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SCHEDULES

SCHEDULE 28

REGISTERED PENSION SCHEMES: AUTHORISED PENSIONS—SUPPLEMENTARY

Modifications etc. (not altering text)

- C1** Sch. 28 modified by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **14** (as substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2012/1795](#), regs. 1(1), **5**)

PART 2

PENSION DEATH BENEFIT RULES

Defined benefits and money purchase arrangements

Dependants' scheme pension

16 ^{F1}(1)

(2) [^{F2}A] pension payable to a dependant is a dependants' scheme pension [^{F3}for the purposes of this Part] if—

(a) it is payable by the scheme administrator or by an insurance company selected by the scheme administrator, ^{F4}...

^{F4}(b)

[^{F5}(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

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- (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.

(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.]

^{F6}(3)

^{F6}(4)

^{F6}(5)

^{F6}(6)

Textual Amendments

- F1** Sch. 28 para. 16(1) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 27\(2\), 64\(1\)](#), [Sch. 11 Pt. 4](#)
- F2** Word in Sch. 28 para. 16(2) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 27\(3\)\(a\), 64\(1\)](#)
- F3** Words in Sch. 28 para. 16(2) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 5](#)
- F4** Sch. 28 para. 16(2)(b) and word repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 27\(3\)\(b\), 64\(1\)](#), [Sch. 11 Pt. 4](#)
- F5** Sch. 28 para. 16(2A)-(2C) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 27\(4\), 64\(1\)](#)
- F6** Sch. 28 para. 16(3)-(6) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 27\(5\), 64\(1\)](#), [Sch. 11 Pt. 4](#)

[^{F7}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.

[Sub-paragraph (1) is subject to paragraphs 16AA and 16AB.]

^{F8}(1A)

- (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.

[Where, immediately before the member's death, the member is actually or

- ^{F9}(3) prospectively entitled to CMP periodic income, any CMP periodic income that is at any later time payable to a dependant of the member is to be ignored for the purposes of paragraphs 16AA to 16B.]

Textual Amendments

- F7** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F8** Sch. 28 para. 16A(1A) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(2\)\(6\)](#)

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F9 Sch. 28 para. 16(A)(3) inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), s. 24(6)

Modifications etc. (not altering text)

C2 Sch. 28 para. 16A modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), 24

[Paragraphs 16B and 16C do not apply if—

- ^{F10}16AA
- (a) each benefit crystallisation event that has occurred in relation to the member by reference to arrangements relating to the member under the scheme is benefit crystallisation event 5B (having unused funds under a money purchase arrangement at age 75), or
 - (b) paragraph 12 of Schedule 36 (enhanced protection by reference to pre-6 April 2006 rights) applies in the case of the member immediately before the member's death.

Textual Amendments

F7 Sch. 28 paras. 16A-16C inserted (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 28, 64(1)

F10 Sch. 28 paras. 16AA-16AE inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by Finance Act 2016 (c. 24), s. 21(3)(6)

16AB (1) Paragraph 16B does not apply if, at all times in the post-death year (as defined in that paragraph), the payable annual rate is less than the limit.

(2) Paragraph 16C does not apply in relation to a period of 12 months within paragraph (a) or (b) of paragraph 16C(1) if, at all times in that period of 12 months, the payable annual rate is less than the limit.

(3) “The payable annual rate”, at any time, is arrived at as follows—

- (a) identify each dependants' scheme pension payable in respect of the member under the scheme to which a dependant of the member is actually entitled at that time, and
- (b) identify the annual rate at which each pension identified at paragraph (a) is payable at that time, and
- (c) if only one pension is identified at paragraph (a), the payable annual rate is the annual rate identified at paragraph (b), and
- (d) if two or more pensions are identified at paragraph (a), the payable annual rate is the total of the annual rates identified at paragraph (b).

(4) “The limit”, at any time, is—

- (a) the general limit at that time (see paragraph 16AC), or
- (b) if higher, the personal limit at that time (see paragraph 16AD).

Textual Amendments

F7 Sch. 28 paras. 16A-16C inserted (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 28, 64(1)

F10 Sch. 28 paras. 16AA-16AE inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by Finance Act 2016 (c. 24), s. 21(3)(6)

16AC (1) This paragraph applies for the purposes of paragraph 16AB(4).

(2) “The general limit” at a time in the tax year 2016-17 is £25,000.

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(3) “The general limit” at a time in a later tax year (“year T”)—

(a) is given by—

$$G + (G \times U\%)$$

where G is the general limit at times in the tax year (“year P”) that precedes year T, or

(b) if the amount given by paragraph (a) is not a multiple of £100, is that amount rounded up to the nearest amount that is such a multiple.

(4) See paragraph 16AE for the meaning of U%.

Textual Amendments

F7 Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)

F10 [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

16AD (1) This paragraph applies for the purposes of paragraph 16AB(4).

