

SCHEDULES

SCHEDULE 35

Section 281

PENSION SCHEMES ETC: MINOR AND CONSEQUENTIAL AMENDMENTS

Taxes Management Act 1970 (c. 9)

- 1 In section 9(1A) of the Taxes Management Act 1970 (tax not to be assessed by a self-assessment), for the words after “any tax” substitute “which—
- (a) is chargeable on the scheme administrator of a registered pension scheme under Part 4 of the Finance Act 2004, or
 - (b) is chargeable on the person who is (or persons who are) the responsible person in relation to an employer-financed retirement benefits scheme under section 394(2) of ITEPA 2003.”

Income and Corporation Taxes Act 1988 (c. 1)

- 2 The Income and Corporation Taxes Act 1988 (c. 1) is amended as follows.
- 3 In section 21A(2) (Schedule A: computation of amount chargeable), insert at the end—
- “sections 196 to 200 of the Finance Act 2004 (registered pension schemes);
section 246 of that Act (employer-financed retirement benefits schemes).”
- 4 In section 56(3)(b) (transfers in deposits and debts: exemption for pensions), for “592(2), 613, 614 (1) to (3) or 620(6)” substitute “613(4) or 614(2) or (3) or section 186 of the Finance Act 2004”.
- 5 In section 127(3)(a) (enterprise allowance), for “623(2)(c) or 833(4)(c)” substitute “833(4)(c) or section 189(2)(b) of the Finance Act 2004”.
- 6 In section 129B(2) (stock lending fees), for “sections 592(2), 608(2)(a), 613(4), 614(3), 620(6) and 643(2)” substitute “sections 613(4) and 614(3) and section 186 of the Finance Act 2004”.
- 7 In section 227(8)(a) (purchase of own shares: rules about trustees not to apply where shares held under exempt approved scheme), for “an exempt approved scheme as defined in Chapter 1 of Part 14” substitute “a registered pension scheme”.
- 8 In section 265(3)(c) (transfer of blind person’s allowance to spouse where allowance exceeds what is left of total income after deductions: deductions to be disregarded), for “593(2) or 639(3)” substitute “192 of the Finance Act 2004”.
- 9 In section 266 (1) (life assurance premiums), for “sections 274 and 619(6) and Schedules 14 and 15,” substitute “section 274 and Schedules 14 and 15 and sections 192 to 194 of the Finance Act 2004”.
- 10 (1) Section 266A (life assurance premiums paid by employer) is amended as follows.
- (2) In subsection (1), for “a non-approved” substitute “an employer-financed”.

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(3) For subsections (3) to (6) substitute—

“(3) For the purposes of subsection (1)(a) benefits are provided in respect of an employee if they are provided for the employee’s spouse, widow or widower, children, dependants or personal representatives.

(4) If a sum within subsection (1) is paid with a view to the provision of benefits for or in respect of more than one employee of the employer, part of it is to be treated as paid for or in respect of each of them.

(5) The amount treated as paid for or in respect of each employee is—

$$A \times \frac{B}{C}$$

where—

A is the sum paid,

B is the amount which would have had to be paid to secure the benefits to be provided for or in respect of the employee in question, and

C is the total amount which would have had to be paid to secure the benefits to be provided for or in respect of all the employees if separate payments had been made in the case of each of them.

(6) This section does not apply if—

- (a) in the year of assessment in which the sum is paid the earnings from the employee’s employment are (or, if there are none, would be if there were any) earnings charged on remittance, or
- (b) the employee is not domiciled in the United Kingdom in the tax year in which the sum is paid and the conditions in subsection (7) are met.

(7) Those conditions are—

- (a) that the employment is with a foreign employer, and
- (b) that, on a claim made by the employee, the Board are satisfied that the pension scheme corresponds to a registered pension scheme.

(8) In subsection (6)(a) “earnings charged on remittance” means earnings which are taxable earnings under—

- (a) section 22 of ITEPA 2003 (chargeable overseas earnings for year when employee resident and ordinarily resident, but not domiciled, in UK), or
- (b) section 26 of that Act (foreign earnings for year when employee resident, but not ordinarily resident, in UK).

