

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 34

Section 244

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 [^{F1}(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,
 - ^{F2}(ca)
 - (d) the special lump sum death benefits charge,
 - ^{F3}(da) the charges under section 636A(1A) and (1B) of ITEPA 2003 (uncrystallised funds pension lump sums),]
 - ^{F4}(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^{F5}—
- (a)] the provisions of this Part [^{F6}(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^{F7}, and
 - (b) section 636A(1A) to (1C) [^{F8}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; ^{F9}...
- ^{F10}(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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- [^{F13}(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\(4\)](#)

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).
- [^{F14}(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 [^{F15}, 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).
- [^{F16}(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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- [^{F17}(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 [^{F18}, or ring-fenced transfer funds,] under the scheme.
- (2) A member's relevant transfer fund under a relevant non-UK scheme is [^{F19}, 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; ^{F20}...
- [^{F21}(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 [^{F22}, 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).
- [^{F23}(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

^{F24}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^{F26}... 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

[^{F27}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 [^{F28}, 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 [^{F29} 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),
 - ^{F30}(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 [^{F31}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

[^{F32}Unauthorised payment charge: alternatively secured pension etc]

Textual Amendments

F32 Sch. 34 para. 7ZA and cross-heading inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 18\(4\)](#)

^{F33}7ZA

Textual Amendments

F33 Sch. 34 para. 7ZA omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 81\(5\)](#)

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[^{F34}Unauthorised payment charge: taxable property

Textual Amendments

F34 Sch. 34 para. 7A and cross-heading inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 14\(3\)](#)

- 7A (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for a transfer member of a relevant non-UK scheme to be liable to the unauthorised payment charge in the same or similar circumstances to those in which—
- (a) a member of a registered pension scheme is liable to that charge by virtue of section 174A and Schedule 29A (taxable property held by investment-regulated pension scheme),
 - (b) the scheme administrator of such a scheme is liable to the scheme sanction charge by virtue of section 185A (income from taxable property) or 185F (gains from taxable property), or
 - (c) a member of such a scheme is liable to the scheme sanction charge by virtue of those provisions in consequence of provision made by regulations under section 273ZA.
- (2) The regulations may—
- (a) make provision for the application of any or all of the taxable property provisions in relation to a transfer member of a relevant non-UK scheme subject to any omissions, additions and other modifications contained in the regulations,
 - (b) include provision having effect in relation to times before they are made,
 - (c) contain transitional provisions and savings, and
 - (d) make different provision for different cases.]

F35 ...

Textual Amendments

F35 Sch. 34 para. 7B and cross-heading inserted (with effect for tax year 2011-12 and subsequent tax years in accordance with Sch. 2 para. 5 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 2 para. 4](#); which insertion fell without ever having effect as a result of the repeal (10.12.2010) of the affecting provision by [The Finance Act 2010, Section 23 and Schedule 2 \(High Income Excess Relief Charge\) \(Repeal\) Order 2010 \(S.I. 2010/2938\)](#), arts. 1, 2

^{F35}7B

Annual allowance charge

- 8 (1) The provisions of this Part relating to the annual allowance charge (“the annual allowance provisions”) apply in relation to an individual who is a currently-relieved member of a currently-relieved non-UK pension scheme [^{F36}and its scheme manager] as if the currently-relieved non-UK pension scheme were a registered pension scheme.

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- (2) Sub-paragraph (1) has effect subject to the provision made by and under paragraphs 9 to 12.
- (3) A pension scheme is a currently-relieved non-UK pension scheme in relation to a tax year if—
- (a) relief from tax is given in respect of contributions paid during the tax year under the pension scheme by virtue of Schedule 33 (overseas pension schemes: migrant member relief) or double tax arrangements, or
 - (b) a member of the pension scheme is, or members of the pension scheme are, 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 pension scheme at any time during the tax year when the pension scheme is an overseas pension scheme.
- (4) An individual is a currently-relieved member of a currently-relieved non-UK pension scheme in relation to a tax year if—
- (a) any of the contributions in respect of which relief is given as mentioned in sub-paragraph (3)(a) are contributions paid by or on behalf of, or in respect of, the individual, or
 - (b) the individual is the member, or one of the members, who is exempt from liability to tax as mentioned in sub-paragraph (3)(b).

Textual Amendments

F36 Words in Sch. 34 para. 8(1) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 24\(2\)](#)

Commencement Information

I8 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

- 9 The annual allowance provisions apply by virtue of paragraph 8 in relation to an individual who is a currently-relieved member of a currently-relieved non-UK pension scheme as if references to the pension input period of an arrangement under the pension scheme that ends in a tax year were to the tax year.

