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## SCHEDULES

### SCHEDULE 34

#### NON-UK SCHEMES: APPLICATION OF CERTAIN CHARGES

##### Modifications etc. (not altering text)

- C1** Sch. 34 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), 17

##### *Member payment charges*

- 1 (1) For the purposes of the member payment charges the member payment provisions apply in relation to payments made (or treated by this Part as made) to or in respect of—
- (a) a relieved member of a relevant non-UK scheme, or
  - (b) a transfer member of such a scheme,
- as in relation to payments made (or treated by this Part as made) to or in respect of a member of a registered pension scheme.
- (2) Sub-paragraph (1) has effect subject to the provision made by and under paragraphs 2 to 7.
- (3) “The member payment charges” are—
- (a) the unauthorised payments charge [<sup>F1</sup>(except as imposed by virtue of section 174A (taxable property held by investment-regulated pension schemes))],
  - (b) the unauthorised payments surcharge,
  - (c) the short service refund lump sum charge,
  - <sup>F2</sup>(ca) .....
  - (d) the special lump sum death benefits charge,
  - <sup>F3</sup>(da) the charges under section 636A(1A) and (1B) of ITEPA 2003 (uncrystallised funds pension lump sums),]
  - <sup>F4</sup>(db) the charge under section 636A(4ZA) of ITEPA 2003 (certain payments of lump sum death benefits),]and
  - (e) the charges under sections 636B and 636C of ITEPA 2003 (trivial commutation and winding-up lump sums and lump sum death benefits) (inserted by Schedule 31).
- (4) “The member payment provisions” are<sup>F5</sup>—
- (a)] the provisions of this Part [<sup>F6</sup>(apart from the taxable property provisions)] relating to payments made (or treated by this Part as made) to or in respect of a member of a registered pension scheme<sup>F7</sup>, and
  - (b) section 636A(1A) to (1C) [<sup>F8</sup>and (4ZA) and section 636AA] of ITEPA 2003.]

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- (5) A scheme is a relevant non-UK scheme if—
- (a) relief from tax has been given in respect of contributions paid under the scheme by virtue of Schedule 33 (overseas pension schemes: migrant member relief),
  - (b) relief from tax has been so given at any time after 5th April 2006 under double tax arrangements,
  - (c) a member of the scheme has been, or members of the scheme have been, exempt from liability to tax by virtue of section 307 of ITEPA 2003 (exemption for provision made by employer for retirement or death benefit) in respect of provision made under the scheme at any time after 5th April 2006 when the scheme was an overseas pension scheme, or
  - (d) there has been a relevant transfer at any time after 5th April 2006 when the scheme was a qualifying recognised overseas pension scheme.
- (6) “A relevant transfer” means a (direct or indirect) transfer of sums or assets held for the purposes of, or representing accrued rights under, an arrangement made under—
- (a) a registered pension scheme, or
  - (b) another scheme which is a relevant non-UK scheme,
- in relation to a member so as to become held for the purposes of, or to represent rights under, an arrangement under the scheme relating to the member; <sup>F9</sup>...
- <sup>F10</sup>(6A) There are three types of relevant transfer—
- (a) an original relevant transfer,
  - (b) a subsequent relevant transfer, and
  - (c) any other (including, in particular, all relevant transfers before 9 March 2017).
- (6B) “An original relevant transfer” is—
- (a) a relevant transfer within sub-paragraph (6)(a) made on or after 9 March 2017,
  - (b) a relevant transfer within sub-paragraph (6)(b), made on or after 9 March 2017, of the whole or part of the UK tax-relieved fund of a relieved member of a qualifying recognised overseas pension scheme, or
  - (c) a relevant transfer within sub-paragraph (6)(b), made on or after 6 April 2017, of the whole or part of the UK tax-relieved fund of a relieved member of a relevant non-UK scheme that is not a qualifying recognised overseas pension scheme.
- (6C) The sums or assets transferred as a result of an original relevant transfer constitute a ring-fenced transfer fund, and the key date for that fund is the date of the transfer.
- (6D) Where in the case of a ring-fenced transfer fund (“the source fund”) there is a relevant transfer of the whole or part of the fund—
- (a) the sums or assets transferred as a result of the transfer constitute a ring-fenced transfer fund,
  - (b) that fund has the same key date as the source fund, and
  - (c) the transfer is “a subsequent relevant transfer”, and is not an original relevant transfer.
- (6E) Sub-paragraph (6D) applies whether the source fund is a ring-fenced transfer fund as a result of sub-paragraph (6C) or as a result of sub-paragraph (6D).

