
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 101

PENSION SCHEMES ETC.

Introduction

- 1 Part 4 of FA 2004 (pension schemes etc.) is amended in accordance with paragraphs 2 to 58.

Commencement Information

I1 Sch. 10 para. 1 in force at 6.4.2006, see Sch. 10 para. 64(1)

Deferred annuities

- 2 In section 153(8) (deferred annuity contract to be registered pension scheme), after “contract” insert “ made with an insurance company ”.

Commencement Information

I2 Sch. 10 para. 2 in force at 6.4.2006, see Sch. 10 para. 64(1)

Orders for return of unauthorised payments

- 3 In section 153 (registration of pension schemes), after subsection (8) insert—
“(8A) Where an order has been made under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (restitution by order of court or Pensions Regulator) that property or money be transferred, or a sum be paid, towards an annuity contract made with an insurance company, the annuity contract is to be treated as having become a registered pension scheme on the day on which it is made.”

Commencement Information

I3 Sch. 10 para. 3 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 4 After section 266 insert—

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“Relief from liability in respect of returned unauthorised member payments

266A Member's liability

- (1) This section applies where—
- (a) a liability to the unauthorised payments charge, or to both the unauthorised payments charge and the unauthorised payments surcharge, has arisen in respect of an unauthorised member payment, and
 - (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to an order under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (restitution by order of court or Pensions Regulator) as a result of the unauthorised member payment.
- (2) The member of the registered pension scheme to or in respect of whom the unauthorised member payment was made (or, if it was paid after his death, the recipient) may claim relief from—
- (a) the relevant proportion of the unauthorised payments charge, and
 - (b) if a liability to the unauthorised payments surcharge has arisen and subsection (4) is satisfied, the relevant proportion of the unauthorised payments surcharge.
- (3) The claim must be made within the period of one year beginning with the day on which the property or money is transferred, or the sum paid.
- (4) This subsection is satisfied if no part of the unauthorised member payment and no asset or sum representing it—
- (a) has been received by (or on behalf of) the member or a person connected with the member, or
 - (b) has been held for more than 180 days by a person or succession of persons, other than the member or a person connected with the member, involved in any transaction by which the unauthorised member payment was made.
- (5) The relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is—

$$\frac{\text{ASO}}{\text{UMP}}$$

where—

ASO is the amount subject to the order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the order under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 in respect of the unauthorised member payment, and

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UMP is the amount of the unauthorised member payment.

- (6) But if ASO is greater than UMP, the relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is the whole of it.
- (7) Section 839 of ICTA (connected persons) applies for the purposes of this section.

266B Scheme's liability

- (1) This section applies where—
- (a) the scheme administrator of a registered pension scheme has become liable to the scheme sanction charge in respect of an unauthorised member payment, and
 - (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to an order under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (restitution by order of court or Pensions Regulator) as a result of the unauthorised member payment.
- (2) The scheme administrator may, within the period of one year beginning with the day on which the property or money is transferred, or the sum paid, claim relief from the relevant proportion of the scheme sanction charge.
- (3) The relevant proportion of the scheme sanction charge is—

$$\frac{\text{ASO}}{\text{UMP}}$$

where—

ASO is the amount subject to the order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the order under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 in respect of the unauthorised member payment, and

UMP is the amount of the unauthorised member payment.

- (4) But if ASO is greater than UMP, the relevant proportion of the scheme sanction charge is the whole of it.”

Commencement Information

I4 Sch. 10 para. 4 in force at 6.4.2006, see Sch. 10 para. 64(1)

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Unauthorised member payments

- 5 In section 161(5) (payment made to person who is connected with member, or was connected with member at his death, to be treated as made in respect of member), after “scheme to” insert “ or in respect of ”.

Commencement Information

I5 Sch. 10 para. 5 in force at 6.4.2006, see Sch. 10 para. 64(1)

Unauthorised payments: loans to person connected with member or sponsoring employer

- 6 (1) Section 162 (meaning of “loan”) is amended as follows.
- (2) In subsection (3) (guarantee of loan to or in respect of member or sponsoring employer to be treated as loan), after “scheme” insert “ , or to or in respect of a person who is connected with a member or sponsoring employer of a registered pension scheme but is not a member or sponsoring employer of the pension scheme, ”.
- (3) In subsection (4) (debt of member or sponsoring employer not required to be repaid at normal time to be treated as loan), after “registered pension scheme” insert “ or a person who is connected with a member or sponsoring employer of a registered pension scheme but is not a member or sponsoring employer of the pension scheme ”.
- (4) After subsection (5) insert—
- “(6) Section 839 of ICTA (connected persons) applies for the purposes of this section.”

Commencement Information

I6 Sch. 10 para. 6 in force at 6.4.2006, see Sch. 10 para. 64(1)

Abatement of public service pensions

- 7 In section 165(3) (when a person becomes entitled to a pension), insert at the end (not as part of paragraph (b)) “ and, for this purpose, the abatement of a scheme pension under a public service pension scheme is not to be taken to affect the right to receive it. ”

Commencement Information

I7 Sch. 10 para. 7 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 8 (1) Schedule 32 (benefit crystallisation events: supplementary) is amended as follows.
- (2) In paragraph 9 (benefit crystallisation event 2: meaning of “P”), after sub-paragraph (1) insert—
- “(1A) If the pension is under a public service pension scheme, any abatement of the pension is to be left out of account in determining the amount of the pension which will be payable for the purposes of sub-paragraph (1).”
- (3) After that paragraph insert—

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“Benefit crystallisation event 3: disregarding abatement

- 9A For the purposes of benefit crystallisation event 3, any abatement of the scheme pension is to be left out of account in determining for the purposes of column 1—
- (a) the increased annual rate of the pension, and
 - (b) the rate at which it was payable on the day on which the individual became entitled to it.”
- (4) In paragraph 11 (benefit crystallisation event 3: permitted margin in case of post-5th April 2006 pension), after sub-paragraph (7) insert—
- “(8) If the pension is under a public service pension scheme, any abatement of the pension is to be left out of account in determining for the purposes of this paragraph the annual amount of the pension at the rate at which it was payable on the day on which the individual became entitled to it.”
- (5) In paragraph 12 (benefit crystallisation event 3: permitted margin in case of pre-5th April 2006 pension), after sub-paragraph (3) insert—
- “(4) If the pension is under a public service pension scheme, any abatement of the pension is to be left out of account in determining for the purposes of this paragraph the annual amount of the pension at the rate at which it was payable on the day on which the individual became entitled to it.”
- (6) In paragraph 13 (benefit crystallisation event 3: meaning of “XP”), after sub-paragraph (2) insert—
- “(3) If the pension is under a public service pension scheme, any abatement of the pension is to be left out of account in determining for the purposes of sub-paragraph (1)—
- (a) the increased annual rate of the pension, and
 - (b) the rate at which it was payable on the day on which the individual became entitled to it.”

Commencement Information

I8 Sch. 10 para. 8 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 9 In section 279(1) (definitions), before the definition of “the Board of Inland Revenue” insert—

““abatement”, in relation to a scheme pension under a public service pension scheme, means the reduction of the pension (including its reduction to nil) in accordance with the rules of the pension scheme by reason of re-employment in public service.”.

Commencement Information

I9 Sch. 10 para. 9 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 10 In the table in section 280(2) (index of defined expressions), insert at the appropriate place—

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“abatement

section 279(1)”.

Commencement Information

I10 Sch. 10 para. 10 in force at 6.4.2006, see Sch. 10 para. 64(1)

Scheme pensions

- 11 (1) Paragraph 2 of Schedule 28 (scheme pensions) is amended as follows.
- (2) Omit sub-paragraph (1) (special provisions for pension scheme with fewer than 50 members).
- (3) In sub-paragraph (2) (pension scheme with 50 or more members), for “In the case of a pension scheme with 50 or more members, a” substitute “ A ”.
- (4) In sub-paragraph (3)(b) (no reduction in rate of pension)—
- (a) for “in respect of any” substitute “ at any time during any ”, and
 - (b) for “in respect of the previous 12 month period” substitute “ at the relevant time ”.
- (5) After that sub-paragraph insert—
- “(3A) “The relevant time” is—
- (a) in the case of the first relevant 12 month period, the day on which the member becomes entitled to the pension, and
 - (b) in the case of any other relevant 12 month period, immediately before the beginning of that period.”
- (6) In sub-paragraph (4) (things not preventing condition in sub-paragraph (3) being satisfied), omit “or” at the end of paragraph (b) and insert at the end—
- “(d) the reduction of the pension in consequence of a pension sharing order or provision,
 - (e) forfeiture of entitlement to the pension in circumstances prescribed by regulations made by the Board of Inland Revenue,
 - (f) the reduction of the pension in consequence of an order of a court,
 - (g) if the pension is under a public service pension scheme, its reduction by abatement, or
 - (h) the reduction of the pension in any other circumstances prescribed by regulations made by the Board of Inland Revenue.”
- (7) After that sub-paragraph insert—
- “(4A) In sub-paragraph (4) references to the reduction of a pension include its ceasing to be payable (whether temporarily or permanently).”
- (8) After sub-paragraph (6) insert—
- “(6A) The Board of Inland Revenue may by regulations provide that if—
- (a) a scheme pension payable by an insurance company selected by the scheme administrator of a registered pension scheme (“the original scheme pension”) ceases to be payable, and

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- (b) in consequence of the transfer of sums or assets (or both) from the insurance company to another insurance company in connection with the original scheme pension ceasing to be payable, another scheme pension becomes payable by the other insurance company (“the new scheme pension”),

the new scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original scheme pension.”