(9) In this section—

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

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

11 In section 268(7)(b) (early conversion or surrender of rights: life policies not covered), for “an approved scheme, as defined in Chapter 1 of Part 14;” substitute “a registered pension scheme;”.

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- 12 In section 273 (payments securing annuities), for “, 617(3) and 619(6)” substitute “and 617(3) and sections 192 to 194 of the Finance Act 2004”.
- 13 In section 336(1A)(b) (temporary residents not liable under certain pension tax provisions)—
 - (a) in sub-paragraph (i), for “605, 609, 610, 611, 623 or 629 of that Act applies,” substitute “609, 610, 611 or 629 of that Act applies,”
 - (b) after that sub-paragraph insert—
 - “(ia) an annuity under an annuity contract that is a registered pension scheme, or”, and
 - (c) omit sub-paragraph (iii) and the word “or” before it.
- 14 In section 348(1A)(b) (payments out of profits or gains brought into charge to income tax: exception for certain annuities), for “605 of that Act applies to it (retirement annuity contracts: annuities),” substitute “579A of that Act applies to it because it is an annuity under an annuity contract that is a registered pension scheme,”.
- 15 In section 349(1A)(b) (payments not out of profits or gains brought into charge to income tax and annual interest: exception for certain annuities), for “605 of that Act applies to it,” substitute “579A of that Act applies to it because it is an annuity under an annuity contract that is a registered pension scheme,”.
- 16 (1) Section 349B(3) (payments in case of which requirement to deduct tax does not apply) is amended as follows.
 - (2) For paragraph (i) substitute—
 - “(i) the scheme administrator of a registered pension scheme;”.
 - (3) After paragraph (j) insert “or”.
 - (4) Omit paragraphs (l) and (m).
- 17 In section 360A(9)(a) (meaning of “material interest” in section 360: exception from rule about trusts for certain pension scheme trusts), for “an exempt approved scheme as defined in section 592;” substitute “a registered pension scheme;”.
- 18 In section 414(7), (close companies: shares held on trust for certain pension schemes), for “an exempt approved scheme as defined in section 592” substitute “a registered pension scheme”.
- 19 In section 415(4)(b), (certain quoted companies not to be close companies: shares held on trust for certain pension schemes deemed to be beneficially held for public), for “an exempt approved scheme as defined in section 592,” substitute “a registered pension scheme,”.
- 20 For section 431B (life assurance: meaning of “pension business”) substitute—

“431B Meaning of “pension business”

- (1) In this Chapter “pension business” means so much of a company’s life assurance business as is referable to contracts entered into for the purposes of a registered pension scheme or is the reinsurance of such business.
- (2) Where a pension scheme ceases to be a registered pension scheme, any of the company’s life assurance business that was pension business when the pension scheme was a registered pension scheme is to be treated as ceasing to

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- be pension business at the beginning of the period of account of the company in which the pension scheme ceases to be a registered pension scheme.”
- 21 In section 464(5) (policies and contracts to be disregarded in applying limits on benefits payable to member of friendly society), for paragraph (b) substitute—
- “(b) any policy of insurance or annuity contract by means of which the benefits to be provided under an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) are secured or any annuity contract which constitutes a registered pension scheme or is issued or held in connection with a registered pension scheme other than such an occupational pension scheme;”.
- 22 (1) Section 466 (interpretation of Chapter 2 of Part 12) is amended as follows.
- (2) In subsection (2), omit the definition of “pension business”.
- (3) After that subsection insert—
- “(2A) In this Chapter “pension business” means so much of a friendly society’s life assurance business as is referable to contracts entered into for the purposes of a registered pension scheme.
- (2B) But where a pension scheme ceases to be a registered pension scheme, any of the friendly society’s life assurance business that was pension business when the pension scheme was a registered pension scheme is to be treated as ceasing to be pension business at the beginning of the period of account of the friendly society in which the pension scheme ceases to be a registered pension scheme.”
- 23 In section 467(3) (exemption for trade unions and employers' associations: disregard of certain annuities for purposes of limit), for “approved annuities (as defined in section 620(9))” substitute “annuity contract which constitutes a registered pension scheme or is issued or held in connection with a registered pension scheme other than an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004)”.
- 24 In section 503(2) (letting of furnished holiday accommodation treated as a trade for certain purposes), for paragraph (b) and the word “and” before it substitute—
- “(b) section 833(4)(c) (income regarded as earned income), and
- (c) section 189(2)(b) of the Finance Act 2004 (income regarded as relevant UK earnings for pension purposes).”
- 25 In section 539(2) (policies of life insurance to which Chapter 2 of Part 13) does not apply), for paragraphs (b) to (d) substitute—
- “(b) to any policy of insurance which constitutes, or is issued or held in connection with, a registered pension scheme; or”.
- 26 In section 613(4) (parliamentary pension funds)—
- (a) omit “respective” and paragraphs (b) to (d), and
- (b) for “those funds” (in both places) substitute “that Fund”.
- 27 (1) Section 657(2) (life annuities to which section 656 does not apply) is amended as follows.
- (2) In paragraph (b), for “266, 273 or 619 or to any annuity payable under a substituted contract within the meaning of section 622(3);” substitute “266 or 273;”.