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- (6F) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that sums or assets identified in accordance with the regulations are not included in a ring-fenced transfer fund as a result of sub-paragraph (6C) or (6D)(a).]
- (7) A member of a relevant non-UK scheme is a relieved member of the scheme if—
- (a) any of the contributions in respect of which relief has been given as mentioned in sub-paragraph (5)(a) or (b) were contributions paid by or on behalf of, or in respect of, the member, or
  - (b) the member is the member, or one of the members, who has been exempt from liability to tax as mentioned in sub-paragraph (5)(c).
- (8) A member of a relevant non-UK scheme is a transfer member of the scheme if a relevant transfer related to the member.

#### Textual Amendments

- F1** Words in Sch. 34 para. 1(3)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 158\(2\), Sch. 21 para. 14\(2\)\(a\)](#)
- F2** Sch. 34 para. 1(3)(ca) omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 5 para. 3\(1\)\(d\)\(i\)](#)
- F3** Sch. 34 para. 1(3)(da) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 95\(2\)](#)
- F4** Sch. 34 para. 1(3)(db) inserted (with effect in accordance with s. 22(12) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 22\(10\)\(a\)](#)
- F5** Words in Sch. 34 para. 1(4) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 95\(3\)\(a\)](#)
- F6** Words in Sch. 34 para. 1(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 158\(2\), Sch. 21 para. 14\(2\)\(b\)](#)
- F7** Sch. 34 para. 1(4)(b) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 95\(3\)\(b\)](#)
- F8** Words in Sch. 34 para. 1(4)(b) inserted (with effect in accordance with s. 22(12) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 22\(10\)\(b\)](#)
- F9** Words in Sch. 34 para. 1(6) repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 19 para. 18\(2\), Sch. 27 Pt. 3\(1\)](#)
- F10** Sch. 34 para. 1(6A)-(6F) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\), Sch. 4 paras. 2\(2\), 8](#)

#### Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

- 2 [F11(1)] The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a relieved member or transfer member of a relevant non-UK scheme [F12so far as it is referable to 5-year rule funds] unless the member—
- (a) is resident in the United Kingdom when the payment is made (or treated as made), or
  - (b) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year in which the payment is made (or treated as made) or in any of the five tax years immediately preceding that tax year.