(9) Insert at the end—

“(8) Regulations under sub-paragraph (4)(e) and (h) may include provision having effect in relation to times before they are made.”

Commencement Information

III Sch. 10 para. 11 in force at 6.4.2006, see Sch. 10 para. 64(1)

12 In Schedule 28 (authorised pensions), after paragraph 2 insert—

- “2A (1) Where this paragraph applies in relation to a pension payable to the member, the pension scheme is to be treated as making an unauthorised payment to the member of the appropriate amount.
- (2) This paragraph applies to a pension if it fails to satisfy the condition in sub-paragraph (3) of paragraph 2—
- (a) by reason of not complying with paragraph (a) of that sub-paragraph, or
- (b) by reason of not complying with paragraph (b) of that sub-paragraph because a substantial reduction occurs in the rate of the pension,
- or if it is a pension the rate of which is reduced in accordance with paragraph (b) of sub-paragraph (4) of paragraph 2 but the reduction is part of avoidance arrangements.
- (3) For the purposes of sub-paragraph (2)(b) a substantial reduction occurs in the rate of a pension if the rate at which the pension is payable at any time during any relevant 12 month period (within the meaning of paragraph 2(7)) is less than 80% of the rate payable when the member became entitled to the pension.
- (4) For the purposes of sub-paragraph (2) “avoidance arrangements” includes schemes, arrangements and understandings of any kind (whether or not legally enforceable) the main purpose, or one of the main purposes, of which is to increase the member's entitlement to a lump sum on which there is no liability to income tax.
- (5) “The appropriate amount”, in relation to the pension, is the amount of any lump sum on which there is no liability to tax to which the member became entitled in connection with the pension.
- (6) Once this paragraph has applied in relation to the pension, it does not apply in relation to it again.
- ”

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- (7) The application of this paragraph in relation to the pension does not prevent any payments of the pension themselves being unauthorised member payments.”

Commencement Information

I12 Sch. 10 para. 12 in force at 6.4.2006, see Sch. 10 para. 64(1)

Annuities

- 13 (1) Paragraph 3 of Schedule 28 (lifetime annuity) is amended as follows.
- (2) For sub-paragraph (1)(d) (lifetime annuity to be level annuity, increasing annuity or relevant linked annuity) substitute—
- “(d) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.”
- (3) After sub-paragraph (2) insert—
- “(2A) An annuity does not fail to satisfy sub-paragraph (1)(d) by reason of the operation of a pension sharing order or provision.
- (2B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a lifetime annuity payable by an insurance company (“the original lifetime annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another lifetime annuity (a “new lifetime annuity”) or a scheme pension, short-term annuity, dependants' scheme pension, dependants' annuity or dependants' short-term annuity by the other insurance company, or
- (b) sums or assets are transferred to the relevant registered pension scheme.
- (2C) The regulations may provide that—
- (a) in a case where a new lifetime annuity becomes payable, the new lifetime annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original lifetime annuity, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.
- (2D) For the purposes of sub-paragraphs (2B) and (2C) a registered pension scheme is the relevant registered pension scheme if the original lifetime annuity was acquired using sums or assets held for the purposes of the pension scheme.”
- (4) Omit sub-paragraphs (3) to (6) (which define level annuity, increasing annuity and relevant linked annuity).

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Commencement Information

I13 Sch. 10 para. 13 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 14 (1) Paragraph 6 of Schedule 28 (short-term annuity) is amended as follows.
- (2) In sub-paragraph (1) (meaning of “short-term annuity”), for “An” substitute “ For the purposes of this Part an ”.
- (3) For paragraph (e) of that sub-paragraph (short-term annuity to be level annuity, increasing annuity or relevant linked annuity) substitute—
- “(e) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.”
- (4) After that sub-paragraph insert—
- “(1A) An annuity does not fail to satisfy sub-paragraph (1)(e) by reason of the operation of a pension sharing order or provision.
- (1B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a short-term annuity payable by an insurance company (“the original short-term annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another short-term annuity (a “new short-term annuity”) or a scheme pension, lifetime annuity, dependants' scheme pension, dependants' annuity or dependants' short-term annuity by the other insurance company, or
- (b) sums or assets are transferred to the relevant registered pension scheme.
- (1C) The regulations may provide that—
- (a) in a case where a new short-term annuity becomes payable, the new short-term annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original short-term annuity, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.
- (1D) For the purposes of sub-paragraphs (1B) and (1C) a registered pension scheme is the relevant registered pension scheme if the original short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.”
- (5) Omit sub-paragraph (2) (which defines level annuity, increasing annuity and relevant linked annuity).

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Commencement Information

I14 Sch. 10 para. 14 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 15 (1) Paragraph 17 of Schedule 28 (dependants' annuity) is amended as follows.
- (2) In sub-paragraph (1) (meaning of “dependants' annuity”), for “An” substitute “ For the purposes of this Part an ”.
- (3) For paragraph (c) of that sub-paragraph (dependants' annuity to be level annuity, increasing annuity or relevant linked annuity) substitute—
- “(c) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.”.
- (4) For sub-paragraph (2) (which defines level annuity, increasing annuity and relevant linked annuity) substitute—
- “(2) An annuity does not fail to satisfy sub-paragraph (1)(c) by reason of the operation of a pension sharing order or provision.
- (3) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' annuity payable to a person (“the original dependants' annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' annuity (a “new dependants' annuity”) or a scheme pension, lifetime annuity, short-term annuity, dependants' scheme pension or dependants' short-term annuity by the other insurance company, or
- (b) sums or assets are transferred to the relevant registered pension scheme.
- (4) The regulations may provide that—
- (a) in a case where a new dependants' annuity becomes payable, the new dependants' annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' annuity, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.
- (5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original dependants' annuity was acquired using sums or assets held for the purposes of the pension scheme.”

Commencement Information

I15 Sch. 10 para. 15 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 16 (1) Paragraph 20 of Schedule 28 (dependants' short-term annuity) is amended as follows.

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- (2) In sub-paragraph (1) (meaning of “dependants' short-term annuity”), for “An” substitute “ For the purposes of this Part an ”.
- (3) For paragraph (e) of that sub-paragraph (dependants' short-term annuity to be level annuity, increasing annuity or relevant linked annuity) substitute—
- “(e) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.”
- (4) After that sub-paragraph insert—
- “(1A) An annuity does not fail to satisfy sub-paragraph (1)(e) by reason of the operation of a pension sharing order or provision.
- (1B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' short-term annuity payable to a person (“the original dependants' short-term annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' short-term annuity (a “new dependants' short-term annuity”) or a scheme pension, lifetime annuity, short-term annuity, dependants' scheme pension or dependants' annuity by the other insurance company, or
- (b) sums or assets are transferred to the relevant registered pension scheme.
- (1C) The regulations may provide that—
- (a) in a case where a new dependants' short-term annuity becomes payable, the new dependants' short-term annuity is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' short-term annuity, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.
- (1D) For the purposes of sub-paragraphs (1B) and (1C) a registered pension scheme is the relevant registered pension scheme if the original dependants' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.”
- (5) Omit sub-paragraph (2) (which defines level annuity, increasing annuity and relevant linked annuity).

Commencement Information

116 Sch. 10 para. 16 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 17 In the table in section 280(2) (index of defined expressions), insert at the appropriate place—

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“dependants' annuity	paragraph 17 of Schedule 28”
“dependants'short-term annuity	paragraph 20 of Schedule 28”
“short-term annuity	paragraph 6 of Schedule 28”.

Commencement Information

I17 Sch. 10 para. 17 in force at 6.4.2006, see Sch. 10 para. 64(1)

Unsecured pension funds and alternatively secured pension funds

18 (1) Paragraph 8 of Schedule 28 (member's unsecured pension fund) is amended as follows.

(2) In sub-paragraph (1) (sums and assets designated as available for the payment of unsecured pension), for the words after “of the arrangement” substitute “as are member-designated funds.”

(3) After that sub-paragraph insert—

“(1A) For the purposes of this Part sums or assets held for the purposes of an arrangement are member-designated funds if they—

- (a) have been designated at any time under the arrangement as available for the payment of unsecured pension, or
- (b) arise, or (directly or indirectly) derive, from sums or assets which have been so designated or which so arise or derive,

and have not been applied towards the provision of a scheme pension.”

^{F1}(4)

(5) After that sub-paragraph insert—

“(4) If any sums or assets representing the member's unsecured pension fund in respect of an arrangement under the pension scheme would (apart from this sub-paragraph) come to be taken to represent another unsecured pension fund of his under the pension scheme, or a dependant's unsecured pension fund of his under the pension scheme, they are to be treated as not doing so.”

Textual Amendments

F1 Sch. 10 para. 18(4) omitted (with effect in accordance with Sch. 16 paras. 85, 107 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 84\(a\)](#)

Commencement Information

I18 Sch. 10 para. 18 in force at 6.4.2006, see Sch. 10 para. 64(1)

19 (1) Paragraph 10 of Schedule 28 (“unsecured pension years” etc.) is amended as follows.

