



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Annual allowance charge

236 Defined benefits arrangements: adjustments of closing value

- (1) This section applies for adjusting [^{F1}PE and LSE] under section 234(5).
- (2) If, during the pension input period, the [^{F2}annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has] been reduced by having become subject to a pension debit, the amount of [^{F3}the reduction] is to be added [^{F4}to PE or LSE].
- (3) If, during the pension input period, the [^{F5}annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has] been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of [^{F6}the increase] is to be subtracted [^{F7}from PE or LSE].
- [^{F8}(4) [^{F9}In subsection (4A) “relevant outward transfer means] a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any pension scheme that is—
 - (a) a registered pension scheme, or
 - (b) a qualifying recognised overseas pension scheme,

^{F10}
...

Changes to legislation: Finance Act 2004, Section 236 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F11}(4A) If there is a relevant outward transfer during the pension input period, then—

- (a) if condition A is met, and there has been a reduction in the annual rate of the pension or a reduction in the amount of the lump sum to which the individual would be entitled under the arrangement, as a consequence (whether direct or indirect) of the relevant outward transfer, the amount of that reduction is to be added to PE or LSE, so far as that amount is reflected in the reduction in the value of benefits mentioned in paragraph (b) of condition A;
- (b) if condition A is not met but the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by reason of the relevant outward transfer, the amount of that reduction is to be added to PE or LSE.

Condition A is that—

- (a) the relevant outward transfer (“the transfer”) takes place within a block transfer,
 - (b) the value of the benefits to be paid to or in respect of the individual under the arrangement has been reduced and the value of the benefits to be paid to or in respect of the individual under the pension scheme mentioned in subsection (4) has been increased, as a consequence (whether direct or indirect) of the transfer,
 - (c) the amount of that reduction is equal (or virtually equal) to the amount of that increase, and
 - (d) the transfer is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.]
- (5) [^{F12}In subsection (5A) “relevant inward transfer means] a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement ^{F13}....]

[^{F14}(5A) If there is a relevant inward transfer during the pension input period, then—

- (a) if condition B is met, and there has been an increase in the annual rate of the pension or an increase in the amount of the lump sum to which the individual would be entitled under the arrangement, as a consequence (whether direct or indirect) of the relevant inward transfer, the amount of that increase is to be subtracted from PE or LSE, so far as that amount is reflected in the increase in the value of benefits mentioned in paragraph (b) of condition B;
- (b) if condition B is not met but the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been increased by reason of the relevant inward transfer, the amount of that increase is to be subtracted from PE or LSE.

Condition B is that-

- (a) the relevant inward transfer (“the transfer”) took place within a block transfer,
- (b) the value of the benefits to be paid to or in respect of the individual under the arrangement has been increased, and the value of the benefits to be paid to or in respect of the individual under the pension scheme mentioned in subsection (5) has been reduced, as a consequence (whether direct or indirect) of the transfer,
- (c) the amount of that increase in value is equal (or virtually equal) to the amount of that reduction, and

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- (d) the transfer is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.

(5B) For the purposes of Condition A in subsection (4A) and Condition B in subsection (5A)

- (a) normal actuarial practice must be used when determining and comparing the amount of a reduction, and the amount of an increase, in the value of benefits to be paid to or in respect of the individual,
- (b) the amount of a reduction or increase in the value of benefits to be paid to or in respect of the individual under the arrangement is the difference between the value of those benefits under that arrangement immediately before the transfer and immediately after the transfer, and
- (c) the amount of an increase or reduction in the value of benefits to be paid to or in respect of an individual under a pension scheme is the difference between the value of those benefits under that pension scheme immediately before and immediately after the transfer.

(5C) In subsections (4A) and (5A)—

“block transfer” means a transfer which involves the transfer in a single transaction of all the sums or assets held for the purposes of, or representing accrued rights under, the arrangements under a pension scheme which relate to the individual and at least one other member of that pension scheme so as to become held for the purposes of, or to represent rights under, any pension scheme.]