Commencement Information

I9 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

- ^{F379Z}(1) For the purposes of determining the annual allowance charge in the case of an individual for a relevant tax year, a pension scheme is to be treated for the purposes of section 227G as a registered pension scheme if—
- (a) in relation to that tax year, or
 - (b) in relation to any earlier tax year (whether or not a relevant tax year),
- the scheme is a currently-relieved non-UK pension scheme and the individual is a currently-relieved member of the scheme.
- (2) For the purposes of this paragraph, a tax year is a “relevant tax year” in relation to an individual if—

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- (a) it is—
 - (i) the first tax year in relation to which the individual is a currently-relieved member of any currently-relieved non-UK pension scheme, or
 - (ii) if later, the tax year 2015-16, or
- (b) it is a tax year subsequent to the tax year identified under paragraph (a).

Textual Amendments

F37 Sch. 34 paras. 9ZA, 9ZB inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 95(7)**

- 9ZB (1) Sub-paragraph (2) has effect if at any particular time—
- (a) an individual is a transfer member of a relevant non-UK scheme,
 - (b) the scheme is, or at any previous time has been, a qualifying recognised overseas pension scheme, and
 - (c) the particular time is not in a tax year in relation to which the scheme is a currently-relieved non-UK pension scheme of which the individual is a currently-relieved member.
- (2) Section 227G applies in the individual's case as if the scheme, so far as relating to the individual's relevant transfer fund [^{F38}or ring-fenced transfer funds] under the scheme, were a registered pension scheme at the particular time.
- (3) The reference in sub-paragraph (2) to the individual's relevant transfer fund under the relevant non-UK scheme is to be read in accordance with paragraph 4.

[The reference in sub-paragraph (2) to the individual's ring-fenced transfer funds ^{F39}(4) under the relevant non-UK scheme is to be read in accordance with paragraph 1.]

Textual Amendments

F37 Sch. 34 paras. 9ZA, 9ZB inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 95(7)**

F38 Words in [Sch. 34 para. 9ZB\(2\)](#) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), **Sch. 4 paras. 7(2), 8**

F39 [Sch. 34 para. 9ZB\(4\)](#) inserted (retrospective to 9.3.2017) by [Finance Act 2017 \(c. 10\)](#), **Sch. 4 paras. 7(3), 8**

- [^{F40}9A (1) This paragraph applies where an individual—
- (a) is a currently-relieved member of a currently-relieved non-UK pension scheme in relation to a tax year, but
 - (b) was a member, but not a currently-relieved member, of the currently-relieved non-UK pension scheme in relation to any one or more of the 3 immediately preceding tax years (a “relevant tax year”).
- (2) Section 228A has effect in relation to the individual for the tax year as it would if the individual had been a currently-relieved member of the pension scheme for the relevant tax year (or each of the relevant tax years) and paragraphs 10 and 11 of this Schedule were omitted.

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Textual Amendments

F40 Sch. 34 paras. 9A, 9B inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 24(3)**

- 9B (1) This paragraph applies where an individual—
- (a) is a member of a registered pension scheme in relation to a tax year, and
 - (b) was a currently-relieved member of a currently-relieved non-UK pension scheme in relation to any one or more of the 3 immediately preceding tax years (a “relevant tax year”).
- (2) Section 228A has effect in relation to the individual for the tax year as it would if the currently-relieved non-UK pension scheme had been a registered pension scheme for the relevant tax year (or each of the relevant tax years).]

Textual Amendments

F40 Sch. 34 paras. 9A, 9B inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 24(3)**

- 10 (1) Sections 230 (1) and 234 (1) (cash balance and defined benefits arrangements) apply by virtue of paragraph 8 in relation to an individual who is a currently-relieved member of a currently-relieved non-UK pension scheme in relation to a tax year as if the increase in the value of the individual’s rights under an arrangement under the pension scheme relating to the individual during the tax year were the greater of—
- (a) the appropriate fraction of what it otherwise would be, and
 - (b) the amount of any contributions paid under the arrangement during the tax year by or on behalf of the individual (otherwise than by an employer) in respect of which relief from tax is given by virtue of Schedule 33 (overseas pension schemes: migrant member relief) or double tax arrangements;
- and section 237 (hybrid arrangements) applies accordingly.