(2) In sub-paragraph (4)(“basis amount”)—

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- (a) in paragraph (a), for “or recent additional fund designation” substitute “, recent additional fund designation or recent pension sharing event”, and
- (b) in paragraph (b), for “or additional fund designation” substitute “, additional fund designation or pension sharing event”.

(3) After sub-paragraph (8) insert—

“(8A) “Pension sharing event” means the coming into operation of a pension sharing order or provision relating to the sums and assets representing the member's unsecured pension fund.”

(4) In sub-paragraph (9) (“recent”), for “or additional fund designation” substitute “, additional fund designation or pension sharing event”.

Commencement Information

I19 Sch. 10 para. 19 in force at 6.4.2006, see Sch. 10 para. 64(1)

^{F2}20

Textual Amendments

F2 Sch. 10 para. 20 omitted (with effect in accordance with Sch. 16 paras. 85, 107 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 84\(a\)](#)

21 (1) Paragraph 22 of Schedule 28 (dependant's unsecured pension fund) is amended as follows.

(2) In sub-paragraph (1) (sums and assets designated as available for the payment of dependants' unsecured pension), for paragraphs (a) and (b) substitute—

- “(a) as are dependant-designated funds, and
- (b) have not been applied towards the provision of a dependants' scheme pension.”

(3) After that sub-paragraph insert—

“(2) For the purposes of this Part sums or assets held for the purposes of an arrangement are dependant-designated funds if they—

- (a) have been designated at any time under the arrangement as available for the payment of dependant's unsecured pension to the dependant, or
- (b) arise, or (directly or indirectly) derive, from sums or assets which have been so designated or which so arise or derive.

(3) If any sums or assets representing a dependant's unsecured pension fund in respect of an arrangement under the pension scheme would (apart from this sub-paragraph)—

- (a) come to be taken to represent another dependant's unsecured pension fund of his under the pension scheme, or an unsecured pension fund of his under the pension scheme, or
- (b) are applied towards the provision of a scheme pension or a lifetime annuity,

they are to be treated as not doing so.”

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Commencement Information

I20 Sch. 10 para. 21 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 22 (1) Paragraph 24 of Schedule 28 (“unsecured pension years” etc.) is amended as follows.
- (2) In sub-paragraph (4) (“basis amount”)—
 - (a) in paragraph (a), for “or recent additional fund designation” substitute “ , recent additional fund designation or recent pension sharing event ”, and
 - (b) in paragraph (b), for “or additional fund designation” substitute “ , additional fund designation or pension sharing event ”.
- (3) After sub-paragraph (8) insert—

“(8A) “Pension sharing event” means the coming into operation of a pension sharing order or provision relating to the sums and assets representing the dependant's unsecured pension fund.”
- (4) In sub-paragraph (9) (“recent”), for “or additional fund designation” substitute “ , additional fund designation or pension sharing event ”.

Commencement Information

I21 Sch. 10 para. 22 in force at 6.4.2006, see Sch. 10 para. 64(1)

^{F3}23

Textual Amendments

F3 Sch. 10 para. 23 omitted (with effect in accordance with Sch. 16 paras. 85, 107 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 84\(a\)](#)

- 24 In paragraph 3(8) of Schedule 29 (pension commencement lump sum: deduction from applicable amount in case of scheme pension), for “surrender” substitute “ application ”.

Commencement Information

I22 Sch. 10 para. 24 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 25 (1) Schedule 32 (benefit crystallisation events: supplementary) is amended as follows.
- (2) In paragraph 3(1) (benefit crystallisation events 1, 2 and 4: prevention of overlap), for “surrender” substitute “application”.
- ^{F4}(3)

Textual Amendments

F4 Sch. 10 para. 25(3) omitted (with effect in accordance with Sch. 16 paras. 85, 107 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 84\(a\)](#)

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

Commencement Information

I23 Sch. 10 para. 25 in force at 6.4.2006, see Sch. 10 para. 64(1)

Meaning of “dependant”

26 In paragraph 15 of Schedule 28 (meaning of “dependant”), after sub-paragraph (1) insert—

“(1A) If the rules of the pension scheme so provide, a person who was married to the member when the member first became entitled to a pension under the pension scheme is a dependant of the member.”

Commencement Information

I24 Sch. 10 para. 26 in force at 6.4.2006, see Sch. 10 para. 64(1)

Dependants' scheme pensions

27 (1) Paragraph 16 of Schedule 28 (dependants' scheme pension) is amended as follows.

(2) Omit sub-paragraph (1) (special provisions for pension scheme with fewer than 50 members).

(3) In sub-paragraph (2) (pension scheme with 50 or more members)—

- (a) for “In the case of a pension scheme with 50 or more members, a” substitute “ A ”, and
- (b) omit sub-paragraph (2)(b) and the word “and” before it.

(4) After that sub-paragraph insert—

“(2A) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' scheme pension payable to a dependant of a member of a registered pension scheme by an insurance company (“the original dependants' scheme pension”) ceases to be payable and in consequence of that—

- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' scheme pension (a “new dependants' scheme pension”) or a scheme pension, lifetime annuity, short-term annuity, dependants' annuity or dependants' short-term annuity by the other insurance company, or
- (b) sums or assets are transferred to the relevant registered pension scheme.

(2B) The regulations may provide that—

- (a) in a case where a new dependants' scheme pension becomes payable, the new dependants' scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' scheme pension, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member

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of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(2C) For the purposes of sub-paragraphs (2A) and (2B) a registered pension scheme is the relevant registered pension scheme if the original dependants' scheme pension was acquired using sums or assets held for the purposes of the pension scheme.”

(5) Omit sub-paragraphs (3) to (6) (condition to be satisfied).

Commencement Information

I25 Sch. 10 para. 27 in force at 6.4.2006, see Sch. 10 para. 64(1)

28 In Schedule 28 (authorised pensions), after paragraph 16 insert—

- “16A (1) Paragraphs 16B and 16C apply where—
- (a) the member dies after 5th April 2006,
 - (b) he has reached the age of 75 before his death, and
 - (c) at the time of his death he is actually or prospectively entitled to one or more scheme pensions under the pension scheme.
- (2) References in this paragraph and paragraph 16B to a scheme pension include a pension payable before 6th April 2006 which would be a scheme pension if payable after that date.
- 16B (1) Where a pension is payable under the pension scheme to a dependant of the member in the period of 12 months beginning with the date of the member's death (“the post-death year”), so much of the pension as exceeds the initial member pension limit is not a dependants' scheme pension.
- (2) But if—
- (a) more than one pension is so payable to one of the dependants of the member in the post-death year, or
 - (b) pensions are so payable to more than one dependant of the member in the post-death year,
- (or both), so much of any of the pensions as exceeds the appropriate portion of the initial member pension limit is not a dependants' scheme pension.
- (3) The “initial member pension limit” is (subject to sub-paragraph (4)) the sum of—
- (a) the aggregate of the amounts of the scheme pensions to which the member is actually entitled under the pension scheme immediately before his death payable to the member in the period of 12 months ending with the date of his death (“the pre-death year”),
 - (b) the aggregate of the amounts of the scheme pensions to which the member is prospectively entitled under the pension scheme at that time which would have been so payable if he had been actually entitled to the pensions throughout the pre-death year, and

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- (c) 5% of the aggregate of the amounts of the lump sums on which there is no liability to income tax to which the member has become entitled in connection with scheme pensions under the pension scheme before his death.
- (4) But if the member became (actually) entitled to a scheme pension under the pension scheme during the pre-death year, sub-paragraph (3)(a) has effect as if the amount of that scheme pension which was payable to the member under the pension scheme in the pre-death year were the amount which would have been payable to him in the period of 12 months beginning with the date on which he became entitled to it had he not died.
- (5) The “appropriate portion” of the initial member pension limit, in relation to any pension payable under the pension scheme to a dependant of the member in the post-death year, is—

$$\frac{P}{AP}$$

where—

P is the amount of that pension payable in the post-death year, and

AP is the aggregate of the amounts of each of the pensions payable under the pension scheme to dependants of the member in the post-death year.