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- (3) For paragraphs (d) to (f) substitute—
- “(d) to any annuity under, or purchased with sums or assets held for the purposes of, a registered pension scheme; or
 - (e) to any annuity purchased by any person in recognition of another’s services (or past services) in any office or employment.”
- 28 (1) Section 660A (income arising under a settlement where settlor retains an interest) is amended as follows.
- (2) In subsection (9), for paragraph (c) and the word “or” before it substitute “or
- (c) a benefit under a relevant pension scheme.”
- (3) For subsections (11) and (12) substitute—
- “(11) In this section “relevant pension scheme” means—
 - (a) a registered pension scheme;
 - (b) a pension scheme established by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees (or an annuity acquired using funds held for the purposes of such a pension scheme); or
 - (c) a pension scheme of any description which may be prescribed by regulations made by the Secretary of State.”
- 29 (1) Section 686 (accumulation and discretionary trusts: special rates of tax) is amended as follows.
- (2) In subsection (2)(c), for the words following “held” substitute “for the purposes of a superannuation fund to which section 615(3) applies”.
- (3) In subsection (6A)—
- (a) for “exemptions” substitute “exemption”, and
 - (b) for “as mentioned in sub-paragraph (i) or (ii) of that paragraph do” substitute “for the purposes of a superannuation fund to which section 615(3) applies does”.
- 30 In section 715(1)(k) (exceptions from section 713 where exemption could be allowed under section 592(2)), for “section 592(2)” substitute “section 186 of the Finance Act 2004”.
- 31 In section 730A(7) (treatment of price differential on sale and repurchase of securities: power to provide eligibility for relief), for “592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).” substitute “613(4) or 614(2), (3) or (4) or section 186 of the Finance Act 2004.”
- 32 In section 737D (1) (manufactured dividends: power to provide eligibility for relief), for “592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).” substitute “613(4) or 614(2), (3) or (4) or section 186 of the Finance Act 2004.”
- 33 In section 824(9) (repayment supplements), after “settlement” insert “, scheme administrators of registered pension schemes”.
- 34 In section 828 (orders and regulations), after subsection (5) insert—
- “(6) Nothing in this section applies in relation to any of the following (in relation to which section 282 of the Finance Act 2004 applies)—

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- (a) any power of the Treasury or the Board to make any order or regulations under Part 4 of that Act;
 - (b) any statutory instrument containing any order or regulations made by the Treasury or the Board under that Part of that Act.”
- 35 (1) Section 832 (1) (interpretation of the Tax Acts) is amended as follows.
- (2) After the definition of “the rate applicable to trusts” insert—
- ““registered pension scheme” has the meaning given by section 150(2) of the Finance Act 2004;”.
- (3) After the definition of “Schedule A business” insert—
- ““scheme administrator”, in relation to a pension scheme, has the meaning given by section 270 of the Finance Act 2004 (but see also sections 271 to 274 of that Act);”.
- 36 In section 840A(1)(b)(iv) (definition of “bank”: exclusion of insurance companies), for “659B(1);” substitute “ 275 of the Finance Act 2004;”.

