



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 9

#### PENSION INCOME

#### CHAPTER 17

##### EXEMPTIONS: ANY TAXPAYER

#### **638 Awards for bravery**

- (1) No liability to income tax arises on a pension or annuity if it is paid to the holder of an award for bravery in respect of the award.
- (2) In this section “award for bravery” means—
  - the Victoria Cross,
  - the George Cross,
  - the Albert Medal,
  - the Edward Medal,
  - the Military Cross,
  - the Distinguished Flying Cross,
  - the Distinguished Conduct Medal,
  - the Conspicuous Gallantry Medal,
  - the Distinguished Service Medal,
  - the Military Medal,
  - the Distinguished Flying Medal.

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*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 17. (See end of Document for details)*

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### 639 Pensions in respect of death due to military or war service

[<sup>F1</sup>(1)] No liability to income tax arises on these pensions and allowances—

- (a) a pension or allowance payable by or on behalf of [<sup>F2</sup>the Ministry of Defence] under so much of [<sup>F3</sup>instrument specified in subsection (2),] as relates to death due to—
  - (i) service in the armed forces of the Crown,
  - (ii) wartime service in the merchant navy, or
  - (iii) war injuries;
- (b) a pension or allowance—
  - (i) payable by the Ministry of Defence in respect of death due to peacetime service in the armed forces of the Crown before 3rd September 1939, and
  - (ii) payable at rates, and subject to conditions, similar to those of a pension within paragraph (a);
- (c) a pension or allowance—
  - (i) payable under the law of a country other than the United Kingdom, and
  - (ii) of a character substantially similar to a pension within paragraph (a) or (b).

[<sup>F4</sup>(2) The instruments referred to in subsection (1)(a) are—

Defence (Local Defence Volunteers) Regulations 1940 (S.R. & O. 1940/748),  
 War Pensions (Coastguards) Scheme 1944 (S.R. & O. 1944/500),  
 War Pensions (Naval Auxiliary Personnel) Scheme 1964 (S.I. 1964/1985),  
 Pensions (Polish Forces) Scheme 1964 (S.I. 1964/2007),  
 War Pensions (Mercantile Marine) Scheme 1964 (S.I. 1964/2058),  
 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard (1964 Cmnd. 2563),  
 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27th April 1952 (1964 Cmnd. 2564),  
 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Ulster Defence Regiment (1971 Cmnd. 4567),  
 Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686),  
 Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883).

(3) The Treasury may by order amend subsection (2).]

#### Textual Amendments

- F1** S. 639 renumbered as s. 639(1) (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)  
**F2** Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(a\)\(8\)](#)  
**F3** Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(b\)\(8\)](#)  
**F4** S. 639(2)(3) inserted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)

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## 640 Exemption under section 639 where income withheld

- (1) This section applies if—
- (a) an individual is entitled to both of the following—
    - (i) a pension or allowance mentioned in section 639 (“pension A”), and
    - (ii) any other pension or allowance (“pension B”), and
  - (b) the whole or a part of pension A is withheld because of the individual’s entitlement to pension B.
- (2) In such a case, an amount of pension B equal to the withheld amount of pension A is treated for the purposes of section 639 as part of pension A.

### [<sup>F5</sup>640A Lump sums provided under armed forces early departure scheme

No liability to income tax arises on a lump sum provided under a scheme established by the Armed Forces Early Departure Payments Scheme Order 2005 (S.I. 2005/437) [<sup>F6</sup>or the Armed Forces Early Departure Payments Scheme Regulations 2014 (S.I. 2014/2328)].]

#### Textual Amendments

- F5** S. 640A inserted (with effect in accordance with s. 19(9) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 19\(5\)](#)
- F6** Words in s. 640A inserted (1.4.2015) by [Finance Act 2015 \(c. 11\), s. 15\(1\)\(2\)](#)

## 641 Wounds and disability pensions

- (1) No liability to income tax arises on—
- (a) a wounds pension granted to a member of the armed forces of the Crown;
  - (b) retired pay of a disabled officer granted on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
  - (c) a disablement or disability pension granted to a member of the armed forces of the Crown, other than a commissioned officer, on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
  - (d) a disablement pension granted to a person who has been employed in the nursing services of any of the armed forces of the Crown on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
  - <sup>F7</sup>(e) .....
  - (f) an injury or disablement pension payable under any War Risks Compensation Scheme for the Mercantile marine;
  - (g) a pension—
    - (i) granted to a person on account of disablement, and
    - (ii) payable under any scheme made under section 3, 4 or 5 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83).
  - [<sup>F8</sup>(h) a benefit under a scheme established by an order under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 payable to a person by reason of his illness or injury—
    - (i) by way of a lump sum, or

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- (ii) following the termination of the person's service in the armed forces or reserve forces.]
- (2) But if the Secretary of State certifies that a pension or retired pay of a kind listed in subsection (1) is only partly attributable to disablement or disability, that subsection applies only to the part attributable to disablement or disability.