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- [<sup>F13</sup>(2) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a relieved member of a relevant non-UK scheme so far as it is referable to 10-year rule funds unless the member—
- (a) is resident in the United Kingdom when the payment is made (or treated as made), or
  - (b) although not resident in the United Kingdom at that time, has been resident in the United Kingdom earlier in the tax year in which the payment is made (or treated as made) or in any of the 10 tax years immediately preceding that year.
- (3) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a transfer member of a relevant non-UK scheme, so far as it is referable to any particular ring-fenced transfer fund of the member's under the scheme which has a key date of 6 April 2017 or later, unless—
- (a) the member is resident in the United Kingdom when the payment is made (or treated as made), or
  - (b) although the member is not resident in the United Kingdom at that time—
    - (i) the member has been resident in the United Kingdom earlier in the tax year containing that time, or
    - (ii) the member has been resident in the United Kingdom in any of the 10 tax years immediately preceding the tax year containing that time, or
    - (iii) that time is no later than the end of 5 years beginning with the key date for the particular fund.
- (4) In this paragraph—
- “5-year rule funds”, in relation to a payment to or in respect of a relieved member of a relevant non-UK scheme, means so much of the member's UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-exempt provision, made under the scheme before 6 April 2017;
  - “5-year rule funds”, in relation to a payment to or in respect of a transfer member of a relevant non-UK scheme, means—
    - (a) the member's relevant transfer fund under the scheme, and
    - (b) any of the member's ring-fenced transfer funds under the scheme that has a key date earlier than 6 April 2017;
  - “10-year rule funds”, in relation to a payment to or in respect of a relieved member of a relevant non-UK scheme, means so much of the member's UK tax-relieved fund under the scheme as represents tax-relieved contributions, or tax-exempt provision, made under the scheme on or after 6 April 2017.
- (5) See also—
- paragraph 1(6C), (6D) and (6F) (meaning of “ring-fenced transfer fund”),
  - paragraph 3 (meaning of “UK tax-relieved fund”, “tax-relieved contributions” and “tax-exempt provision” etc), and
  - paragraph 4 (meaning of “relevant transfer fund” etc).]

#### Textual Amendments

- F11** Sch. 34 para. 2 renumbered as Sch. 34 para. 2(1) (with application in accordance with Sch. 4 para. 8 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 3\(2\)](#)

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- F12** Words in Sch. 34 para. 2(1) inserted (with application in accordance with Sch. 4 para. 8 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 3\(3\)](#)
- F13** Sch. 34 para. 2(2)-(5) inserted (with application in accordance with Sch. 4 para. 8 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 3\(4\)](#)

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**Commencement Information**

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

- 3 (1) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a relieved member of a relevant non-UK scheme unless the payment is referable to the member's UK tax-relieved fund under the scheme.
- (2) A member's UK tax-relieved fund under a relevant non-UK scheme is so much of—
- (a) the sums or assets held for the purposes of, or representing accrued rights under, the scheme as, in accordance with regulations made by the Board of Inland Revenue, represents
  - (b) any tax-relieved contributions made under the scheme by or on behalf of, or in respect of, the member and any tax-exempt provision made under the scheme in relation to the member.
- (3) "Tax-relieved contributions" means contributions in respect of which relief from tax—
- (a) has been given by virtue of Schedule 33 (overseas pension schemes: migrant member relief), or
  - (b) has been given at any time after 5th April 2006 under double tax arrangements.
- (4) "Tax-exempt provision" means provision in respect of which exemption from tax has been given by virtue of section 307 of ITEPA 2003 (exemption for provision made by employer for retirement or death benefit) at any time after 5th April 2006 when the scheme was an overseas pension scheme.
- (5) Regulations under sub-paragraph (2) may (in particular) provide that the sums or assets which represent any tax-relieved contributions or tax-exempt provision are to be determined otherwise than by reference to the actual amount of the contributions or the amount or value of the provision (for instance by reference to the increase in the value of the member's rights under the scheme during a period for which relief or exemption in respect of such contributions or provision was given).
- [<sup>F14</sup>(5A) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that, in circumstances specified in the regulations, something specified in the regulations is to be treated as done by, to, in respect of or in the case of a relieved member of a relevant non-UK scheme.]
- (6) Regulations made by the Board of Inland Revenue may make provision for determining whether or not payments made (or treated as made) by [<sup>F15</sup>, or other things done by or to or under or in respect of or in the case of,] a relevant non-UK scheme are to be treated as referable to a member's UK tax-relieved fund under the scheme (and so whether or not they reduce the fund).
- [<sup>F16</sup>(7) The provision which may be made under sub-paragraph (6) includes (in particular) provision in consequence of Part 7A of ITEPA 2003.]

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- [<sup>F17</sup>(8) Where regulations under sub-paragraph (6) make provision for a payment or something else to be treated as referable to a member's UK tax-relieved fund under a scheme, regulations under that sub-paragraph may make provision for the payment or thing, or any part or aspect of the payment or thing, also to be treated as referable to a particular part of that fund.]