- 16C (1) Where a pension is payable under the pension scheme to a dependant of the member, otherwise than in excepted circumstances, in—
- (a) the period of 12 months beginning with the end of the post-death year, or
- (b) any succeeding period of 12 months,
- (“the 12 months in question”), so much of the pension as exceeds the current member pension limit is not a dependants' scheme pension.
- (2) But if—
- (a) more than one pension is so payable to one of the dependants in the 12 months in question, or
- (b) pensions are so payable to more than one dependant of the member in the 12 months in question,
- (or both), so much of any of the pensions as exceeds the appropriate portion of the current member pension limit is not a dependants' scheme pension.
- (3) “Excepted circumstances” means—
- (a) that at the beginning of the period of 12 months in question there are at least 50 pensioner members of the pension scheme, and
- (b) that the condition in subsection (4) is met.
- (4) The condition in this subsection is met if —
- (a) the difference between CYP and PYP in the case of each relevant existing pension is the same amount,

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- (b) the difference between CYP and PYP in the case of each relevant existing pension is the same percentage of PYP, or
 - (c) in the case of each relevant existing pension the difference between CYP and PYP is the aggregate of a percentage of PYP and an amount which are both the same as those the aggregate of which make up the difference between CYP and PYP in the case of each other relevant existing pension.
- (5) In this section—
- “relevant existing pension” means a pension payable to any dependant of any member under the pension scheme throughout the 12 months in question and the immediately preceding period of 12 months,
- “CYP”, in relation to a relevant existing pension, is the current year pension, that is the amount of the pension payable in the 12 months in question, and
- “PYP”, in relation to a relevant existing pension, is the previous year pension, that is the amount of the pension payable in the immediately preceding period of 12 months.
- (6) The “current member pension limit”, in relation to the 12 month period in question, is the initial member pension limit increased by the aggregate of—
- (a) the permitted margin, and
 - (b) the excepted circumstances amount.
- (7) The “permitted margin” is the amount by which the initial member pension limit would be greater if it had been increased by whichever of calculation A and calculation B gives the greater amount.
- (8) Calculation A involves increasing the initial member pension limit by the relevant annual percentage rate for the whole of the period—
- (a) beginning with the first month beginning after the end of the post-death year (“the opening month”), and
 - (b) ending with the first month of the 12 months in question (“the closing month”).
- (9) The relevant annual percentage rate is—
- (a) if the relevant valuation factor in relation to the pension scheme is a number greater than 20, the annual rate agreed by the Inland Revenue and the scheme administrator, and
 - (b) otherwise, 5% per annum.
- (10) Calculation B involves increasing the initial member pension limit by the relevant indexation percentage.
- (11) If the retail prices index for the closing month is higher than it was for the opening month, the relevant indexation percentage is the percentage increase in the retail prices index.
- (12) If it is not, the relevant indexation percentage is 0%.
- (13) The “excepted circumstances amount” is the aggregate of the amounts of the relevant increases in pensions which were payable under the pension

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scheme to dependants of the member in excepted circumstances in any period or periods within subsection (1)(a) or (b).

- (14) The relevant increase in the case of any pension payable in relation to any 12 month period under the pension scheme to a dependant of the member is the difference between CYP and PYP (for this purpose reading the references in subsection (5) to the 12 months in question as references to the 12 month period).
- (15) The “appropriate portion” of the current member pension limit, in relation to any pension payable under the pension scheme to a dependant of the member in the 12 months in question, is—

$$\frac{P}{AP}$$

where—

P is the amount of that pension payable in the 12 months in question, and
AP is the aggregate of the amounts of each of the pensions payable under the pension scheme to one or more dependants of the member in the 12 months in question.”

Commencement Information

I26 Sch. 10 para. 28 in force at 6.4.2006, see Sch. 10 para. 64(1)

Lifetime annuities and dependants' annuities purchased together

- 29 (1) Paragraph 17 of Schedule 28 (dependants' annuity) is amended as follows.
- (2) In sub-paragraph (1) (meaning of “dependants' annuity”), before paragraph (a) insert—
- “(za) it is purchased either together with a lifetime annuity payable to the member or after the member's death,”.
- (3) After that sub-paragraph insert—
- “(1A) For the purposes of sub-paragraph (1)(za) a dependants' annuity is purchased together with a lifetime annuity if the dependant's annuity is related to the lifetime annuity.”

Commencement Information

I27 Sch. 10 para. 29 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 30 (1) Paragraph 3 of Schedule 29 (pension commencement lump sum: applicable amount) is amended as follows.
- (2) In sub-paragraph (4) (applicable amount where member entitled to lifetime annuity to be one third of purchase price), for “of the annuity” substitute “ of the lifetime annuity and any related dependants' annuity ”.

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(3) After that sub-paragraph insert—

“(4A) For the purposes of this Part a dependants' annuity is related to a lifetime annuity payable to a member of a registered pension scheme—

- (a) if they are purchased either in the form of a joint life annuity or separately in circumstances in which the day on which the one is purchased is no earlier than seven days before, and no later than seven days after, the day on which the other is purchased, and
- (b) the dependant's annuity will be payable to a dependant of the member.”

Commencement Information

I28 Sch. 10 para. 30 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 31 In the table in section 216(1) (benefit crystallisation events and amounts crystallised), in benefit crystallisation event 4 (becoming entitled to lifetime annuity), in column 2 (amount crystallised), insert at the end “ and any related dependants' annuity ”.

Commencement Information

I29 Sch. 10 para. 31 in force at 6.4.2006, see Sch. 10 para. 64(1)

^{F5}32

Textual Amendments

F5 Sch. 10 para. 32 omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 16](#)

- 33 In the table in section 280(2) (index of defined expressions), insert at the appropriate place—

“related dependants' annuity	paragraph 3(4A) of Schedule 29”.
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Commencement Information

I30 Sch. 10 para. 33 in force at 6.4.2006, see Sch. 10 para. 64(1)

Pension commencement lump sums

- 34 (1) Paragraph 1 of Schedule 29 (meaning of “pension commencement lump sum”) is amended as follows.
- (2) In sub-paragraph (3)(b) (member must become entitled to lump sum in connection with becoming entitled to relevant pension: lump sum and pension to be under same arrangement), for “under the arrangement” substitute “ , otherwise than by virtue of the operation of paragraph 8(2) of Schedule 28, under the pension scheme ”.
- (3) After sub-paragraph (5) insert—

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“(6) The Board of Inland Revenue may by regulations provide that, where incorrect income tax has been paid by the scheme administrator in relation to the member by way of the lifetime allowance charge in circumstances prescribed by the regulations, a lump sum subsequently paid to the member in circumstances so prescribed is to be treated as a pension commencement lump sum even though either or both of the conditions in sub-paragraph (1) (c) and (e) are not met.”

Commencement Information

I31 Sch. 10 para. 34 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 35 (1) Paragraph 3 of Schedule 29 (applicable amount limit) is amended as follows.
- (2) For sub-paragraph (5) (annuity purchase price: sums and assets to be disregarded) substitute—
- “(5) There is to be deducted from that aggregate—
- (a) if the sums or assets applied in (or in connection with) the purchase of the annuity or any related dependants' annuity consist of or include sums or assets representing the whole or part of the member's unsecured pension fund, the aggregate of the amount of those sums and the market value of those assets, and
 - (b) in any case, so much (if any) of the sums or assets applied in (or in connection with) the purchase of the annuity or any related dependants' annuity as represents rights which are attributable to a disqualifying pension credit.”
- (3) In sub-paragraph (7) (scheme pensions), in the definition of AC, insert at the end “(disregarding paragraph 3 of Schedule 32).”

Commencement Information

I32 Sch. 10 para. 35 in force at 6.4.2006, see Sch. 10 para. 64(1)

Recognised transfers

- 36 In section 169 (recognised transfers), after subsection (1) insert—
- “(1A) A transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme to an insurance company is to be treated as a recognised transfer if the sums or assets had been applied by the pension scheme towards the provision of a scheme pension or a dependants' scheme pension (but subject to regulations under subsections (1B) and (1C)).
- (1B) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a scheme pension to which a member of a registered pension scheme has become entitled (“the original scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a scheme pension (a “new scheme pension”), and

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- (b) if they are so applied, the new scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original scheme pension.
- (1C) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a dependants' scheme pension to which a dependant of a member of a registered pension scheme has become entitled in respect of the member (“the original dependants' scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a dependants' scheme pension (a “new dependants' scheme pension”), and
- (b) if they are so applied, the new dependants' scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' scheme pension.
- (1D) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent—
- (a) a person's unsecured pension fund or dependant's unsecured pension fund, or
- (b) a person's alternatively secured pension fund or dependant's alternatively secured pension fund,
- under an arrangement (“the old arrangement”), the transfer is not a recognised transfer unless all of those sums and assets become held under an arrangement under which no other sums or assets are held (“the new arrangement”).
- (1E) If regulations so provide they may make in relation to cases in which the sums and assets become so held provision as to the treatment for the purposes of any provision of this Part of—
- (a) the sums and assets transferred, and
- (b) the new arrangement,
- including provision for treating the sums and assets transferred as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, sums and assets held under the old arrangement.”

Commencement Information

I33 Sch. 10 para. 36 in force at 6.4.2006, see Sch. 10 para. 64(1)

Assignment

- 37 (1) Section 172 (assignment of benefit to which member has actual or prospective entitlement to constitute unauthorised payment) is amended as follows.
- (2) In subsection (1) (members), for the words after “agrees to assign” substitute—

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- “(a) any benefit, other than an excluded pension, to which the member (or any dependant of the member) has an actual or prospective entitlement under the pension scheme, or
 - (b) any right in respect of any sums or assets held for the purposes of any arrangement under the pension scheme.”
- (3) In subsection (3) (other persons), for the words after “agrees to assign” substitute—
 - “(a) any benefit, other than an excluded pension, to which the person has an actual or prospective entitlement under the pension scheme in respect of a member of the pension scheme, or
 - (b) any right in respect of any sums or assets held for the purposes of any arrangement relating to the member under the pension scheme.”
- (4) In subsection (5)(b) (amount of unauthorised payment), insert at the end “ and any power to reduce the entitlement to the benefit or right did not exist. ”
- (5) In subsection (6) (payments of benefits assigned not unauthorised payments), after “benefit” insert “ or right ”.
- (6) For subsection (7) substitute—
 - “(7) An excluded pension is so much of any pension which under pension rule 2 may continue to be paid after the member's death as may be so paid.”