#### Textual Amendments

- F7** S. 641(1)(e) repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\)](#), [Sch. 1 Pt. 1](#) Group 4
- F8** S. 641(1)(h) inserted (with effect in accordance with s. 19(9) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 19\(6\)](#)

### 642 Compensation for National-Socialist persecution

No liability to income tax arises on a pension or annuity which is payable under any special provision for victims of National-Socialist persecution which is made by the law of—

- (a) the Federal Republic of Germany or any part of it, or
- (b) Austria.

### [<sup>F9</sup>642A Netherlands Benefit Act for Victims of Persecution 1940-1945

No liability to income tax arises on a pension, annuity, allowance or other payment provided in accordance with the provisions of the scheme established under the law of the Netherlands and known as *Wet uitkeringen vervolgingslachtoffers 1940-1945*.]

#### Textual Amendments

- F9** [S. 642A](#) inserted (with effect in accordance with s. 23(2) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 23\(1\)](#)

### 643 Malawi, Trinidad and Tobago and Zambia government pensions

- (1) No liability to income tax arises on—
- (a) a Malawi government pension,
  - (b) a Trinidad and Tobago government pension, or
  - (c) a Zambia government pension,
- if conditions A, B and C are met.
- (2) Condition A is that the pension is paid to—
- (a) the original pensioner, or
  - (b) the widow or widower [<sup>F10</sup>or surviving civil partner] of the original pensioner.
- (3) Condition B is that the pension is now paid under section 1 of OPA 1973 (whether or not it is paid out of a fund established under a scheme made under that section).
- (4) Condition C is that, at the time the pension is paid, provision is made by double taxation relief arrangements which would exempt the pension from income tax in the

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United Kingdom if the pension were still paid by the relevant government (rather than under section 1 of OPA 1973).

(5) Subsection (1) does not apply to any part of a pension which is paid because the Pensions (Increase) Act 1971 (c. 56) applies to it.

(6) In this section—

“double taxation relief arrangements” means arrangements [<sup>F11</sup>which have effect under section 2(1) of TIOPA 2010;]

“Malawi government pension” means a pension payable by the government of Malawi for services rendered—

- (a) to the government of Malawi, or
- (b) to the government of the Federation of Rhodesia and Nyasaland,

in the discharge of government functions;

“Trinidad and Tobago government pension” means a pension payable by the government of Trinidad and Tobago for services rendered to the government of Trinidad and Tobago in the discharge of governmental functions;

“Zambia government pension” means a pension payable by the government of Zambia for services rendered—

- (a) to the government of Zambia,
- (b) to the government of Northern Rhodesia, or
- (c) to the government of the Federation of Rhodesia and Nyasaland,

in the discharge of governmental functions.

(7) For the purposes of this section a person is the “original pensioner” in relation to a pension if—

- (a) the pension is payable by virtue of the person’s service, and
- (b) the person retired from that service before 6th April 1973.

#### Textual Amendments

**F10** Words in s. 643(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **160**

**F11** Words in s. 643(6) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 8 para. 60** (with Sch. 9 paras. 1-9, 22)

## 644 Pensions payable where employment ceased due to disablement

(1) No liability to income tax arises on the exempt amount of a disablement pension.

(2) For the purposes of this section a pension is a “disablement pension” if—

- (a) the pension is payable because a person has ceased to hold an employment or office because of disablement, and
- (b) that disablement is attributable to—
  - (i) performance of the duties of the employment or office, or
  - (ii) war injuries.

But “disablement pension” does not include any pension to which section [<sup>F12</sup>579A] applies.

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- (3) The exempt amount of a disablement pension is determined in accordance with the following steps.

*Step 1*

Determine what pension would have been payable if—

- (a) the person had ceased to hold the employment or office because of the disablement mentioned in subsection (2)(a), but
- (b) the disablement had not been attributable to—
  - (i) performance of the duties of the employment or office, or
  - (ii) war injuries.

