1 Authorised member surplus payments

(1) Part 4 of FA 2004 (pension schemes etc) is amended in accordance with subsections (2) to (9).

(2) In section 164 (authorised member payments), in subsection (1), after paragraph (b) insert—

"(ba) authorised member surplus payments (see section 168A),".

(3) After section 168 insert—

"168A Authorised member surplus payments

(1) For the purposes of this Part an "authorised member surplus payment" is a payment made by a registered pension scheme in a case where—

(a) conditions 1 to 5 were met at the time an actual or prospective right to receive the payment was first acquired,

(b) the payment is made—

(i) to a member of the pension scheme, on or after the day on which the member reaches normal minimum pension age, or before that day if the ill-health condition was met immediately before the payment, or

(ii) to a dependant of the member after the member's death, and

(c) any other conditions prescribed in regulations made by His Majesty's Revenue and Customs are met in relation to the payment.

(2) Condition 1 was met if the decision to grant the right to receive the payment was at the discretion of the trustees or managers of the pension scheme.

(3) Condition 2 was met if the sums or assets out of which the payment was to be made were held only for the purposes of a defined benefits arrangement relating to the member.

(4) Condition 3 was met if—

(a) the pension scheme was an occupational pension scheme,

(b) the pension scheme was not an investment-regulated pension scheme by virtue of paragraph 2 of Schedule 29A, and

(c) the arrangement was not treated as if it were an investment-regulated pension scheme by virtue of paragraph 3 of Schedule 29A.

(5) Condition 4 was met if the pension scheme was not being wound up.

(6) Condition 5 was met if the payment would have been an authorised employer surplus payment if the right to receive the payment had been granted to the sponsoring employer of the pension scheme.

(7) An authorised member surplus payment—

(a) is not to be treated as a pension or a lump sum for any purpose under this Part (whether or not it is paid together with, or at the same time as, a pension or a lump sum);

(b) is to be treated as a defined benefit for the purposes of determining whether an arrangement is a defined benefits arrangement under this Part;

(c) is to be treated as a pension under a registered pension scheme accruing in the tax year in which it is paid, and not as a lump sum, for the purposes of Part 9 of ITEPA 2003 (tax on pension income).

(8) Accordingly, the amount of an authorised member surplus payment is not to be taken into account for the purposes of determining—

(a) the pension input amount in respect of any arrangement (and, accordingly, whether the annual allowance charge arises),

(b) whether the payment of a lump sum is permitted by the lump sum rule or the lump sum death benefit rule, or

(c) the availability of an individual's lump sum allowance or lump sum and death benefit allowance."

(4) In section 175 (authorised employer payments), in paragraph (b), for "authorised surplus payments" substitute "authorised employer surplus payments".

(5) In section 177 (authorised surplus payment)—

(a) for the heading substitute "Authorised employer surplus payment";

(b) for "authorised surplus payment" substitute "authorised employer surplus payment".

(6) In section 207 (authorised surplus payments charge)—

(a) in the heading, for "Authorised surplus payments charge" substitute "Authorised employer surplus payments charge";

(b) for "authorised surplus payments charge", in each place it occurs, substitute "authorised employer surplus payments charge";

(c) for "authorised surplus payment", in each place it occurs, substitute "authorised employer surplus payment".

(7) In section 272A (liabilities of independent trustee), in subsection (7)(a)(iv), for "authorised surplus payments charge" substitute "authorised employer surplus payments charge".

(8) In section 280 (abbreviations and general index), in subsection (2)—

(a) for "authorised surplus payment" substitute "authorised employer surplus payment";

(b) at the appropriate place insert—

"authorised member surplus payment	section 168A".

(9) In Schedule 36 (transitional provisions and savings)—

(a) in the italic heading before paragraph 47, for "Authorised surplus payments charge" substitute "Authorised employer surplus payments charge";

(b) in paragraph 47, for "authorised surplus payments charge" substitute "authorised employer surplus payments charge".

(10) In consequence of the other amendments made by this section—

(a) in section 37 of the Pensions Act 1995 (payment of surplus to employer), in subsection (1A), for "authorised surplus payments" substitute "authorised employer surplus payments";

(b) in Chapter 5A of Part 9 of ITEPA 2003 (tax on pensions under registered pension schemes), in section 579A (scope of Chapter), after subsection (1) insert—

"(1A) See also section 168A of FA 2004, which treats authorised member surplus payments (as defined in that section) as pensions under a registered pension scheme for the purposes of this Part.";

(c) in section 251 of the Pensions Act 2004 (payment of surplus to employer: transitional power to amend scheme), in subsection (2A), for "authorised surplus payments" substitute "authorised employer surplus payments";

(d) in the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), in regulation 3 (particulars required to be included in returns under section 254 of FA 2004)—

(i) in column 1 of Table 1, for "authorised surplus payments charge" substitute "authorised employer surplus payments charge";

(ii) in column 2 of Table 1, for "authorised surplus payment", in each place it occurs, substitute "authorised employer surplus payment";

(e) in the Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), in Part 1 of Schedule 3 (responsibilities and liabilities of sub-scheme administrators in respect of a sub-scheme), for "Authorised surplus payments charge" substitute "Authorised employer surplus payments charge";

(f) in the Registered Pension Schemes (Authorised Surplus Payments) Regulations 2006 (S.I. 2006/574)—

(i) in regulation 1 (citation, commencement and interpretation), in paragraph (1), for "Authorised Surplus Payments" substitute "Authorised Employer Surplus Payments";

(ii) in regulation 2 (payments falling within section 37 or 76 of the Pensions Act 1995), for "authorised surplus payment", in both places it occurs, substitute "authorised employer surplus payment";

(iii) in regulation 3 (payments falling outside section 37 or 76 of the Pensions Act 1995), for "authorised surplus payment", in both places it occurs, substitute "authorised employer surplus payment".

(11) By virtue of the amendment of regulation 1 of the Registered Pension Schemes (Authorised Surplus Payments) Regulations 2006, those Regulations may be cited as the Registered Pension Schemes (Authorised Employer Surplus Payments) Regulations 2006.

(12) The amendments made by this section have effect in relation to payments made on or after 6 April 2027.