way (1% of the standard lifetime allowance) must generally be aggregated across all of a member's registered pension arrangements.

4 THE REGULATIONS

The Regulations therefore extend the list of payments which will be authorised, subject to certain conditions being met to include:

- New provisions applicable to small benefits allowing commutation of up to £2,000 (although, in some cases, this will need to be assessed across all of a member's schemes referable to the same employment).
- Certain pensions continuing to be paid for up to 6 months after the member's death where, for example, the trustees did not know (and could not reasonably have been expected to know) that the member had died. (The original time period specified in the draft regulations was up to 3 months.)
- Overpayments of pension paid in error where the trustees believed that the recipient was entitled to payment of that amount.
- Certain lump sums paid in error (for example, those based on pensions which were miscalculated).

alert

Continued

TRIVIAL COMMUTATION REGULATIONS PUBLISHED!

5 WHEN DO THE CHANGES APPLY?

Although the Regulations come into force on 1 June 2009, in relation to those payments which relate to lump sum or pension errors they apply retrospectively from A-Day. However, the provisions which authorise new commutation payments will only apply to payments made on or after 1 December 2009.

6 FURTHER CHANGES?

Consequential amendments will now need to flow through to other areas of legislation, for instance, to allow the changes to apply to contracted-out benefits. We can therefore expect another set of miscellaneous amendment regulations from the Department for Work and Pensions come the autumn.