*Step 2*

If no pension would have been payable, the exempt amount is the amount of the disablement pension.

If a pension of a smaller amount than the disablement pension would have been payable, the exempt amount is the amount by which the disablement pension exceeds the smaller amount.

In any other case, the exempt amount is nil.

- (4) For the purposes of this section “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

**Textual Amendments**

**F12** Word in s. 644(2) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 13](#) (with [Sch. 36](#))

**[<sup>F13</sup>644A Health and employment insurance payments**

- (1) No liability to income tax arises in respect of a pension or annuity payment if or to the extent that—
- (a) were the payment an annual payment falling within Chapter 7 of Part 5 of ITTOIA 2005, it would be exempt from income tax under section 735 of that Act (health and employment insurance payments), and
  - (b) it meets conditions A and B.
- (2) Condition A is that the payments are made—
- (a) to a person (“the pensioner”) who made payments or contributions in respect of premiums under an insurance policy which another person took out wholly or partly for the pensioner's benefit, or
  - (b) to the pensioner's [<sup>F14</sup>spouse or civil partner] .
- (3) Condition B is that the payments are attributable on a just and reasonable basis to the payments or contributions in respect of premiums.]

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### Textual Amendments

- F13** S. 644A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 610](#) (with [Sch. 2](#))
- F14** Words in s. 644A(2)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [161](#)

## 645 Social security pensions: increases in respect of children

- (1) No liability to income tax arises on a part of a social security pension which is attributable to an increase in respect of a child.
- (2) In this section “social security pension” means—
- (a) any pension, benefit or allowance to which section 577 applies, and
  - (b) any pension, benefit or allowance which—
    - (i) is payable under the law of a country or territory outside the United Kingdom, and
    - (ii) is substantially similar in character to a pension, benefit or allowance to which section 577 applies.

## 646 Former miners etc: coal and allowances in lieu of coal

- (1) No liability to income tax arises on—
- (a) the provision of coal or smokeless fuel—
    - (i) to a former colliery worker, or
    - (ii) to the widow or widower [<sup>F15</sup>or surviving civil partner] of a former colliery worker, or
  - (b) any allowance paid to such a person in lieu of such provision, if the condition in subsection (2) is met.
- (2) That condition is that the amount of coal or fuel provided or in respect of which the allowance is paid does not substantially exceed the amount reasonably required for personal use.
- (3) That condition is assumed to be met unless the contrary is shown.
- (4) In this section “former colliery worker” means—
- (a) any person who has ceased to be employed as a coal miner, or
  - (b) any other person who has ceased to be employed at or about a colliery otherwise than in clerical, administrative or technical work.

### Textual Amendments

- F15** Words in s. 646(1)(a)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [162](#)

## [<sup>F16</sup>646A Foreign pensions of consular employees

- (1) No liability to income tax arises in respect of foreign pension income of a consular officer or employee in the United Kingdom for a foreign state if—

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- (a) Her Majesty by Order in Council directs that this section applies to the foreign state for the purpose of giving effect to a reciprocal arrangement with that state, and
  - (b) the officer or employee meets conditions A to C.
- (2) Condition A is that the officer or employee is not—
- (a) a British citizen,
  - (b) a British overseas territories citizen,
  - (c) a British National (Overseas), or
  - (d) a British Overseas citizen.
- (3) Condition B is that the officer or employee is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as a consular officer or employee of the state in question.
- (4) Condition C is that the officer or employee—
- (a) is a permanent employee of that state, or
  - (b) was not ordinarily resident in the United Kingdom immediately before becoming a consular officer or employee in the United Kingdom of that state.
- (5) In this section—
- “consular officer or employee” includes any person employed for the purposes of the official business of a consular officer at—
- (a) any consulate,
  - (b) any consular establishment, or
  - (c) any other premises used for those purposes,
- “foreign pension income” means—
- (a) income to which section 573 or 629 applies, and
  - (b) income arising from a source outside the United Kingdom to which section 609, 610, 611 or 633 applies; and
- “reciprocal agreement” has the same meaning as in section 302.
- (6) Section 302(5) to (7) apply to an Order under subsection (1) and the operation of this section as they apply to an Order under section 302(1) and the operation of section 302.]