Commencement Information

I34 Sch. 10 para. 37 in force at 6.4.2006, see Sch. 10 para. 64(1)

Surrender and allocation of rights etc.

38 After section 172 insert—

“172A Surrender

- (1) Subsection (2) applies if a member of a registered pension scheme surrenders or agrees to surrender—
 - (a) any benefit, other than an excluded pension, to which the member (or any dependant of the member) has a prospective entitlement under an arrangement under the pension scheme, or
 - (b) any right in respect of any sums or assets held for the purposes of any arrangement under the pension scheme.
- (2) The pension scheme is to be treated as making an unauthorised payment to the member.
- (3) Subsection (4) applies if a person surrenders or agrees to surrender—
 - (a) any benefit, other than an excluded pension, to which the person has a prospective entitlement under an arrangement under the pension scheme relating to a member of a pension scheme, or
 - (b) any right in respect of any sums or assets held for the purposes of any arrangement relating to a member of the pension scheme under the pension scheme.

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- (4) The pension scheme is to be treated as making an unauthorised payment to the person in respect of the member.
- (5) Subsections (2) and (4) do not apply to—
- (a) a surrender pursuant to a pension sharing order or provision,
 - (b) a surrender (or agreement to surrender) by the member in return for the conferring on a dependant of an entitlement to benefits after the member's death,
 - (c) a transfer of (or agreement to transfer) benefits or rights so as to become benefits or rights under another arrangement under the pension scheme relating to the member or dependant,
 - (d) a surrender of (or agreement to surrender) benefits or rights in order to fund the making of an authorised surplus payment,
 - (e) a surrender (or agreement to surrender) which constitutes an assignment (or agreement to assign) within section 172, or
 - (f) any surrender (or agreement to surrender) of a description prescribed by regulations made by the Board of Inland Revenue.
- (6) Regulations under subsection (5)(f) may include provision having effect in relation to times before they are made.
- (7) Subsections (2) and (4) do not apply to the surrender of a benefit to which the member (or a dependant of the member) has a prospective entitlement, or to which the person has a prospective entitlement in respect of a member, under an arrangement that is a defined benefits arrangement or cash balance arrangement unless—
- (a) in consequence of the surrender, the actual or prospective entitlement of another member (or dependant of another member) of the pension scheme, or of another person in respect of another member, to benefits under the scheme is increased, and
 - (b) the two members are or have been connected persons.
- (8) The amount of the unauthorised payment is the consideration that might be expected to be received if what is surrendered were assigned by a transaction between parties at arm's length and any power to reduce the entitlement to the benefit or right did not exist.
- (9) In this section “surrender”, in relation to any benefit or right of a member (or dependant of a member) of a pension scheme or other person, includes any schemes, arrangements or understandings of any kind (whether or not legally enforceable) the main purpose, or one of the main purposes, of which is to reduce the member's (or dependant's), or person's, entitlement to the benefit or right.
- (10) An excluded pension is so much of any pension which under pension rule 2 may continue to be paid after the member's death as may be so paid.
- (11) Section 839 of ICTA (connected persons) applies for the purposes of this section.

172B Increase in rights of connected person on death

- (1) This section applies if—

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- (a) at any time after the death of a relevant member of a registered pension scheme, there is an increase in the pension rights of another member of the pension scheme which is attributable to the death, and
 - (b) the dead member and other member were connected persons immediately before the death.
- (2) A member of a registered pension scheme is a relevant member if, immediately before his death, any of his rights under the pension scheme are—
 - (a) rights to benefit to which the member (or any dependant of the member) has a prospective entitlement under an arrangement under the pension scheme, or
 - (b) rights representing the member's unsecured pension fund, alternatively secured pension fund, dependant's unsecured pension fund or dependant's alternatively secured pension fund in respect of an arrangement under the pension scheme.
- (3) There is at any time an increase in the pension rights of the other member of the pension scheme which is attributable to the death if—
 - (a) the consideration which might be expected to be received in respect of an assignment (or assignation) of the benefits to which he is actually or prospectively entitled under the pension scheme at that time, exceeds
 - (b) the consideration which might be expected to be received in respect of such an assignment (or assignation) immediately before that time, in consequence of the death (ignoring for the purposes of paragraphs (a) and (b) any power to reduce the entitlement to the benefits).
- (4) The pension scheme is to be treated as making an unauthorised payment to the other member (or to the other member's personal representatives) of an amount equal to the excess (but subject to subsection (6)).
- (5) The amount which would (apart from this subsection) constitute the unauthorised payment is to be reduced by so much of the excess as arises—
 - (a) from the payment of any transfer lump sum death benefit in respect of the dead member so as to become held for the purposes of, or to represent accrued rights under, an arrangement relating to the other member,
 - (b) from the other member becoming entitled to pension death benefits or lump sum death benefits in respect of the dead member, or
 - (c) in any manner prescribed by regulations made by the Board of Inland Revenue.
- (6) Regulations under subsection (5)(c) may include provision having effect in relation to times before they are made.
- (7) This section does not apply if—
 - (a) at the time of the increase mentioned in subsection (1)(a) there at least 20 members of the pension scheme, and
 - (b) the benefits to which each of them is actually or prospectively entitled under the pension scheme are increased at the same rate in consequence of the death.

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- (8) This section does not apply if the increase in the pension rights of the other member is brought about by an assignment (or agreement to assign) within section 172.
- (9) Section 839 of ICTA (connected persons) applies for the purposes of this section.

172C Allocation of unallocated employer contributions

- (1) This section applies if—
- (a) contributions are paid under a registered pension scheme by an employer otherwise than in respect of any individual,
 - (b) in any tax year any of the contributions become held for the purposes of the provision of benefits to or in respect of a member of the pension scheme under any relevant arrangement or arrangements (“the allocated contributions”),
 - (c) the amount of the allocated contributions exceeds the permitted maximum, and
 - (d) the member and the employer, or the member and any person connected with the employer at any time during the tax year, are connected persons at any time during the tax year.
- (2) An arrangement is a relevant arrangement if it is—
- (a) a money purchase arrangement that is not a cash balance arrangement, or
 - (b) a hybrid arrangement under which the benefits that may be provided to or in respect of the member are, or include, money purchase benefits other than cash balance benefits.
- (3) “The permitted maximum” is—
- (a) the maximum amount of relief to which the member is entitled under section 188 (relief for contributions) in respect of relievable pension contributions paid during the tax year (see section 190), less
 - (b) the amount of any contributions paid by employers under any registered pension scheme in respect of the member in the tax year.
- (4) But if the member is also a member of one or more other registered pension schemes, the permitted maximum in relation to each of the registered pension schemes of which he is a member is—

$$\frac{PM}{N}$$

where—

PM is the amount arrived at under subsection (3), and

N is the number of registered pension schemes of which he is a member.

- (5) The pension scheme is to be treated as making an unauthorised payment to the member (or to the member's personal representatives).

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- (6) The amount of the unauthorised payment is the amount by which the amount of the allocated contributions exceeds the permitted maximum.
- (7) Section 839 of ICTA (connected persons) applies for the purposes of this section.

172D Limit on increase in benefits

- (1) This section applies where, at any time during any pension input period in respect of a relevant arrangement relating to a member of an occupational pension scheme that is a registered pension scheme, the member and—
 - (a) a sponsoring employer, or
 - (b) a person connected with a sponsoring employer.are connected persons.
- (2) If—
 - (a) the pension input amount for the pension input period in respect of the relevant arrangement, exceeds
 - (b) the notional unconnected person input amount for the pension input period in respect of the relevant arrangement,the pension scheme is to be treated as making an unauthorised payment to the member (or to the member's personal representatives) of an amount equal to the excess.
- (3) A relevant arrangement is an arrangement under the pension scheme that is—
 - (a) a defined benefits arrangement,
 - (b) a cash balance arrangement, or
 - (c) a hybrid arrangement under which the benefits that may be provided to or in respect of the member are, or include, defined benefits or cash balance benefits.
- (4) The pension input amount for a pension input period in respect of the relevant arrangement is to be determined in accordance with—
 - (a) sections 230 to 232 if the relevant arrangement is a cash balance arrangement,
 - (b) sections 234 to 236 if it is a defined benefits arrangement, and
 - (c) section 237 if it is a hybrid arrangement,treating references in those sections to the individual as to the member and treating section 237 as if the references to input amount B were omitted.
- (5) The notional unconnected person input amount for the pension input period in respect of the relevant arrangement is what the pension input amount, as so determined, would have been if the member were connected with—
 - (a) a sponsoring employer, or
 - (b) a person connected with a sponsoring employer,at no time during the pension input period.
- (6) Section 839 of ICTA (connected persons) applies for the purposes of this section.”

