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## SCHEDULES

### SCHEDULE 36

#### PENSION SCHEMES ETC: TRANSITIONAL PROVISIONS AND SAVINGS

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

- C1** Sch. 36 modified by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), art. 23D (as inserted (1.6.2009) by [S.I. 2009/1172, arts. 1, 3](#))
- C2** Sch. 36 applied (1.6.2018) by [The Local Government Pension Scheme \(Scotland\) Regulations 2018 \(S.S.I. 2018/141\)](#), regs. 1(1), **48(2)**

### PART 3

#### PRE-COMMENCEMENT BENEFIT RIGHTS

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

- C3** Sch. 36 Pt. 3 modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **31(1)**

#### *Entitlement to lump sums exceeding 25% of uncrystallised rights*

- 31 (1) If the pension condition is met in relation to an individual and a registered pension scheme which is a protected pension scheme, the provisions of Schedule 29 relating to pension commencement lump sums apply in relation to the individual and the pension scheme with the modifications specified in paragraph 34 (but subject to subparagraph (2)).
- (2) Those provisions do not apply with those modifications if the lump sum condition and registration condition in paragraph 24 are met.
- (3) The pension condition is that the individual becomes entitled to all the pensions payable to the individual under arrangements under the pension scheme (to which the individual did not have an actual entitlement on or before 5th April 2006) on the same date.
- (4) A registered pension scheme is a protected pension scheme if condition A or condition B is met.
- (5) Condition A is met if—
- the pension scheme was within any of paragraphs (a) to (e) of paragraph 1(1), and
  - on 5th April 2006 the lump sum percentage of the individual's uncrystallised rights under the pension scheme exceeded 25%.

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- (6) The lump sum percentage of an individual’s uncrystallised pension rights under a pension scheme on 5th April 2006 is—

$$\frac{\text{VULSR}}{\text{VUR}} \times 100$$

where—

VULSR is the value of the individual’s uncrystallised lump sum rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 32, and

VUR is the value of the individual’s uncrystallised rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 33.

- (7) Condition B is met if the individual is a member of the pension scheme [<sup>F1</sup>(“a transferee pension scheme”) as a result of—
- (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
  - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.]
- (8) “Block transfer” has the same meaning as in paragraph 22(6) [<sup>F2</sup>and (6A)], but treating the references there to the member as references to the individual [<sup>F3</sup>and reading paragraph 22(6A)(c) as if its reference to paragraph 22(7)(a) were a reference to sub-paragraph (3) of this paragraph.]
- (9) Where a pension scheme is a protected pension scheme because condition B is met, Schedule 29 as modified by paragraph 34 applies as if the protected pension scheme were the same pension scheme as the original pension scheme.

#### Textual Amendments

- F1** Words in Sch. 36 para. 31(7) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\), Sch. 10 paras. 55\(6\), 64\(1\)](#)
- F2** Words in Sch. 36 para. 31(8) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\), Sch. 5 paras. 9\(a\), 15](#)
- F3** Words in Sch. 36 para. 31(8) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\), Sch. 5 paras. 9\(b\), 15](#)

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

- C4** Sch. 36 para. 31 applied (6.4.2006) by [The Registered Pension Schemes \(Enhanced Lifetime Allowance\) Regulations 2006 \(S.I. 2006/131\), regs. 1, 9\(8\)](#)
- C5** Sch. 36 para. 31 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\), arts. 1\(1\), 21, 22](#)
- C6** Sch. 36 para. 31(3) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\), arts. 1\(1\), 26](#)
- C7** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZE(3) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\), arts. 1\(1\), 3](#))

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- C8** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZA(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), 3)
- C9** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZD(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), 3)
- C10** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZC(3) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), 3)

- 32 (1) Subject to sub-paragraph (2), the value of the individual's uncrystallised lump sum rights under the pension scheme on 5th April 2006 is the aggregate of the value of the individual's uncrystallised lump sum rights under each arrangement in respect of the individual under the pension scheme, calculated in accordance with paragraph 25(5), on that date.
- (2) If the pension scheme is a relevant pension scheme, the value of the individual's uncrystallised lump sum rights on 5th April 2006 under an arrangement—
- (a) which relates to a particular employment, and
  - (b) in relation to which the excess lump sum condition is met (see sub-paragraph (5) or (6)),
- is the amount arrived at in accordance with sub-paragraph (7) or (8).
- (3) A pension scheme is a relevant pension scheme if it falls within paragraph 1(1)(a) to (d).
- (4) Whether an arrangement relating to the individual relates to a particular employment is to be determined in accordance with paragraph 9(6).
- (5) If no other arrangement relating to the individual under a relevant pension scheme relates to the employment to which the arrangement relates, the excess lump sum condition is met in relation to the arrangement if—
- (a) the value of the individual's uncrystallised lump sum rights under the arrangement calculated in accordance with paragraph 25(5), exceeds
  - (b) the amount arrived at in relation to the arrangement in accordance with paragraph 26.
- (6) If one or more other arrangements relating to the individual under a relevant pension scheme or relevant pension schemes relates or relate to the employment to which the arrangement relates, the excess lump sum condition is met in relation to the arrangement if—
- (a) the aggregate of the values of the individual's uncrystallised lump sum rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 25(5), exceeds
  - (b) the amount arrived at in relation to those arrangements in accordance with paragraph 26;
- and the amount by which the aggregate of those values exceeds that amount is the "lump sum excess".
- (7) Where the excess lump sum condition is met by virtue of sub-paragraph (5), the value of the individual's uncrystallised lump sum rights under the arrangement is the amount arrived at in accordance with paragraph 26.