#### Textual Amendments

**F16** S. 646A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 611](#) (with [Sch. 2](#))

#### [<sup>F17</sup>646B Registered schemes: beneficiaries' annuities from unused funds

- (1) The charge to tax under this Part does not apply to a dependants' annuity, or nominees' annuity, payable to a person if—
- (a) it is paid in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member's death,
  - (b) the member died on or after 3 December 2014,
  - (c) either—



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- (i) the annuity was purchased using unused drawdown funds or unused uncrystallised funds, or
  - (ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity that was payable to the person by that other company, and was a dependants' annuity or nominees' annuity (as the case may be) purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,
  - (d) in a case where the annuity is purchased as mentioned in paragraph (c)(i) and using (whether or not exclusively) unused uncrystallised funds, the person became entitled to it before the end of the period of two years beginning with the earlier of—
    - (i) the day on which the scheme administrator first knew of the member's death, and
    - (ii) the day on which the scheme administrator could first reasonably have been expected to know of the death,
  - (e) in a case where the annuity is purchased as mentioned in paragraph (c)(ii) and the prior annuity purchased as mentioned in paragraph (c)(i) was purchased using (whether or not exclusively) unused uncrystallised funds, the person became entitled to that prior annuity before the end of the period of two years specified in paragraph (d),
  - (f) no payment of the annuity is made before 6 April 2015, and
  - (g) in a case where the annuity is purchased as mentioned in paragraph (c)(ii), no payment is made before 6 April 2015 of—
    - (i) the prior annuity purchased as mentioned in paragraph (c)(i), and
    - (ii) any other annuity purchased as mentioned in paragraph (c)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.
- (2) The charge to tax under this Part does not apply to a successor's annuity payable to a person if—
- (a) it is paid in respect of a deceased member of a registered pension scheme,
  - (b) it is paid on the subsequent death of a dependant, nominee or successor of the member (“the beneficiary”),
  - (c) the beneficiary had not reached the age of 75 at the date of the beneficiary's death,
  - (d) the beneficiary died on or after 3 December 2014,
  - (e) either—
    - (i) the annuity was purchased using undrawn funds, or
    - (ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity that was payable to the person by that other company, and was a successors' annuity purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,
  - (f) no payment of the annuity is made before 6 April 2015, and
  - (g) in a case where the annuity is purchased as mentioned in paragraph (e)(ii), no payment is made before 6 April 2015 of—
    - (i) the prior annuity purchased as mentioned in paragraph (e)(i), and

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- (ii) any other annuity purchased as mentioned in paragraph (e)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.
- (3) The charge to tax under this Part does not apply to a dependants' annuity or nominees' annuity payable to a person if—
- (a) it is paid in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member's death,
  - (b) the member died on or after 3 December 2014,
  - (c) the annuity—
    - (i) was purchased together with a lifetime annuity payable to the member, or
    - (ii) was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity that was payable to the person by that other company, and was a dependants' annuity or nominees' annuity (as the case may be) purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,
  - (d) no payment of the annuity is made before 6 April 2015, and
  - (e) in a case where the annuity is purchased as mentioned in paragraph (c)(ii), no payment is made before 6 April 2015 of—
    - (i) the prior annuity purchased as mentioned in paragraph (c)(i), and
    - (ii) any other annuity purchased as mentioned in paragraph (c)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.
- (4) The charge to tax under this Part does not apply to payments to a person of a lifetime annuity if—
- (a) the payments are payable to the person under pension rule 2 (see section 165 of FA 2004),
  - (b) either—
    - (i) a member of a registered pension scheme was entitled to be paid the annuity immediately before the member's death, or
    - (ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity to which there was entitlement as mentioned in sub-paragraph (i), or which was purchased as mentioned in this sub-paragraph, ceasing to be payable,
  - (c) the member had not reached the age of 75 at the date of the member's death,
  - (d) the member died on or after 3 December 2014,
  - (e) any payment of the annuity made before 6 April 2015 is made to the member, and
  - (f) in a case where the annuity is one purchased as mentioned in paragraph (b) (ii), any payment made before 6 April 2015—
    - (i) of the prior annuity to which there is entitlement as mentioned in paragraph (b)(i), or
    - (ii) of any other annuity purchased as mentioned in paragraph (b)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity,
 is made to the member.