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

Commencement Information

I35 Sch. 10 para. 38 in force at 6.4.2006, see Sch. 10 para. 64(1)

Restriction of employers' relief in respect of contributions

39 After section 196 insert—

“196A Power to restrict relief

- (1) The Board of Inland Revenue may make regulations for restricting the extent to which contributions paid by an employer under a registered pension scheme in respect of an individual are subject to relief in circumstances in which subsection (2) or (3) applies (or both do).
- (2) This subsection applies where any of the benefits which will or may be payable to or in respect of the individual under the registered pension scheme will be payable only if relevant benefits expected to be so paid under an employer-financed retirement benefits scheme are not so paid.
- (3) This subsection applies where, because relevant benefits are or may be payable to or in respect of the individual under an employer-financed retirement benefits scheme, the aggregate of the amount of any sums and the market value of any assets—
 - (a) held for the purposes of, or
 - (b) representing accrued rights under,
 the registered pension scheme which may be transferred by way of a recognised transfer in respect of the individual will or may be less than it otherwise would be.
- (4) The reference in subsection (1) to contributions paid by an employer being subject to relief is to—
 - (a) their being deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 (trading income) or Case I or II of Schedule D,
 - (b) their being expenses of management of the employer for the purposes of section 75 of ICTA (expenses of management: companies with investment business), or
 - (c) their being brought into account at Step 1 in section 76(7) of ICTA (expenses of insurance companies) in respect of the employer,
 (depending on which is appropriate in relation to the employer).
- (5) In this section—

“employer-financed retirement benefits scheme”, and
“relevant benefits”,

 have the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act).”

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

Commencement Information

I36 Sch. 10 para. 39 in force at 6.4.2006, see Sch. 10 para. 64(1)

40 After section 246 insert—

“246A Case where no relief for provision by an employer

- (1) An employer's expenses of providing relevant benefits to or in respect of a present or former employee (“the employee”) under an employer-financed retirement benefits scheme (whether or not by the making of contributions under the scheme) are not subject to relief if subsection (2) applies.
- (2) This subsection applies where—
 - (a) the provision of the relevant benefits results in a reduction in the benefits payable to or in respect of the employee under a registered pension scheme, or
 - (b) a reduction in the benefits payable to or in respect of the employee under a registered pension scheme results in the provision of the relevant benefits.
- (3) But if the extent to which contributions paid by the employer under the registered pension scheme in respect of the employee are subject to relief has been restricted in accordance with regulations under section 196A, the employer's expenses of providing the relevant benefits are not prevented from being subject to relief to the extent that is just and reasonable.
- (4) The references in this section to expenses of an employer being subject to relief are to—
 - (a) their being deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 (trading income) or Case I or II of Schedule D,
 - (b) their being expenses of management of the employer for the purposes of section 75 of ICTA (expenses of management: companies with investment business), or
 - (c) their being brought into account at Step 1 in section 76(7) of ICTA (expenses of insurance companies) in respect of the employer,(depending on which is appropriate in relation to the employer).
- (5) In this section—

“employer-financed retirement benefits scheme”, and
“relevant benefits”,

have the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act).”

Commencement Information

I37 Sch. 10 para. 40 in force at 6.4.2006, see Sch. 10 para. 64(1)

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

Lifetime allowance: reduction of rights in respect of tax paid

- 41 In section 215 (amount of lifetime allowance charge), omit—
- (a) in subsection (9), paragraph (b) (tax covered by scheme funded payment if rights not reduced so as fully to reflect amount of payment of tax) and the word “and” before it, and
 - (b) subsection (10) (whether rights reduced so as fully to reflect amount of payment of tax).

Commencement Information

I38 Sch. 10 para. 41 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 42 In the table in section 216(1) (benefit crystallisation events and amounts crystallised), in the entry relating to benefit crystallisation event 6 (entitlement to relevant lump sum), in the second column (amount crystallised), after “sum” insert “paid to the individual”.

Commencement Information

I39 Sch. 10 para. 42 in force at 6.4.2006, see Sch. 10 para. 64(1)

- 43 (1) Schedule 32 (benefit crystallisation events: supplementary) is amended as follows.
- (2) In paragraph 9 (benefit crystallisation event 2: meaning of “P”) is amended as follows.
 - (3) In sub-paragraph (2) (amount to be net of tax under section 215 paid by scheme administrator)—
 - (a) for “will or may be” substitute “is”, and
 - (b) omit “which will be payable”.
 - (4) After that sub-paragraph insert—

“(3) And if the reduction is such that, in accordance with normal actuarial practice, it would be taken fully to reflect the amount of the tax, the tax is not to be treated as tax paid by the scheme administrator for the purposes of section 215(9).”
 - (5) In paragraph 13 (benefit crystallisation event 3: meaning of “XP”), after sub-paragraph (3) (inserted by paragraph 8(6)) insert—
 - “(4) If the rate at which the pension is payable is reduced so as to reflect the amount of any tax under section 215 to be paid by the scheme administrator, that reduction is to be left out of account in determining the rate at which the pension is payable for the purposes of sub-paragraph (1)(a).
 - (5) And if the reduction is such that, in accordance with normal actuarial practice, it would be taken fully to reflect the amount of the tax, the tax is not to be treated as tax paid by the scheme administrator for the purposes of section 215(9).”
 - (6) Paragraph 14 (benefit crystallisation event 5: meaning of “DP” and “DSLS”) is amended as follows.

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(7) After sub-paragraph (1) insert—

“(1A) If the rate at which the scheme pension would be payable would be reduced so as to reflect the amount of any tax under section 215 to be paid by the scheme administrator, that reduction is to be left out of account in determining the rate at which the pension would be payable for the purposes of sub-paragraph (1).

(1B) And if the reduction is such that, in accordance with normal actuarial practice, it would be taken fully to reflect the amount of the tax, the tax is not to be treated as tax paid by the scheme administrator for the purposes of section 215(9).”

(8) In sub-paragraph (2) (“DSLS”)—

- (a) for “the amount” substitute “ so much ”, and
- (b) after “pension)” insert “ as would be paid to the individual ”.

Commencement Information

I40 Sch. 10 para. 43 in force at 6.4.2006, see Sch. 10 para. 64(1)

Lifetime allowance: minor amendment

F⁶44

Textual Amendments

F6 Sch. 10 para. 44 omitted (retrospective to 6.4.2006) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 29 paras. 11, 12\(3\)](#)

Lifetime allowance: pension credits

45 (1) Section 220 (lifetime allowance enhancement factor in case of pension credits from previously crystallised rights) is amended as follows.

(2) In subsection (4) (pension credit factor), in the definition of APC, after “APC is” insert “ the post-commencement pension in payment portion of ”.

(3) After that subsection insert—

“(4A) The post-commencement pension in payment portion of the appropriate amount referred to in the definition of APC—

- (a) in a case where the appropriate amount is arrived at under section 29(2) or (3)(b) of WRPA 1999 or Article 26(2) or (3)(b) of WRP(NI)O 1999, is so much of that amount as is attributable to rights to a post-commencement pension in payment, and
- (b) in a case where the appropriate amount is arrived at under section 29(3)(a) of WRPA 1999 or Article 26(3)(a) of WRP(NI)O 1999, is so much of that amount as is just and reasonable.”

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

Commencement Information

I41 Sch. 10 para. 45 in force at 6.4.2006, see Sch. 10 para. 64(1)

Migrant member relief

- 46 In paragraph 4(c) of Schedule 33 (meaning of “relevant migrant member”: requirement that person be entitled to contributions tax relief in foreign country before taking up residence in United Kingdom)—
- (a) at the beginning insert “ either ”, and
 - (b) after “resident” insert “ or meets such other condition as may be prescribed by regulations made by the Board of Inland Revenue ”.

Commencement Information

I42 Sch. 10 para. 46 in force at 6.4.2006, see Sch. 10 para. 64(1)

Information

- 47 In section 251(4)(a) (persons to whom scheme administrators can be required to provide information), after “are prescribed” insert “ or to the scheme administrators of other registered pension schemes ”.

Commencement Information

I43 Sch. 10 para. 47 in force at 6.4.2006, see Sch. 10 para. 64(1)

Electronic payment

- 48 After section 255 insert—

“Payment

255A Electronic payment

- (1) The Board of Inland Revenue may give directions requiring specified persons to use electronic means for the making of specified payments required to be made under or by virtue of this Part.
- (2) Directions under this section may make provision—
 - (a) as to conditions that must be complied with in connection with the use of electronic means for the making of any payment,
 - (b) for treating a payment as not having been made unless conditions imposed by the directions are satisfied, and
 - (c) for determining the time when a payment in accordance with directions under this section is to be taken to be made.

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- (3) Directions under this section may also make provision (which may include provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose—
- (a) whether any use of electronic means for making a payment is to be taken as having resulted in the payment being made,
 - (b) the time of the making of any payment for the making of which electronic means have been used, and
 - (c) any other matter for which provision may be made by directions under this section.
- (4) Directions under this section—
- (a) may be specific or general, and
 - (b) may provide that the conditions of any authorisation or requirement imposed by the directions are to be taken to be satisfied only where the Inland Revenue is satisfied as to specified matters.
- (5) Directions under this section may—
- (a) suspend for any period during which the use of electronic means for the making of payments is impossible or impractical, any requirements imposed by the directions relating to the use of such means,
 - (b) substitute alternative requirements for the suspended ones, and
 - (c) make any provision that is necessary in consequence of the imposition of the substituted requirements.
- (6) Directions under this section may—
- (a) make different provision for different cases,
 - (b) make such incidental, supplementary, consequential and transitional provision in connection with any provision contained in such directions as the Board of Inland Revenue thinks fit.
- (7) In this section—
- “the Inland Revenue” includes any person who for the purposes of the electronic means of payment is acting under the authority of the Board of Inland Revenue, and
 - “specified” means specified in a direction under this section.