#### Textual Amendments

- F14** Sch. 34 para. 3(5A) inserted (retrospective to 9.3.2017) by Finance Act 2017 (c. 10), Sch. 4 paras. 4(2), 8
- F15** Words in Sch. 34 para. 3(6) inserted (retrospective to 9.3.2017) by Finance Act 2017 (c. 10), Sch. 4 paras. 4(3), 8
- F16** Sch. 34 para. 3(7) inserted (with effect in accordance with Sch. 2 paras. 52-59 of the amending Act) by Finance Act 2011 (c. 11), Sch. 2 para. 51
- F17** Sch. 34 para. 3(8) inserted (retrospective to 9.3.2017) by Finance Act 2017 (c. 10), Sch. 4 paras. 4(4), 8

#### Commencement Information

- I3** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

- 4 (1) The member payment provisions do not apply in relation to a payment made (or treated by this Part as made) to or in respect of a transfer member of a relevant non-UK scheme unless it is referable to the member's relevant transfer fund [<sup>F18</sup>, or ring-fenced transfer funds,] under the scheme.
- (2) A member's relevant transfer fund under a relevant non-UK scheme is [<sup>F19</sup>, subject to sub-paragraph (3A),] so much of—
- (a) the sums or assets held for the purposes of, or representing accrued rights under, the scheme as, in accordance with regulations made by the Board of Inland Revenue, represents
  - (b) relevant transferred sums or assets.
- (3) "Relevant transferred sums or assets" means sums or assets held for the purposes of, or representing accrued rights under, an arrangement under—
- (a) a registered pension scheme, or
  - (b) another scheme which is a relevant non-UK scheme,
- which at any time after 5th April 2006 when the scheme was an overseas pension scheme have been transferred (directly or indirectly) so as to become held for the purposes of, or to represent rights under, an arrangement under the scheme relating to the member; <sup>F20</sup>...
- [<sup>F21</sup>(3A) The member's relevant transfer fund under the scheme does not include sums or assets that are in any of the member's ring-fenced transfer funds under the scheme.]
- (4) Regulations made by the Board of Inland Revenue may make provision for determining whether payments or transfers made (or treated as made) by [<sup>F22</sup>, or other things done by or to or under or in respect of or in the case of,] a relevant non-UK scheme are to be treated as referable to a member's relevant transfer fund under the scheme (and so whether or not they reduce the fund).
- [<sup>F23</sup>(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations provide that, in circumstances specified in the regulations, something specified in

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the regulations is to be treated as done by, to, in respect of or in the case of a transfer member of a relevant non-UK scheme.

- (6) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision for determining whether payments or transfers made (or treated as made) by, or other things done by or to or under or in respect of or in the case of, a relevant non-UK scheme are to be treated as referable to a member's ring-fenced transfer funds under the scheme (and so whether or not they reduce the funds or any of them).
- (7) Where regulations under sub-paragraph (6) make provision for a payment or transfer or something else to be treated as referable to a member's ring-fenced transfer funds under a scheme, regulations under that sub-paragraph may make provision for the payment or transfer or other thing, or any part or aspect of the payment or transfer or thing, also to be treated as referable to a particular one of those funds.]

#### Textual Amendments

- F18** Words in Sch. 34 para. 4(1) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 5\(2\), 8](#)
- F19** Words in Sch. 34 para. 4(2) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 5\(3\), 8](#)
- F20** Words in Sch. 34 para. 4(3) repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 18\(3\)](#), [Sch. 27 Pt. 3\(1\)](#)
- F21** Sch. 34 para. 4(3A) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 5\(4\), 8](#)
- F22** Words in Sch. 34 para. 4(4) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 5\(5\), 8](#)
- F23** Sch. 34 para. 4(5)-(7) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 5\(6\), 8](#)

#### Commencement Information

- I4** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

<sup>F24</sup>4A . . . . .