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- (5) Paragraph 27E(3) to (5) of Schedule 28 to FA 2004 (meaning of “unused drawdown funds” and “unused uncrystallised funds”) apply for the purposes of subsection (1).
- (6) Paragraph 27FA(2) of Schedule 28 to FA 2004 (meaning of “undrawn funds”) applies for the purposes of subsection (2)(e).
- (7) For the purposes of subsection (3)(c), a dependants' annuity or nominees' annuity is purchased together with a lifetime annuity if the dependants' annuity or nominees' annuity (as the case may be) is related to the lifetime annuity, and paragraph 3(4A) and (4B) of Schedule 29 to FA 2004 (meaning of “related”) apply for the purposes of this subsection.
- (8) For the purposes of this section, a person becomes entitled to an annuity when the person first acquires an actual (rather than a prospective right) to receive the annuity.

#### Textual Amendments

**F17** Ss. 646B-646F inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by Finance Act 2015 (c. 11), **Sch. 4 para. 17(1)**

### 646C Registered schemes: beneficiaries' annuities from drawdown funds

- (1) The charge to tax under this Part does not apply to a dependants' short-term annuity, nominees' short-term annuity, dependants' annuity or nominees' annuity paid to a person if—
  - (a) it is paid in respect of a deceased member of a registered pension scheme who had not reached the age of 75 at the date of the member's death,
  - (b) the member died on or after 3 December 2014, and
  - (c) the annuity was purchased using sums or assets out of the person's—
    - (i) dependant's drawdown pension fund,
    - (ii) dependant's flexi-access drawdown fund, or
    - (iii) nominee's flexi-access drawdown fund,
 in respect of a money purchase arrangement under a registered pension scheme.
- (2) The charge to tax under this Part does not apply to a successors' short-term annuity, or successors' annuity, paid to a person if—
  - (a) it is paid in respect of a deceased beneficiary of a deceased member of a registered pension scheme where the beneficiary had not reached the age of 75 at the date of the beneficiary's death,
  - (b) the beneficiary died on or after 3 December 2014, and
  - (c) the annuity was purchased using sums or assets out of the person's successor's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme,
 and here “beneficiary” means dependant, nominee or successor.
- (3) Subsection (1) is subject to subsections (4) to (6).
- (4) Subsection (1) does not exempt payments on or after 6 April 2015 to a person of a dependants' short-term annuity, or dependants' annuity, payable in respect of a deceased member of a registered pension scheme and purchased using sums or assets

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out of the person's dependant's drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme (“the drawdown fund”) if before 6 April 2015—

- (a) any payment of the annuity was made,
  - (b) any payment was made of any other dependants' short-term annuity, or dependants' annuity, purchased using sums or assets out of—
    - (i) the drawdown fund, or
    - (ii) any fund represented (to any extent) by the drawdown fund, or
  - (c) any payment of dependants' income withdrawal was made from—
    - (i) the drawdown fund, or
    - (ii) any fund represented (to any extent) by the drawdown fund.
- (5) Subsection (1) does not exempt payments to a person of a dependants' short-term annuity, or dependants' annuity, payable in respect of a deceased member of a registered pension scheme and purchased using sums or assets out of the person's dependant's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme (“the new fund”) if—
- (a) any of the sums or assets that make up the new fund—
    - (i) became newly-designated dependant funds under paragraph 22A(2) (b) of Schedule 28 to FA 2004 or as a result of the operation of any of paragraphs 22B to 22D of that Schedule, or
    - (ii) arise, or (directly or indirectly) derive, from any such newly-designated funds or from sums or assets that to any extent so arise or derive,
  - (b) before 6 April 2015—
    - (i) any payment of dependants' income withdrawal in respect of the deceased member was made to the person from, or
    - (ii) any payment in respect of the deceased member was made to the person of a dependants' short-term annuity, or dependants' annuity, purchased using sums or assets out of,
 

the person's dependant's drawdown pension fund in respect of a money purchase arrangement under a registered pension scheme, and
  - (c) any of the sums or assets that made up that fund at the time of the payment make up, or are represented by sums or assets that to any extent make up, the new fund.
- (6) Where relevant unused uncrystallised funds—
- (a) are designated on or after 6 April 2015 as available for the payment of dependants' drawdown pension or nominees' drawdown pension, and
  - (b) as a result of the designation make up (to any extent) a person's dependant's flexi-access drawdown fund or nominee's flexi-access drawdown fund in respect of a money purchase arrangement under a registered pension scheme, but
  - (c) are not so designated before the end of the relevant two-year period,
- subsection (1) does not exempt payments to the person of a dependants' short-term annuity, nominees' short-term annuity, dependants' annuity or nominees' annuity if any of the sums or assets used to purchase the annuity represent, at the time of the purchase, the whole or any part of those relevant unused uncrystallised funds.