Finance Act 1990 (c. 29)

- 37 In section 25(9) of the Finance Act 1990 (donations to charity by individual: tax to be disregarded in determining total amount of income tax and capital gains tax with which donor is charged for a year of assessment), after paragraph (b) insert—
- “(ba) any tax paid to meet the lifetime allowance charge or the annual allowance charge (under Part 4 of the Finance Act 2004);”,
- and, in paragraph (c), for “that Act” substitute “the Taxes Act 1988”.

Taxation of Chargeable Gains Act 1992 (c. 12)

- 38 The Taxation of Chargeable Gains Act 1992 is amended as follows.
- 39 In section 13(10B)(b) (attribution of gains to members of non-resident companies), for “section 271(1)(b), (c), (d), (g) or (h) or (2)” substitute “section 271(1)(c) or (1A)”.
- 40 For sections 239A and 239B (cessation of approval of retirement benefits schemes and withdrawal of approval of personal pension arrangements) substitute—

“Registered pension schemes

239A De-registration of registered pension schemes

- (1) This section applies where tax is charged in accordance with section 242 of the Finance Act 2004 (de-registration charge) where the registration of a registered pension scheme is withdrawn.
- (2) For the purposes of this Act the assets which at the relevant time are held for the purposes of the pension scheme—
 - (a) are treated as having been acquired at the relevant time for a consideration equal to the amount on which tax is charged by virtue of section 242 of the Finance Act 2004 by the person who would be

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chargeable in respect of a chargeable gain accruing on a disposal of the assets at the relevant time, and

(b) are not to be treated as having been disposed of by any person at the relevant time.

(3) In subsection (2) “the relevant time” means the time immediately before the date of withdrawal of registration of the pension scheme.”

41 In section 288 (1) (interpretation), after the definition of “recognised stock exchange” insert—

““registered pension scheme” has the meaning given by section 150(2) of the Finance Act 2004;”.

42 (1) Paragraph 2 of Schedule 1 (application of exempt amount and reporting limits in cases involving settled property) is amended as follows.

(2) In sub-paragraph (7)(b)(ii), for “any such scheme or fund as is mentioned in sub-paragraph (8) below” substitute “a registered pension scheme, a superannuation fund to which section 615(3) of the Taxes Act applies or an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme”.

(3) Omit sub-paragraph (8).

Finance Act 1996 (c. 8)

43 The Finance Act 1996 is amended as follows.

44 In section 148 (mis-sold personal pensions), after subsection (6) insert—

“(6A) References in subsections (3)(d) and (6) to provisions of Part 14 of the Taxes Act 1988 are to those provisions as they had effect at the time in question.”

45 In paragraph 2(1D) of Schedule 9 (loan relationships: late interest), for “retirement benefits scheme (as defined in section 611 of the Taxes Act 1988)” substitute “an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004)”.

Finance Act 1999 (c. 16)

46 (1) Paragraph 6A of Schedule 19 to the Finance Act 1999 (stamp duty reserve tax on dealings with units in unit trusts) is amended as follows.

(2) In sub-paragraph (4), for the definition of “individual pension account” substitute—

““individual pension account” has the meaning given by regulations made by the Commissioners of Inland Revenue;”.

(3) After that sub-paragraph insert—

“(5) Regulations under sub-paragraph (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.”

Capital Allowances Act 2001 (c. 2)

47 The Capital Allowances Act 2001 is amended as follows.

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- 48 In section 4(2A) (expenditure and sums that are not capital expenditure or capital sums), in the definition of “relevant provision”, for paragraph (d) substitute—
 “(d) sections 188 to 194 of FA 2004 (contributions under registered pension schemes), and”.
- 49 In Part 1 of Schedule 1 (abbreviations) insert at the end—

“FA 2004	The Finance Act 2004 (c. 12)”.
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Finance Act 2002 (c. 23)

