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Mr Chancellor of the Exchequer

**Amendment 31**

Page **463**, line **2** [Schedule 23], at end insert—

*‘Short service refund lump sum: protected rights etc.*

26A In paragraph 5(1)(d) of Schedule 29 (requirement that lump sum under a pension scheme must extinguish member’s entitlement to benefits under the pension scheme in order to be short service refund lump sum), after “scheme” insert “(except to the extent that it is prohibited from being extinguished by the payment of a lump sum by reason of the operation of provision made by or under any enactment)”.’.

**SUMMARY**

1. This amendment makes a change to the short service refund lump sum rules contained in paragraph 5 of Schedule 29 to the Finance Act 2004.

**DETAILS**

2. The short service refund lump sum rules permit occupational pension schemes to refund a member’s contributions where the member has less than 2 years’ pensionable service with the employer.
3. The rules that apply to the payment of a short service refund lump sum are contained within paragraph 5 of Schedule 29 to the Finance Act 2004. One of the requirements of making a short service refund lump sum is that it must extinguish all the benefit entitlements of the member under the scheme. This is provided for in paragraph 5(1)(d) of Schedule 29.
4. Amendment 31 provides for an exception to the requirement contained in paragraph 5(1)(d) of Schedule 29 that all the member’s rights under the pension scheme must be extinguished,

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to the extent that rights must be retained in the scheme in order to meet other legislative requirements that apply to the scheme.

### **BACKGROUND NOTE**

5. The pension tax simplification changes in Finance Act 2004 included provisions for the rationalisation of the lump sums payments that pension schemes can make. One of these lump sums, a short service refund lump sum, may be paid when someone has less than two years' pensionable service and effectively permits a refund of the member's contributions paid into the scheme. These lump sums are taxable on the scheme administrator at 20% on amounts up to £10,200 and 40% on the excess. The tax rules in Finance Act 2004 set out certain requirements for the payment of short service refund lump sums, which include the condition that the lump sum payment should extinguish the whole of a member's entitlement to benefits under the scheme.
6. Representations have recently been made that the requirement to extinguish all the member's rights under the scheme cannot be met by contracted-out money purchase occupational schemes, because they must, under DWP rules, retain within the scheme an amount representing the member's protected rights. This means that such schemes cannot pay short service refund lump sums as an authorised lump sum payment under the tax rules, and if they do make the payments representing the member's contributions in respect of the non-contracted-out rights and retain the protected rights then the payment to the member will be unauthorised.
7. The amendment, therefore, ensures that where certain rights must be retained to comply with other legislative requirements, such as the DWP rules for contracted-out money purchase schemes, these schemes can continue to pay short service refund lump sums in respect of the non-contracted out rights as authorised payments.