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- (7) In this section “the relevant two-year period”, in relation to relevant unused uncrystallised funds held for the purposes of a money purchase arrangement relating to a deceased individual under a registered pension scheme, means the period of two years beginning with the earlier of—
- (a) the day on which the scheme administrator first knew of the individual's death, and
  - (b) the day on which the scheme administrator could first reasonably have been expected to know of it.
- (8) For the purposes of this section, sums or assets held after the death of a member of a registered pension scheme for the purposes of a money purchase arrangement relating to the member under the scheme are “relevant unused uncrystallised funds” if—
- (a) they are unused uncrystallised funds, and
  - (b) the member had not reached the age of 75 at the date of the member's death.
- (9) Paragraph 27E(4) and (5) of Schedule 28 to FA 2004 (meaning of “unused uncrystallised funds”) apply for the purposes of subsection (8)(a).

#### Textual Amendments

**F17** Ss. 646B-646F inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 17\(1\)](#)

#### **646D Non-registered schemes: beneficiaries' annuities from unused funds**

- (1) The charge to tax under this Part does not apply to an annuity payable to a person if—
- (a) it is paid in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, who had not reached the age of 75 at the date of the member's death,
  - (b) it would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8), be a dependants' annuity or nominees' annuity,
  - (c) the member died on or after 3 December 2014,
  - (d) either—
    - (i) the annuity was purchased using sums or assets that would, if the scheme were a registered pension scheme, be unused drawdown funds or unused uncrystallised funds, or
    - (ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity—
      - (a) that was payable to the person by that other insurance company,
      - (b) that was purchased as mentioned in sub-paragraph (i) or this sub-paragraph, and
      - (c) that would have been a dependants' annuity or nominees' annuity (as the case may be) if the scheme had been a registered pension scheme,
 ceasing to be payable,
  - (e) no payment of the annuity is made before 6 April 2015, and

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*Changes to legislation:* There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 17. (See end of Document for details)

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- (f) in a case where the annuity is purchased as mentioned in paragraph (d)(ii), no payment is made before 6 April 2015 of—
- (i) the prior annuity purchased as mentioned in paragraph (d)(i), and
  - (ii) any other annuity purchased as mentioned in paragraph (d)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.
- (2) The charge to tax under this Part does not apply to an annuity payable to a person if—
- (a) it is paid in respect of a deceased member of an overseas pension scheme or relevant non-UK scheme,
  - (b) it is paid on the subsequent death of an individual who would, if the scheme were a registered pension scheme, be a dependant, nominee or successor of the member (“the beneficiary”),
  - (c) it would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8), be a successors' annuity,
  - (d) the beneficiary had not reached the age of 75 at the date of the beneficiary's death,
  - (e) the beneficiary died on or after 3 December 2014,
  - (f) either—
    - (i) the annuity was purchased using sums or assets that would, if the scheme were a registered pension scheme, be undrawn funds, or
    - (ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity—
      - (a) that was payable to the person by that other insurance company,
      - (b) that was purchased as mentioned in sub-paragraph (i) or this sub-paragraph, and
      - (c) that would have been a successors' annuity if the scheme had been a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8),
 ceasing to be payable,
  - (g) no payment of the annuity is made before 6 April 2015, and
  - (h) in a case where the annuity is purchased as mentioned in paragraph (f)(ii), no payment is made before 6 April 2015 of—
    - (i) the prior annuity purchased as mentioned in paragraph (f)(i), and
    - (ii) any other annuity purchased as mentioned in paragraph (f)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.
- (3) The charge to tax under this Part does not apply to an annuity payable to a person if—
- (a) it is paid in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, who had not reached the age of 75 at the date of the member's death,
  - (b) it would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8), be a dependants' annuity payable to a dependant of the member or a nominees' annuity payable to a nominee of the member,

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*Changes to legislation:* There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 17. (See end of Document for details)