255B Payments to be cleared payments

- (1) A payment made to the Board of Inland Revenue or the Inland Revenue under or by virtue of this Part (otherwise than in cash) is to be treated as not having been made until the earliest date on or before which all the transactions that need to be completed before the whole amount of the payment becomes available to the Board are capable of being completed.
- (2) In this section “the Inland Revenue” includes any person who is acting under the authority of the Board of Inland Revenue.”

Commencement Information

I44 Sch. 10 para. 48 in force at 6.4.2006, see Sch. 10 para. 64(1)

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

Insurance company liable as scheme administrator

49 (1) After section 273 insert—

“273A Insurance company liable as scheme administrator

- (1) The Board of Inland Revenue may make regulations in relation to cases where an insurance company makes a payment of—
- (a) a pension protection lump sum death benefit,
 - (b) an annuity protection lump sum death benefit, or
 - (c) an unsecured pension fund lump sum death benefit,
- which (by virtue of section 161(3) and (4)) is treated for the purposes of Chapter 3 as made by a registered pension scheme.
- (2) The regulations may provide that the insurance company—
- (a) is to be treated as the scheme administrator for the purposes of the operation of section 206 in relation to the lump sum death benefit, and
 - (b) is responsible for the discharge of all obligations imposed on the scheme administrator by or under this Part so far as related to the liability imposed by that section to pay tax in respect of it.
- (3) Where an insurance company is liable to pay any tax or interest, or is responsible for the discharge of any other obligation, by virtue of regulations under this section, no other person is liable to pay that tax, or responsible for the discharge of that obligation, under sections 270 to 273.”
- (2) In section 274(3)(b) (liabilities and other obligations under certain sections not affected by pension scheme being terminated or ceasing to be registered), insert at the end “ or regulations under section 273A ”.

Commencement Information

I45 Sch. 10 para. 49 in force at 6.4.2006, see Sch. 10 para. 64(1)

Power to split schemes

50 Before section 275 insert—

Power to split schemes

- “274A(1) The Board of Inland Revenue may make regulations for and in connection with treating registered pension schemes to which this section applies as if they were a number of separate registered pension schemes for such of the purposes of this Part and of provision made under it as are prescribed by the regulations.
- (2) This section applies to pension schemes prescribed, or of a description prescribed, by the regulations.
- (3) The provision that may be made by the regulations may, in particular, include—

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- (a) provision as to who is to be treated as the scheme administrator in relation to each of the separate pension schemes, and
- (b) any such other modifications of the provision made by and under this Part as appears appropriate in consequence of, or otherwise in connection with, provision made under subsection (1) (including provision so made by virtue of paragraph (a) of this subsection).

(4) The regulations may make different provision for different cases.”

Commencement Information

I46 Sch. 10 para. 50 in force at 6.4.2006, see Sch. 10 para. 64(1)

Power to modify rules of existing schemes

- 51 In paragraph 3(2) of Schedule 36 (power to modify rules of existing schemes: modifications to have effect until earlier of time when rules amended and end of tax year 2008-09), for the words after “the pension scheme” substitute “which state that the modifications no longer apply in relation to it take effect, or
- (b) the end of the tax year 2010-11 or such later time as the Board of Inland Revenue may by regulations prescribe.”

Commencement Information

I47 Sch. 10 para. 51 in force at 6.4.2006, see Sch. 10 para. 64(1)

Primary and enhanced protection: valuation of uncrystallised rights

- 52 (1) Schedule 36 (transitional provisions) is amended as follows.
- (2) Paragraph 9 (valuation of uncrystallised rights under pension schemes within paragraph 1(1)(a) to (d)) is amended as follows.
 - (3) In sub-paragraph (2) (alternative values)—
 - (a) omit “the lower of”, and
 - (b) for “and” at the end of paragraph (a) substitute “ or (if lower) ”.
 - (4) In sub-paragraph (4) (the maximum permitted pension), after “means” insert—
 - “(a) in the case of an arrangement under a pension scheme which immediately before 6th April 2006 was within section 611(1)(a) of ICTA, the maximum annual pension that could be paid to the individual under the pension scheme on 5th April 2006, and
 - (b) in any other case,”.
 - (5) In sub-paragraph (5) (assumptions)—
 - (a) in paragraph (a), at the beginning insert “ in the case of any arrangement, that ” and for “2006, that” substitute “ 2006 ”,
 - (b) after that paragraph insert—
 - “(aa) in the case of an arrangement within sub-paragraph (4)(a), that the valuation assumptions apply (see section 277),”, and

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- (c) in paragraph (b), at the beginning insert “ in the case of any other arrangement, that ” and for “scheme, that” substitute “ scheme ”.
- (6) Paragraph 26 (lump sum protection: limit on value of uncrystallised rights under pension schemes within paragraph 1(1)(a) to (d)) is amended as follows.
- (7) In sub-paragraph (2) (alternative values)—
 - (a) omit “the lower of”, and
 - (b) for “and” at the end of paragraph (a) substitute “ or (if lower) ”.
- (8) In sub-paragraph (3) (the maximum permitted lump sum), after “means” insert—
 - “(a) in the case of an arrangement under a pension scheme which immediately before 6th April 2006 was within section 611(1)(a) of ICTA, the maximum lump sum that could be paid to the individual under the pension scheme on 5th April 2006, and
 - (b) in any other case.”.
- (9) In sub-paragraph (4) (assumptions)—
 - (a) in paragraph (a), at the beginning insert “ in the case of any arrangement, that ” and for “2006, that” substitute “ 2006 ”,
 - (b) after that paragraph insert—
 - “(aa) in the case of an arrangement within sub-paragraph (3)(a), that the valuation assumptions apply (see section 277),”
 - and
 - (c) in paragraph (b), at the beginning insert “ in the case of any other arrangement, that ” and for “scheme, that” substitute “ scheme ”.

Commencement Information

I48 Sch. 10 para. 52 in force at 6.4.2006, see Sch. 10 para. 64(1)

Enhanced protection

- 53 (1) Schedule 36 (transitional provisions) is amended as follows.
- (2) Paragraph 12 (enhanced protection) is amended as follows.
- (3) In sub-paragraph (2) (circumstances in which paragraph ceases to apply), after paragraph (a) insert—
- “(aa) there is an impermissible transfer into the arrangement or any of the arrangements (see paragraph 17A),”.
- (4) In sub-paragraph (3) (effect of enhanced protection), for the words after “an individual” substitute—
- “(a) there is no liability to the lifetime allowance charge in respect of the individual, and
 - (b) the payment of a lifetime allowance excess lump sum to the individual is not permitted by the lump sum rule (see section 166).”
- (5) In sub-paragraphs (5) and (6) (no enhanced protection if unsurrendered relevant excess), for “9” substitute “ 9(3) ”.
- (6) In sub-paragraph (9)—

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- (a) in paragraph (a), for “and 14” substitute “ , 14 and 17A(1) and (2) ”, and
 - (b) in paragraph (b), for “and 15” substitute “ , 15 and 17A(3) ”.
- (7) In paragraph 13(a) (loss of enhanced protection: relevant benefit accrual in case of money purchase arrangement that is not a cash balance arrangement), after “the arrangement” insert “ or, where the arrangement has been a hybrid arrangement, if a relevant contribution was so paid at any time after 5th April 2006, ”.
- (8) Paragraph 14 (loss of enhanced protection: relevant benefit accrual) is amended as follows.
- (9) In sub-paragraph (1)(c) (relevant benefit accrual: relevant contributions consisting in employer's contribution becoming held for individual), for “by an employer of the individual otherwise than” substitute “ otherwise than by or on behalf of the individual or by an employer of the individual ”.
- (10) In sub-paragraph (2) (contributions which are not relevant contributions)—
- (a) for the words from the beginning to “minimum” substitute “ Minimum ”, and
 - (b) insert at the end “ are not relevant contributions for the purposes of paragraph 13(a) ”.
- (11) Paragraph 16 (enhanced protection: post-commencement earnings limit for capped individuals) is amended as follows.
- (12) In sub-paragraph (1) (individuals to whom paragraph applies), for “whom section 590C of ICTA (earnings cap) had effect in” substitute “whom—
- (a) section 590C of ICTA or paragraph 20 of Schedule 6 to FA 1989 (earnings cap) had effect, or
 - (b) provision similar to section 590C of ICTA had effect by virtue of conditions imposed under section 591 of that Act (discretionary approval),
- in ”.
- (13) In sub-paragraph (5) (appropriate three year period), for “the time when the first relevant event occurs” substitute “the earliest of—
- (a) the first relevant event,
 - (b) the individual leaving the employment to which the arrangement relates, and
 - (c) the individual's death.”
- (14) After that sub-paragraph insert—
- “(5A) Where the appropriate three year period ends otherwise than with the first relevant event, Amount B is what it would be apart from this sub-paragraph increased by whichever is the greatest of—
- (a) the percentage by which an amount would be increased if it were increased for the period beginning with the date on which it ends and ending with the date on which the relevant event occurs at an annual rate of 5%,
 - (b) the percentage by which an amount would be increased if it were increased for that period at an annual percentage rate referred to in regulations made by the Board of Inland Revenue, or