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- (8) Where the excess lump sum condition is met by virtue of sub-paragraph (6), the value of the individual's uncrystallised lump sum rights under the arrangement is the value of those rights calculated in accordance with paragraph 25(5), less the appropriate proportion of the lump sum excess.
- (9) The appropriate proportion of the lump sum excess is—

$$\frac{V}{AV}$$

where—

V is the value of the individual's uncrystallised lump sum rights under the arrangement, calculated in accordance with paragraph 25(5), and

AV is the aggregate of the values of the individual's uncrystallised lump sum rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 25(5).

- 33 (1) Subject to sub-paragraph (2), the value of the individual's uncrystallised rights under the pension scheme on 5th April 2006 is the aggregate of the value of the individual's uncrystallised rights under each arrangement in respect of the individual under the pension scheme, calculated in accordance with paragraph 8(5).
- (2) If the pension scheme is a relevant pension scheme, the value of the individual's uncrystallised rights on 5th April 2006 under an arrangement—
- (a) which relates to a particular employment, and
  - (b) in relation to which the excess rights condition is met (see sub-paragraph (5) or (6)),
- is the amount arrived at in accordance with sub-paragraph (7) or (8).
- (3) A pension scheme is a relevant pension scheme if it falls within paragraph 1(1)(a) to (d).
- (4) Whether an arrangement relating to the individual relates to a particular employment is to be determined in accordance with paragraph 9(6).
- (5) If no other arrangement relating to the individual under a relevant pension scheme relates to the employment to which the arrangement relates, the excess rights condition is met in relation to the arrangement if—
- (a) the value of the individual's uncrystallised rights under the arrangement calculated in accordance with paragraph 8(5), exceeds
  - (b) the amount arrived at in relation to the arrangement in accordance with paragraph 9(3).
- (6) If one or more other arrangements relating to the individual under a relevant pension scheme or relevant pension schemes relates or relate to the employment to which the arrangement relates, the excess rights condition is met in relation to the arrangement if—
- (a) the aggregate of the values of the individual's uncrystallised rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 8(5), exceeds

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- (b) the amount arrived at in relation to those arrangements in accordance with paragraph 9(3);  
and the amount by which the aggregate of those values exceeds that amount is the “rights excess”.
- (7) Where the excess rights condition is met by virtue of sub-paragraph (5), the value of the individual’s uncrystallised rights under the arrangement is the amount arrived at in accordance with paragraph 9(3).
- (8) Where the excess rights condition is met by virtue of sub-paragraph (6), the value of the individual’s uncrystallised rights under the arrangement is the value of those rights calculated in accordance with paragraph 8(5), less the appropriate proportion of the rights excess.
- (9) The appropriate proportion of the rights excess is—

$$\frac{V}{AV}$$

where—

V is the value of the individual’s uncrystallised rights under the arrangement, calculated in accordance with paragraph 8(5), and

AV is the aggregate of the values of the individual’s uncrystallised rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 8(5).

- 34 (1) Schedule 29 applies with the following modifications.
- (2) Paragraph 2 applies as if the reference in sub-paragraph (2) to the arrangement under which the member becomes entitled to the relevant pension were to the pension scheme and for sub-paragraphs (5) to (8) there were substituted—

“(5) If paragraph 2(2) does not apply<sup>F4</sup> ..., the permitted maximum is—<sup>F5</sup>

$$\left( \text{VULSR} \times \frac{\text{ULA}}{\text{FSLA}} \right) + \text{ALSA}$$

<sup>F6</sup>(6) .....

(7) In this paragraph—

VULSR is the value of the individual’s uncrystallised lump sum rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 32 of Schedule 36,

[<sup>F7</sup>ULA is the underpinned lifetime allowance,]

FSLA is £1,500,000 (the standard lifetime allowance for the tax year 2006-07), and

ALSA is the [<sup>F8</sup>greater of the additional lump sum amount and nil].

(7A) The additional lump sum amount is—

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$$\frac{LS + AC - \left( VUR \times \frac{CSLA}{FSLA} \right)}{4}$$

where—

LS is the lump sum paid (but this is subject to <sup>F9</sup>sub-paragraphs (7AA) and (7B)),

<sup>F10</sup>AC is -

- (a) in a case where the member becomes entitled to the pension in connection with which the lump sum is paid before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension, and
- (b) in a case where the member becomes entitled to that pension after reaching that age, the amount that would have been so crystallised but for paragraph 2 of Schedule 32,

(but this is subject to sub-paragraphs <sup>F11</sup>(7AA) to (7B)),<sup>F12</sup>...