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- (c) the member died on or after 3 December 2014,
  - (d) the annuity—
    - (i) was purchased together with an annuity payable to the member that would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8), have been a lifetime annuity, or
    - (ii) was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity—
      - (a) that was payable to the person by that other insurance company, and
      - (b) that would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8), have been a dependants' annuity or nominees' annuity (as the case may be) purchased as mentioned in sub-paragraph (i) or this sub-paragraph, ceasing to be payable,
  - (e) no payment of the annuity is made before 6 April 2015, and
  - (f) in a case where the annuity is purchased as mentioned in paragraph (d)(ii), no payment is made before 6 April 2015 of—
    - (i) the prior annuity purchased as mentioned in paragraph (d)(i), and
    - (ii) any other annuity purchased as mentioned in paragraph (d)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity.
- (4) The charge to tax under this Part does not apply to payments to a person of an annuity if—
- (a) either—
    - (i) a member of an overseas pension scheme, or relevant non-UK scheme, was entitled to be paid the annuity immediately before the member's death, or
    - (ii) the annuity was purchased using sums or assets transferred to an insurance company by another insurance company in consequence of an annuity to which there was entitlement as mentioned in sub-paragraph (i), or which was purchased as mentioned in this sub-paragraph, ceasing to be payable,
  - (b) the payments would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by subsection (8), be—
    - (i) payments of a lifetime annuity, and
    - (ii) payable to the person under pension rule 2 (see section 165 of FA 2004),
  - (c) the member had not reached the age of 75 at the date of the member's death,
  - (d) the member died on or after 3 December 2014,
  - (e) any payment of the annuity made before 6 April 2015 is made to the member, and
  - (f) in a case where the annuity is one purchased as mentioned in paragraph (a) (ii), any payment made before 6 April 2015—

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- (i) of the prior annuity to which there is entitlement as mentioned in paragraph (a)(i), or
  - (ii) of any other annuity purchased as mentioned in paragraph (a)(ii) that is in the chain of annuities beginning with that prior annuity and ending with the annuity,
- is made to the member.
- (5) Paragraph 27E(3) to (5) of Schedule 28 to FA 2004 (meaning of “unused drawdown funds” and “unused uncrystallised funds”) apply for the purposes of subsection (1).
- (6) Paragraph 27FA(2) of Schedule 28 to FA 2004 (meaning of “undrawn funds”) applies for the purposes of subsection (2)(f).
- (7) For the purposes of subsection (3)(d), an annuity is purchased together with another if they are purchased—
- (a) in the form of a joint life annuity, or
  - (b) 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.
- (8) In this section “insurance company” means—
- (a) an insurance company as defined by section 275 of FA 2004, or
  - (b) a person—
    - (i) whose normal business includes the activity of providing annuities,
    - (ii) who carries on that activity in a country or territory outside the United Kingdom, and
    - (iii) whose carrying on of that activity in any particular country or territory outside the United Kingdom—
      - (a) is regulated in that country or territory, or
      - (b) is lawful under the law of that country or territory because it is regulated in another country or territory,
- and for this purpose an activity is regulated in a country or territory if it is regulated by the government of that country or territory or by a body established under the law of that country or territory for the purpose of regulating the carrying-on of the activity.

#### Textual Amendments

**F17** Ss. 646B-646F inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 4 para. 17\(1\)](#)

#### **646E Non-registered schemes: beneficiaries' annuities from drawdown funds**

- (1) The charge to tax under this Part does not apply to an annuity paid to a person if—
- (a) it is paid in respect of a deceased member of an overseas pension scheme, or a relevant non-UK scheme, who had not reached the age of 75 at the date of the member's death,
  - (b) the person would, if that scheme were a registered pension scheme, be a dependant or nominee of the member,



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- (c) the annuity was purchased using sums or assets held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme, and those sums or assets would if that scheme were a registered pension scheme form the whole or part of the person's—
    - (i) dependant's drawdown pension fund,
    - (ii) dependant's flexi-access drawdown fund, or
    - (iii) nominee's flexi-access drawdown fund,in respect of the arrangement,
  - (d) the annuity would, if the scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by section 646D(8), be a dependants' short-term annuity or dependants' annuity or (as the case may be) a nominees' short-term annuity or nominees' annuity, and
  - (e) the member died on or after 3 December 2014.
- (2) The charge to tax under this Part does not apply to an annuity payable to a person if—
- (a) it is paid in respect of a deceased individual (“the beneficiary”) who had not reached the age of 75 at the date of the beneficiary's death,
  - (b) the beneficiary would have been a dependant, nominee or successor of a deceased member of an overseas pension scheme, or relevant non-UK scheme, if that scheme had been a registered pension scheme,
  - (c) the person would, if that scheme were a registered pension scheme, be a successor of the member,
  - (d) the annuity was purchased using sums or assets out of a fund held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme and would, if that scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by section 646D(8), be a successors' short-term annuity, or successors' annuity, purchased using sums or assets out of the person's successor's flexi-access drawdown fund in respect of the arrangement, and
  - (e) the beneficiary died on or after 3 December 2014.
- (3) Subsection (1) is subject to subsections (4) and (5).
- (4) Subsection (1) does not exempt payments on or after 6 April 2015 to a person of an annuity payable in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, if—
- (a) the annuity is purchased using sums or assets held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme,
  - (b) the annuity would, if that scheme were a registered pension scheme and if “insurance company” in Part 4 of FA 2004 had the meaning given by section 646D(8), be a dependants' short-term annuity or dependants' annuity,
  - (c) the annuity was purchased using sums or assets out of a fund that would, if that scheme were a registered pension scheme, be the person's dependant's drawdown pension fund in respect of the arrangement (“the drawdown fund”), and
  - (d) before 6 April 2015—
    - (i) any payment of the annuity was made,