[^{F41}(2) The appropriate fraction is—

$$\frac{TE + TSI}{EI}$$

where—

EI is the total amount of employment income of the individual from any relevant employment or employments for the tax year, excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003),

TE is so much of EI as constitutes taxable earnings from any such employment (within the meaning of section 10(2) of that Act), and

TSI is so much of EI as constitutes taxable specific income from any such employment (within the meaning of section 10(3) to (5) of that Act).]

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- (3) An employment is a relevant employment if it is an employment with an employer who is a sponsoring employer in relation to the currently-relieved non-UK pension scheme.

Textual Amendments

F41 Sch. 34 para. 10(2) substituted (with effect in accordance with s. 45(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 45\(2\)](#)

Commencement Information

I10 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

- 11 (1) Section 233 (1) (other money purchase arrangements) applies by virtue of paragraph 8 in relation to an individual who is a currently-relieved member of a currently-relieved non-UK pension scheme in relation to a tax year as if—
- (a) the reference in paragraph (a) to relievable pension contributions paid by or on behalf of the individual under an arrangement under the pension scheme relating to the individual were to those in respect of which relief from tax is given by virtue of Schedule 33 (overseas pension schemes: migrant member relief) or double tax arrangements, and
 - (b) the reference in paragraph (b) to contributions paid in respect of the individual under such an arrangement by an employer of the individual were to the appropriate fraction of contributions so paid;
- and section 237 applies accordingly.

[^{F42}(2) The appropriate fraction is—

$$\frac{\text{TE} + \text{TSI}}{\text{EI}}$$

where—

EI is the total amount of employment income of the individual from any employment or employments with the employer for the tax year, excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003),

TE is so much of EI as constitutes taxable earnings from any such employment (within the meaning of section 10(2) of that Act), and

TSI is so much of EI as constitutes taxable specific income from any such employment (within the meaning of section 10(3) to (5) of that Act).]

- [^{F43}(3) Where a calculation under section 233(1) as applied by paragraph 8 is being carried out for the purposes of section 227F(3) in respect of a period that ends at the end of a tax year (see paragraph 9 and section 227F(1)), the appropriate fraction for the purposes of sub-paragraph (1)(b) is the appropriate fraction given by sub-paragraph (2) for that tax year (even where the period in respect of which the calculation is being carried out is part only of that tax year).]

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Textual Amendments

- F42** Sch. 34 para. 11(2) substituted (with effect in accordance with s. 45(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 45\(3\)](#)
- F43** Sch. 34 para. 11(3) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 95\(8\)](#)

Commencement Information

- I11** 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

- 12 (1) The annual allowance provisions apply by virtue of paragraph 8 in relation to an individual who is a currently-relieved member of a currently-relieved non-UK pension scheme [^{F44}and its scheme manager] 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),
 - [^{F45}(ba) contain transitional provisions and savings,] and
 - (c) make different provision for different cases.

Textual Amendments

- F44** Words in Sch. 34 para. 12(1) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 24\(4\)](#)
- F45** Sch. 34 para. 12(2)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 95\(9\)](#)

Commencement Information

- I12** 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

Lifetime allowance charge

- 13 (1) The provisions of this Part relating to the lifetime allowance charge (“the lifetime allowance provisions”) apply in relation to an individual who is a relieved member of a relieved non-UK pension scheme as if the relieved non-UK pension scheme were a registered pension scheme.
- (2) Sub-paragraph (1) has effect subject to the provision made by and under paragraphs 14 to 19.
- (3) A pension scheme is a relieved non-UK pension scheme if—
- (a) relief from tax has been given in respect of contributions paid under the pension 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, or

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- (c) a member of the pension scheme has been, or members of the pension 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 pension scheme at any time after 5th April 2006 when the pension scheme was an overseas pension scheme.
- (4) An individual is a relieved member of a relieved non-UK pension scheme if—
- (a) any of the contributions in respect of which relief has been given as mentioned in sub-paragraph (3)(a) or (b) were contributions paid by or on behalf of, or in respect of, the individual, or
 - (b) the individual is the member, or one of the members, who has been exempt from liability to tax as mentioned in sub-paragraph (3)(c).