- 50 The Finance Act 2002 is amended as follows.
- 51 In paragraph 4(2)(c) of Schedule 22 (computation of profits: adjustment on change of basis)—
- (a) for “relevant earnings within section 623(2)(c) or 644(2)(c) of the Taxes Act 1988” substitute “relevant UK earnings within Part 4 of the Finance Act 2004”, and
 - (b) for “similarly relevant earnings” substitute “similarly relevant UK earnings”.
- 52 (1) Schedule 29 (gains and losses of a company from intangible fixed assets) is amended as follows.
- (2) In paragraph 112(2), for paragraph (d) substitute—
 “(d) section 246(2) of the Finance Act 2004 (expenditure on benefits under employer-financed retirement benefits schemes).”
- 53 In paragraph 114, for sub-paragraph (3) substitute—
 “(3) For the purposes of this paragraph “pension contributions” means—
- (a) sums paid by an employer by way of contributions under a registered pension scheme,
 - (b) sums paid to the trustees or managers of a registered pension scheme that are treated as if they were the payment of contributions under the pension scheme (see section 199 of the Finance Act 2004), or
 - (c) expenses within section 246(3) of the Finance Act 2004 (expenditure on benefits under employer-financed retirement benefits schemes).”

Income Tax (Earnings and Pensions) Act 2003 (c. 1)

- 54 The Income Tax (Earnings and Pensions) Act 2003 is amended as follows.
- 55 In section 23(3) (calculation of “chargeable overseas earnings”), in Step 2, for paragraphs (b) and (c) substitute—
 “(b) sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or”.
- 56 In section 54 (1) (calculation of deemed employment payment), in Step 5, for “scheme approved under Chapter 1 or 4 of Part 14 of ICTA” substitute “registered pension scheme”.

- 57 In section 56(8) (application of Income Tax Acts in relation to deemed employment), for “relevant earnings of the worker for the purposes of section 644 of ICTA (relevant earnings for purposes of permissible pension contributions).” substitute “relevant UK earnings of the worker for the purposes of Part 4 of FA 2004.”
- 58 In section 218(4) (“lower-paid employment”: deductions to be subtracted), for the references to sections 592(7) and 594 of ICTA substitute—
“sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or”.
- 59 In section 315(5) (limited exemption for expenses connected with certain living accommodation), in Step 3, for paragraph (b) substitute—
“(b) sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or”.
- 60 (1) Section 327 (deductions from earnings: general) is amended as follows.
(2) In subsection (4), omit the entry relating to section 619 of ICTA.
(3) In subsection (5), for the entries relating to sections 592(7) and 594 (1) of ICTA substitute “and
sections 188 to 194 of FA 2004 (contributions to registered pension schemes).”
- 61 In section 381 (deductions from seafarers' earnings: taking account of other deductions), for paragraphs (c) to (e) substitute—
“(c) section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions from earnings), and
(d) sections 188 to 194 of FA 2004 (contributions to registered pension schemes).”
- 62 (1) Section 407 (payments and benefits on termination of employment: exception for payments and benefits under tax-exempt pension schemes) is amended as follows.
(2) In subsection (2), for paragraph (a) substitute—
“(a) a registered pension scheme,
(aa) a scheme set up by a government outside the United Kingdom for the benefit of employees or primarily for their benefit, or”.
- (3) Omit subsection (3).
- 63 (1) Section 408 (payments and benefits on termination of employment: exception for contributions to tax-exempt pension schemes) is amended as follows.
(2) In subsection (1), for “tax-exempt pension scheme or approved personal pension arrangements” substitute “registered pension scheme”.
(3) Omit subsection (2).
(4) In the heading, for “tax-exempt pension schemes” substitute “registered pension schemes”.
- 64 In section 563 (former employees: deductions for liabilities), in the definition of “relevant retirement benefit”, for paragraphs (a) and (b) substitute—
“(a) which is received by the former employee under an employer-financed retirement benefits scheme, and

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(b) which, under Chapter 2 of Part 6, counts as employment income of the former employee.”

65 (1) Schedule 1 (abbreviations and defined expressions) is amended as follows.

(2) In Part 1, insert at the end—

“FA 2004

The Finance Act 2004 (c. 12)”.

(3) In Part 2, insert at the appropriate place—

“registered pension scheme

section 832 (1) of ICTA”.