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- (ii) any payment was made to the person of any other annuity purchased using sums or assets out of the drawdown fund or out of any fund represented (to any extent) by the drawdown fund, or
  - (iii) any payment was made to the person out of the drawdown fund, or out of any fund represented (to any extent) by the drawdown fund, of any pension that would be dependants' income withdrawal if the fund concerned were held for the purposes of a registered pension scheme.
- (5) Subsection (1) does not exempt payments to a person of an annuity payable in respect of a deceased member of an overseas pension scheme, or relevant non-UK scheme, if—
- (a) the annuity was purchased using sums or assets held for the purposes of a money purchase arrangement under an overseas pension scheme or relevant non-UK scheme and would, if that scheme were a registered pension scheme and “insurance company” in Part 4 of FA 2004 had the meaning given by section 646D(8), be a dependants' short-term annuity or dependants' annuity,
  - (b) the annuity was purchased using sums or assets out of a fund (“the new fund”) that would, if that scheme were a registered pension scheme, be the person's dependant's flexi-access drawdown fund in respect of the arrangement,
  - (c) before 6 April 2015—
    - (i) any payment of pension in respect of the deceased member was made to the person from a fund held for the purposes of a money purchase arrangement under an overseas pension scheme, or relevant non-UK scheme, that would be a payment of dependants' income withdrawal from the person's dependant's drawdown pension fund in respect of the arrangement if the scheme were a registered pension scheme, or
    - (ii) any payment in respect of the deceased member was made to the person of an annuity purchased using sums or assets out of a fund held for the purposes of a money purchase arrangement under an overseas pension scheme, or relevant non-UK scheme, that would be a payment of a dependants' short-term annuity, or dependants' annuity, purchased using sums or assets out of the person's dependant's drawdown pension fund in respect of the arrangement if the scheme were a registered pension scheme, and
  - (d) any of the sums or assets that made up the fund mentioned in paragraph (c)(i) or (ii) make up, or are represented by sums or assets that to any extent make up, the new fund.

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#### Textual Amendments

**F17** Ss. 646B-646F inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 17\(1\)](#)

#### 646F Interpretation of sections 646B to 646E

In sections 646B to 646E, an expression listed in the first column of the table has the meaning given by the provision of FA 2004 listed against that expression in the second column of the table.

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*Expression*

*Provision of FA 2004*

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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 17. (See end of Document for details)

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dependant	Schedule 28, paragraph 15
dependants' annuity	Schedule 28, paragraph 17
dependant's drawdown pension fund	Schedule 28, paragraph 22
dependant's flexi-access drawdown fund	Schedule 28, paragraph 22A
dependants' income withdrawal	Schedule 28, paragraph 21
dependants' short-term annuity	Schedule 28, paragraph 20
insurance company (in sections 646B and 646C)	section 275
lifetime annuity	Schedule 28, paragraph 3
money purchase arrangement	section 152
nominee	Schedule 28, paragraph 27A
nominees' annuity	Schedule 28, paragraph 27AA
nominee's flexi-access drawdown fund	Schedule 28, paragraph 27E
nominees' short-term annuity	Schedule 28, paragraph 27C
overseas pension scheme	section 150(1) and (7)
relevant non-UK scheme	Schedule 34, paragraph 1(5)
successor	Schedule 28, paragraph 27F
successors' annuity	Schedule 28, paragraph 27FA
successor's flexi-access drawdown fund	Schedule 28, paragraph 27K
successors' short-term annuity	Schedule 28, paragraph 27HJ

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### Textual Amendments

- F17** Ss. 646B-646F inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 17\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Chapter 17.