VUR is the value of the individual's uncrystallised rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 33 of Schedule 36<sup>F13</sup>, and

CSLA is the current standard lifetime allowance.]

<sup>F14</sup>(7AA) Where the pension in connection with which the lump sum is paid is a scheme pension under a money purchase arrangement <sup>F15</sup>[that is not a collective money purchase arrangement], AC is the scheme pension purchase price, as it would be defined by paragraph 3 if the words “but subject to sub-paragraph (8)” in sub-paragraph (7A) and sub-paragraph (8) were omitted.]

<sup>F16</sup>(7AB) Where paragraph 1A applies to the lump sum, AC is the total of—

- (a) the sums held, at the time the lump sum is paid, for the purpose of providing the pension at that time expected to be the pension in connection with which the lump sum is paid, and
- (b) the market value at that time of the assets held at that time for that purpose.

(7AC) Where paragraph 1B applies to the lump sum, AC is the total of—

- (a) the sums held, at the time the lump sum is paid, for the purpose of providing the expected pension (see paragraph 1B(2)(b)), and
- (b) the market value at that time of the assets held at that time for that purpose.]

<sup>F17</sup>(7AZA) The underpinned lifetime allowance” is the greater of the current standard lifetime allowance and £1,800,000 (the standard lifetime allowance for the tax year 2011-12).]

(7B) Any part of <sup>F18</sup>[what would otherwise be LS or AC] which represents rights attributable to a disqualifying pension credit is to be disregarded.

<sup>F6</sup>(7C) .....

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- (3) Omit paragraph 3 (applicable amount for pension commencement lump sums) [F19 (but without prejudice to its operation for the purposes of paragraph 2(7AA) of Schedule 29 as inserted by sub-paragraph (2))].

#### Textual Amendments

- F4** Words in Sch. 36 para. 34(2) omitted (retrospective to 6.4.2006) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 13\(1\)\(a\)\(2\)](#)
- F5** Word in Sch. 36 para. 34(2) substituted (with effect in accordance with Sch. 18 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 18 para. 11\(2\)](#)
- F6** Words in Sch. 36 para. 34(2) omitted (retrospective to 6.4.2006) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 13\(1\)\(b\)\(2\)](#)
- F7** Words in Sch. 36 para. 34(2) substituted (with effect in accordance with Sch. 18 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 18 para. 11\(3\)](#)
- F8** Words in Sch. 36 para. 34(2) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 57, 64\(1\)](#)
- F9** Words in Sch. 36 para. 34(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 25\(2\)](#)
- F10** Words in Sch. 36 para. 34(2) substituted (with effect in accordance with Sch. 16 paras. 85, 102 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(5\)](#)
- F11** Words in Sch. 36 para. 34(2) substituted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 10\(2\), 15](#)
- F12** Word in Sch. 36 para. 34(2) omitted (with effect in accordance with art. 1(3) of the amending S.I.) by virtue of [The Pension Schemes \(Miscellaneous Amendments\) Order 2013 \(S.I. 2013/1114\)](#), arts. 1(1), [3\(a\)](#)
- F13** Words in Sch. 36 para. 34(2) inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Pension Schemes \(Miscellaneous Amendments\) Order 2013 \(S.I. 2013/1114\)](#), arts. 1(1), [3\(b\)](#)
- F14** Words in Sch. 36 para. 34(2) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 25\(3\)](#)
- F15** Words in [Sch. 36 para. 34](#) inserted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), [Sch. 5 paras. 23\(3\), 25\(1\)](#); [S.I. 2022/874](#), reg. 2
- F16** Words in Sch. 36 para. 34(2) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 10\(3\), 15](#)
- F17** Words in Sch. 36 para. 34(2) inserted (with effect in accordance with Sch. 18 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 18 para. 11\(4\)](#)
- F18** Words in Sch. 36 para. 34(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 25\(4\)](#)
- F19** Words in Sch. 36 para. 34(3) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 25\(5\)](#)

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

- C11** Sch. 36 para. 34 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [21, 23](#) (as amended (1.1.2009) by [S.I. 2008/2990](#), arts. 1(1), [4](#); and (with effect in accordance with art. 1(2) of the amending S.I.) by [S.I. 2011/1782](#), arts. 1(1), [2\(2\)](#))
- C12** Sch. 36 para. 34(2) modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), art. 23ZD(3) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [S.I. 2011/732](#), arts. 1(1), [3](#))
- C13** Sch. 36 para. 34(2) modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), art. 23ZE(4) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [S.I. 2011/732](#), arts. 1(1), [3](#))
- C14** Sch. 36 para. 34(2) modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), art. 23ZA(3) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [S.I. 2011/732](#), arts. 1(1), [3](#))

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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\(2\)](#)