#### Textual Amendments

- F24** Sch. 34 para. 4A omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(f\)\(4\)](#)

- 5 [F25Sections 205 to 206] (short service refund lump sum charge<sup>F26</sup>... and special lump sum death benefits charge) apply with respect to a lump sum or lump sum death benefit paid to or in respect of—
- (a) a relieved member of a relevant non-UK scheme, or
- (b) a transfer member of such a scheme,
- so as to make the person to whom the lump sum or lump sum death benefit is paid (rather than the scheme administrator) liable to any charge imposed by either of those sections.



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#### Textual Amendments

- F25** Words in Sch. 34 para. 5 substituted (with effect in accordance with Sch. 16 paras. 85, 102 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 81\(4\)\(a\)](#)
- F26** Words in [Sch. 34 para. 5](#) omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 5 para. 3\(1\)\(d\)\(ii\)](#)

#### Modifications etc. (not altering text)

- C2** Sch. 34 para. 5 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

#### Commencement Information

- I5** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

[<sup>F27</sup>5A (1) Sub-paragraph (2) applies if—

- (a) a payment is made (or treated by this Part as made) to or in respect of a relieved member or transfer member of a relevant non-UK scheme, and
- (b) there is an amount of tax under a member payment charge that would be payable in respect of the payment, or part of the payment, but for the operation of double taxation arrangements.

(2) The payment or (as the case may be) that part of it—

- (a) is “pension” for the purposes of Chapter 4 of Part 9 of ITEPA 2003 (foreign pensions), and
- (b) is to be treated as included in the list, in section 576A of ITEPA 2003, of payments that are “relevant withdrawals” for the purposes of that section.]

#### Textual Amendments

- F27** Sch. 34 para. 5A inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 95\(4\)](#)

6 (1) The amount of any liability to tax imposed on any individual in relation to a payment by virtue of the operation of the member payment charges in consequence of paragraph 1 [<sup>F28</sup>, or by virtue of the operation of Chapter 4 of Part 9 of ITEPA 2003 in consequence of paragraph 5A,] is to be reduced by the amount of any tax paid in respect of the payment under the law of any country or territory outside the United Kingdom.

(2) Where, after any tax which an individual is liable to pay in respect of a payment in consequence of paragraph 1 [<sup>F29</sup> or 5A] has been paid, tax is paid in respect of the payment under the law of any country or territory outside the United Kingdom, an appropriate adjustment is to be made in the individual’s liability to tax (by way of discharge or repayment of tax).

#### Textual Amendments

- F28** Words in Sch. 34 para. 6(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 95\(5\)\(a\)](#)
- F29** Words in Sch. 34 para. 6(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 95\(5\)\(b\)](#)



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#### Commencement Information

**I6** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

- 7 (1) The member payment provisions apply with respect to a payment made (or treated by this Part as made) to or in respect of—
- (a) a relieved member of a relevant non-UK scheme, or
  - (b) a transfer member of such a scheme,
- subject to any omissions, additions and other modifications contained in regulations made by the Board of Inland Revenue.
- (2) Regulations under sub-paragraph (1) may—
- (a) include provision having effect in relation to times before they are made,
  - (b) confer discretion on the Board of Inland Revenue or the Inland Revenue (subject to a right of appeal against any decision taken in exercise of the discretion),
  - <sup>F30</sup>(ba) contain transitional provisions and savings,
  - (c) make different provision in relation to payments treated (in accordance with regulations under paragraph 3(6) or 4(4)) as being referable to a member's UK tax-relieved fund, or to a member's relevant transfer fund [<sup>F31</sup>or ring-fenced transfer funds], under a relevant non-UK scheme, and
  - (d) otherwise make different provision for different cases.

#### Textual Amendments

- F30** Sch. 34 para. 7(2)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 95\(6\)](#)
- F31** Words in Sch. 34 para. 7(2)(c) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 6, 8](#)

#### Commencement Information

**I7** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

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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\(2\)](#)