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- (c) the percentage by which the retail prices index for the month in which the first relevant event occurs is higher than that for the month in which the appropriate period ends.”
- (15) In paragraph 17 (enhanced protection: post-commencement earnings limit for other individuals), after sub-paragraph (5) insert—
- “(6) Where the appropriate three year period ends otherwise than with the first relevant event, Amount D is what it would be apart from this sub-paragraph increased by whichever is the greatest of—
- (a) the percentage by which an amount would be increased if it were increased for the period beginning with the date on which it ends and ending with the date on which the relevant event occurs at an annual rate of 5%,
 - (b) the percentage by which an amount would be increased if it were increased for that period at an annual percentage rate referred to in regulations made by the Board of Inland Revenue, or
 - (c) the percentage by which the retail prices index for the month in which the first relevant event occurs is higher than that for the month in which the appropriate period ends.”
- (16) After that paragraph insert—
- “17A(1) There is an impermissible transfer into a relevant existing arrangement relating to an individual under a pension scheme in a case where the relevant existing arrangement is a money purchase arrangement that is not a cash balance arrangement if—
- (a) sums or assets held for the purposes of, or representing rights under, an arrangement relating otherwise than to the individual are transferred so as to become held for the purposes of the relevant existing arrangement, otherwise than pursuant to a pension sharing order or provision,
 - (b) sums or assets which are neither held for the purposes of, nor represent rights under, a pension scheme are so transferred, or
 - (c) a transfer lump sum death benefit is paid so as to become held for the purposes of, or to represent accrued rights under, the relevant existing arrangement.
- (2) Sub-paragraph (1) applies where the relevant existing arrangement has been a hybrid arrangement as if the references to sums or assets being transferred, or to a transfer lump sum death benefit being paid, were to transfer or payment at any time after 5th April 2006.
- (3) There is an impermissible transfer into a relevant existing arrangement relating to an individual under a pension scheme in a case where the relevant existing arrangement is a cash balance arrangement or a defined benefits arrangement if it becomes a money purchase arrangement that is not a cash balance arrangement.”

Commencement Information

I49 Sch. 10 para. 53 in force at 6.4.2006, see Sch. 10 para. 64(1)

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Transitional provisions: persons who may take benefits before normal minimum pension age

- 54 (1) Schedule 36 (transitional provisions) is amended as follows.
- (2) In paragraph 19(5) (individuals permitted to take pension before normal minimum pension age), omit “and the pension scheme”.
 - (3) In the heading before paragraph 21, for “pension” substitute “benefit”.
 - (4) Paragraph 22 (right to take pension before normal minimum pension age: protected pension scheme where original pension scheme within paragraph 1(1)(a), (b), (c), (d) or (e)) is amended as follows.
 - (5) In sub-paragraph (4)(a) (entitlement to pension at age of less than 55), for “a pension” substitute “any benefit”.
 - (6) In sub-paragraph (7) (retirement condition)—
 - (a) in paragraph (a), for “pensions” substitute “benefits”, and
 - (b) in paragraph (b), for “a pension” substitute “any benefit”.
 - (7) In sub-paragraph (8) (member's protected pension age), for “a pension” substitute “any benefit”.

Commencement Information

I50 Sch. 10 para. 54 in force at 6.4.2006, see Sch. 10 para. 64(1)

Transitional provisions: block transfers

- 55 (1) Schedule 36 (transitional provisions) is amended as follows.
- (2) Paragraph 22 (right to take pension before normal minimum pension age: protected pension scheme where original pension scheme within paragraph 1(1)(a), (b), (c), (d) or (e)) is amended as follows.
 - (3) In sub-paragraph (5) (condition B: membership due to block transfer from original pension scheme), for the words after “the pension scheme” substitute “(“a transferee pension scheme”) as a result of—
 - (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.”
 - (4) For paragraph (b) of sub-paragraph (6) substitute—
 - “(b) either the member was not a member of the pension scheme to which the transfer is made before the transfer or he has been a member of that pension scheme for no longer than such period as is prescribed by regulations made by the Board of Inland Revenue.”
 - (5) In paragraph 23(5) (right to take pension before normal minimum pension age: condition B in case of protected pension scheme where original pension scheme

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within paragraph 1(1)(f) or (g)), for the words after “the pension scheme” substitute “(“a transferee pension scheme”) as a result of—

- (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.”
- (6) In paragraph 31(7) (entitlement to lump sums exceeding 25% of uncrystallised rights: condition B), for the words after “the pension scheme” substitute “(“a transferee pension scheme”) as a result of—
- (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.”
- (7) In paragraph 51(5) (pre-commencement entitlement to corresponding relief), for the words after “a pension scheme” insert “(“a transferee pension scheme”) if there has been—
- (a) a block transfer from the pension scheme within sub-paragraph (1) (“the original pension scheme”) to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.”

Commencement Information

I51 Sch. 10 para. 55 in force at 6.4.2006, see Sch. 10 para. 64(1)

Transitional provisions: lump sums before normal minimum pension age

56 In Schedule 36 (transitional provisions), after paragraph 23 insert—

“23A (1) Where—

- (a) paragraph 19 applies to a benefit crystallisation event occurring in relation to an individual, and
- (b) the benefit crystallisation event consists in the individual becoming entitled to a pension or a pension commencement lump sum,

paragraph 2(6) of Schedule 29 has effect as if CSLA were the current standard lifetime allowance reduced by the relevant percentage (within the meaning of paragraph 19).

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- (2) Sub-paragraph (3) applies where, after the occurrence in relation to an individual of a benefit crystallisation event in relation to which paragraph 19 has had effect, another benefit crystallisation event occurs in relation to the individual.
- (3) If the amount crystallised on the previous benefit crystallisation event exceeded the available amount of the individual's lifetime allowance at the time of that benefit crystallisation event, paragraph 2(6) of Schedule 29 has effect as if, for the purposes of AAC, the amount crystallised were the available amount of the individual's lifetime allowance at that time.”

Commencement Information

I52 Sch. 10 para. 56 in force at 6.4.2006, see Sch. 10 para. 64(1)

Transitional provisions: lump sums exceeding 25% of uncrystallised rights

- 57 In the substituted sub-paragraph (7) set out in paragraph 34(2) of Schedule 36 (entitlement to lump sums exceeding 25% of uncrystallised rights), in the definition of “ALSA”, for “additional lump sum amount” substitute “greater of the additional lump sum amount and nil”.

Commencement Information

I53 Sch. 10 para. 57 in force at 6.4.2006, see Sch. 10 para. 64(1)

Transitional provisions: inheritance tax

- 58 (1) Schedule 36 (transitional provisions) is amended as follows.
- (2) In paragraph 57(1) and (2) (no contributions under scheme after 5th April 2006), for “proportion”, in each place, substitute “percentage”.
 - (3) In paragraph 58(6)(b) (other cases), after “any” insert “relevant”.

Commencement Information

I54 Sch. 10 para. 58 in force at 6.4.2006, see Sch. 10 para. 64(1)

Trivial commutation and winding-up lump sums

- 59 In section 636B(3) of ITEPA 2003 (trivial commutation and winding-up lump sums: taxable pension income to be 75% of lump sum where member has not become entitled to any benefits under pension scheme), for the words after “member” substitute “has uncrystallised rights (within the meaning of section 212 of FA 2004) under any one or more arrangements under the pension scheme, the amount of the taxable pension income—
- (a) if all his rights under the pension scheme are uncrystallised rights, is 75% of the lump sum, and

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10. (See end of Document for details)

- (b) otherwise, is reduced by 25% of the value of the uncrystallised rights calculated in accordance with that section.”

Commencement Information

I55 Sch. 10 para. 59 in force at 6.4.2006, see Sch. 10 para. 64(1)

Application of PAYE to annuities etc.

- 60 In section 683(3) of ITEPA 2003 (PAYE pension income), after the entry relating to section 579B of that Act insert— “ section 612, so far as relating to annuities to which section 610 applies (annuities under non-registered occupational pension schemes), ”.

Commencement Information

I56 Sch. 10 para. 60 in force at 6.4.2007, see Sch. 10 para. 64(2)

- 61 In Schedule 36 to FA 2004 (transitional provisions), omit—
- (a) paragraph 43 (continuation of Chapter 9 of Part 9 of ITEPA 2003 for certain annuity contracts with continued exclusion from PAYE), and
 - (b) paragraph 46 (application of PAYE to certain existing annuity contracts taxable under section 612 of ITEPA 2003).

Commencement Information

I57 Sch. 10 para. 61 in force at 6.4.2007, see Sch. 10 para. 64(2)

- 62 In sections 348(1A) and 349(1A) of ICTA (deduction of tax), omit—
- (a) paragraph (b), and
 - (b) in paragraph (c), “, 610”.

Commencement Information

I58 Sch. 10 para. 62 in force at 6.4.2007, see Sch. 10 para. 64(2)

House of Commons Members' Fund

- 63 Section 613(1) and (2) of ICTA (tax relief for contributions to House of Commons Members' Fund) shall be treated as not having been repealed by ITEPA 2003.

Commencement

- 64 (1) Subject as follows, the preceding provisions of this Schedule come into force on 6th April 2006.
- (2) Paragraphs 60 to 62 come into force on 6th April 2007.
 - (3) Paragraph 63 comes into force on the day on which this Act is passed.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 10.