(2) “The personal limit” at a time in the tax year in which the member dies is arrived at as follows—

(a) identify each scheme pension under the scheme to which the member is actually or prospectively entitled immediately before the member's death, and

(b) as regards each pension identified at paragraph (a)—

(i) if it is one to which the member is actually entitled immediately before the member's death, identify the annual rate at which it is payable immediately before the member's death, or

(ii) if it is one to which the member is prospectively entitled immediately before the member's death, identify the annual rate at which it would have been payable immediately before the member's death had the member been actually entitled to it immediately before the member's death, and

(c) if only one pension is identified at paragraph (a), the personal limit is the annual rate identified at paragraph (b), and

(d) if two or more pensions are identified at paragraph (a), the personal limit is the total of the annual rates identified at paragraph (b).

(3) “The personal limit” at a time in a tax year (“year S”) later than the tax year in which the member dies—

(a) is given by—

$$L + (L \times U\%)$$

where L is the personal limit at times in the tax year (“year P”) that precedes year S, or

(b) if the amount given by paragraph (a) is not a multiple of £100, is that amount rounded up to the nearest amount that is such a multiple.

(4) See paragraph 16AE for the meaning of U%.

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- (5) If the scheme is a public service pension scheme, ignore any abatement when identifying at sub-paragraph (2)(b) the annual rate of any scheme pension under the scheme.

Textual Amendments

- F7** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
F10 [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

16AE (1) In paragraphs 16AC(3) and 16AD(3), U% means the highest of—

- (a) 5%,
- (b) CPI% (see sub-paragraph (2)), and
- (c) RPI% (see sub-paragraph (3)).

(2) If the consumer prices index for September in year P is higher than the consumer prices index for September in the tax year preceding year P, CPI% is the percentage increase in the index (but is otherwise 0%).

(3) If the retail prices index for September in year P is higher than the retail prices index for September in the tax year preceding year P, RPI% is the percentage increase in the index (but is otherwise 0%).

(4) In this paragraph “year P” has the same meaning as in paragraph 16AC or (as the case may be) paragraph 16AD.]

Textual Amendments

- F7** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
F10 [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

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

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have been so payable if he had been actually entitled to the pensions throughout the pre-death year, and

- (c) 5% of the aggregate of the [^{F11}uprated amounts (see sub-paragraph (6))] 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.

[The “uprated amount” of a lump sum is the amount of the lump sum increased by ^{F12}(6) the higher of C% and R%, where—

- (a) if the consumer prices index for the month in which the member dies is higher than it was for the month in which the member became entitled to the lump sum, C% is the percentage increase in the index (but is otherwise 0%), and
- (b) if the retail prices index for the month in which the member dies is higher than it was for the month in which the member became entitled to the lump sum, R% is the percentage increase in the index (but is otherwise 0%).]

Textual Amendments

- F7** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F11** Words in [Sch. 28 para. 16B\(3\)\(c\)](#) substituted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(4\)\(a\)\(6\)](#)
- F12** [Sch. 28 para. 16B\(6\)](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(4\)\(b\)\(6\)](#)

- 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.

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- (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 ^{F13}... 12 months in question there are at least 50 pensioner members of the pension scheme, and
 - (b) that the condition in [^{F14}sub-paragraph] (4) is met.
- ^{F15}(4) The condition is that if the annual rate of a pension payable under the pension scheme to a dependant of the member is increased at any time in the period of 12 months in question—
 - (a) the dependant is at that time one of a group of at least 20 pensioner members of the pension scheme, and
 - (b) all the pensions being paid under the pension scheme to pensioner members of that group are at that time increased at the same rate.]
- (6) The “current member pension limit”, in relation to the 12 [^{F16}months] in question, is the initial member pension limit increased by [^{F17}the permitted margin.]
- (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 [^{F18}member's death] (“the opening month”), and
 - (b) ending with the first month [^{F19}ending after the start] 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 [^{F20}month in which the member died], the relevant indexation percentage is the percentage increase in the retail prices index.
- (12) If it is not, the relevant indexation percentage is 0%.
- ^{F21}(13)
- ^{F21}(14)

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- (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.]

Textual Amendments

- F7** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F13** Words in Sch. 28 para. 16C(3)(a) omitted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(a\)\(6\)](#)
- F14** Word in Sch. 28 para. 16C(3)(b) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(b\)\(6\)](#)
- F15** Sch. 28 para. 16C(4) substituted for Sch. 28 para. 16C(4)(5) (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(c\)\(6\)](#)
- F16** Word in Sch. 28 para. 16C(6) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(d\)\(i\)\(6\)](#)
- F17** Words in Sch. 28 para. 16C(6) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(d\)\(ii\)\(6\)](#)
- F18** Words in Sch. 28 para. 16C(8)(a) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(e\)\(6\)](#)
- F19** Words in Sch. 28 para. 16C(8)(b) inserted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(f\)\(6\)](#)
- F20** Words in Sch. 28 para. 16C(11) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(g\)\(6\)](#)
- F21** Sch. 28 para. 16C(13)(14) omitted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(h\)\(6\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)