Commencement Information

I13 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

- 14 (1) This paragraph applies in relation to the amount crystallised on the occurrence of an event that is a benefit crystallisation event by virtue of this Schedule in relation to an individual who is a relieved member of a relieved non-UK pension scheme.
- (2) What would otherwise be the amount crystallised by the event is reduced by so much (if any) of it as exceeds the amount of the untested portion of the relevant relieved amount immediately before the benefit crystallisation event (so that if that amount is nil, there is no amount crystallised).
- (3) For the purposes of this paragraph and paragraph 15 the relevant relieved amount is the aggregate of—
- (a) the amounts which for each tax year before that in which the benefit crystallisation event occurs would have been arrived at in relation to arrangements under the relieved non-UK pension scheme relating to the individual as pension input amounts under sections 230 to 237 (annual allowance) as they apply by virtue of this Schedule, and
 - (b) the amount which would be so arrived at if the period beginning with the tax year in which the benefit crystallisation event occurs and ending immediately before the benefit crystallisation event were a tax year, assuming that section 229(3) did not apply.
- (4) For the purposes of this paragraph and paragraph 15 the untested portion of the relevant relieved amount is so much of the relevant relieved amount as exceeds the aggregate of the amount which (in accordance with sub-paragraph (2)) is the amount crystallised by each previous event that was a benefit crystallisation event by virtue of this Schedule in relation to the individual and the relieved non-UK pension scheme (so that if there has been no such previous event the untested portion of the relevant relieved amount is the whole of that amount).

Commencement Information

I14 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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- 15 (1) An individual who is a relieved member of a relieved non-UK pension scheme may at any time elect by giving notice to the Inland Revenue in a form specified by the Board of Inland Revenue that a benefit crystallisation event is to be treated as occurring on the date specified in the notice in relation to the individual and the relieved non-UK pension scheme.
- (2) The amount crystallised on the occurrence of an event that is a benefit crystallisation event by virtue of sub-paragraph (1) is the untested portion of the relevant relieved amount.

Commencement Information

I15 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

- 16 (1) This paragraph applies on the occurrence of a transfer of sums or assets held for the purposes of, or representing accrued rights under, a relieved non-UK pension scheme which (apart from sub-paragraph (2)) would by virtue of paragraph 13 be a benefit crystallisation event in relation to an individual who is a relieved member of the relieved non-UK pension scheme.
- (2) The event is not a benefit crystallisation event if the transfer is a block transfer.
- (3) A transfer is a block transfer if it involves the transfer in a single transaction of all the sums and assets held for the purposes of, or representing accrued rights under, the arrangements under the relieved non-UK pension scheme which relate to—
- (a) the individual, and
 - (b) at least one other member of the relieved non-UK pension scheme (whether or not that member is a relieved member).

Commencement Information

I16 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

- 17 Section 217 (persons liable to charge) applies with respect to a liability to the lifetime allowance charge arising by reason of the occurrence of an event that is a benefit crystallisation event by virtue of this Schedule in relation to an individual who is a relieved member of a relieved non-UK pension scheme with the omission of references to the scheme administrator.

Modifications etc. (not altering text)

C3 Sch. 34 para. 17 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

I17 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

- 18 (1) This paragraph applies where sums and assets held for the purposes of, or representing accrued rights under, a relieved non-UK pension scheme are transferred

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so as to become held for the purposes of, or to represent rights under, another pension scheme (“the transferee pension scheme”) in circumstances in which, by virtue of paragraph 16, the transfer does not constitute a benefit crystallisation event.

- (2) Paragraphs 13 to 17 and sub-paragraph (1) have effect after the transfer as if—
- (a) references to a relieved non-UK pension scheme included the transferee pension scheme (if not a relieved non-UK pension scheme),
 - (b) references to an individual who is a relieved member of a relieved non-UK pension scheme included the individual to whom the transfer related (if not a relieved member of a relieved non-UK pension scheme), and
 - (c) the relevant relieved amount consisted of, or (if there is a relevant relieved amount in relation to the individual and the transferee pension scheme apart from this paragraph) included, the amount which would have been the amount crystallised had the transfer constituted a benefit crystallisation event.

Commencement Information

I18 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

- 19 (1) The provisions of this Part of this Act relating to the lifetime allowance charge apply in relation to an individual who is a relieved member of a relieved non-UK pension 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),
 - ^{F46}(ba) contain transitional provisions and savings,] and
 - (c) make different provision for different cases.

Textual Amendments

F46 Sch. 34 para. 19(2)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 95\(9\)](#)

Commencement Information

I19 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

Meaning of “double tax arrangements”

- 20 In this Schedule “double tax arrangements” means arrangements having effect ^{F47}under section 2(1) of the Taxation (International and Other Provisions) Act 2010] (relief by agreement with other territories).

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Textual Amendments

F47 Words in Sch. 34 para. 20 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. 64](#) (with [Sch. 9 paras. 1-9, 22](#))

Commencement Information

I20 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\(2\)](#)