[^{F15}(5D) For the purposes of subsections (4A) and (5A), the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced or increased, as the case may be, “by reason of” a transfer of sums or assets only where that reduction or increase is solely attributable to the value of those sums or assets.]

[^{F16}(8) If, during the pension input period, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by any surrender made in return for any other entitlement, any allocation made, or any similar action taken, pursuant to an option available to the individual under the arrangement, the amount of the reduction (to the extent that it is not reflected in an amount added under subsection (8A)) is to be added to PE or LSE.

(8A) If, during the pension input period—

- (a) benefit crystallisation event 2 occurs in relation to the individual and the arrangement,
- (b) benefit crystallisation event 3 occurs in relation to the individual and the arrangement otherwise than by reason of a provision contained in, or made under, any enactment, or
- (c) benefit crystallisation event 6 occurs in relation to the individual and the arrangement by virtue of the individual becoming entitled to a pension commencement lump sum or a lifetime allowance excess lump sum,

the relevant amount is to be added to PE or LSE.

(8B) In subsection (8A) “the relevant amount” is—

- (a) in the case of benefit crystallisation event 2, the annual rate of the pension to which the individual became entitled,

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(b) in the case of benefit crystallisation event 3, the increase in the annual rate of the pension, and

(c) in the case of benefit crystallisation event 6, the amount of the lump sum.

(8C) If, during the pension input period, an adjustment to the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been made in consequence of the scheme administrator satisfying a liability under section 237B in respect of the individual, if and to the extent that the adjustment is reflected in PE or LSE the amount of the adjustment is to be added to PE or LSE.

(8D) But no amount is to be added under subsection (8C) by reason of an adjustment made in consequence of the scheme administrator satisfying a liability under section 237B [F17] in a case where—

(a) the individual becomes actually entitled to all of the individual's benefits under the pension scheme or benefit crystallisation event 5, 5A or 5B occurs in relation to the individual and the pension scheme, and

(b) the adjustment takes place after the individual becomes so entitled or the benefit crystallisation event occurs.]]

F18(9)

Textual Amendments

- F1** Words in s. 236(1) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(2\)](#)
- F2** Words in s. 236(2) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(3\)\(a\)](#)
- F3** Words in s. 236(2) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(3\)\(b\)](#)
- F4** Words in s. 236(2) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(3\)\(c\)](#)
- F5** Words in s. 236(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(4\)\(a\)](#)
- F6** Words in s. 236(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(4\)\(b\)](#)
- F7** Words in s. 236(3) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(4\)\(c\)](#)
- F8** S. 236(4)(5) substituted for s. 236(4)-(7) (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 12\(5\)](#)
- F9** Words in s. 236(4) substituted (with effect in accordance with arts. 2(d), 3(5) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\), arts. 1, 16\(a\)\(i\)](#)
- F10** Words in s. 236(4) omitted (with effect in accordance with arts. 2(d), 3(5) of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\), arts. 1, 16\(a\)\(ii\)](#)
- F11** S. 236(4A) inserted (with effect in accordance with arts. 2(d), 3(5) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\), arts. 1, 16\(b\)](#)
- F12** Words in s. 236(5) substituted (with effect in accordance with art. 2(d) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\), arts. 1, 16\(c\)\(i\)](#)

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- F13** Words in s. 236(5) omitted (with effect in accordance with art. 2(d) of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(c)(ii)**
- F14** S. 236(5A)-(5C) inserted (with effect in accordance with art. 2(d) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(d)**
- F15** S. 236(5D) inserted (with effect in accordance with art. 3(6) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(e)**
- F16** S. 236(8)-(8D) substituted for s. 236(8) (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 12(6)**
- F17** Words in s. 236(8D) substituted (with effect in accordance with art. 7 of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(f)**
- F18** S. 236(9) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 12(7)**

Modifications etc. (not altering text)

- C1** Pt. 4 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 18**
- C2** S. 236 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Restriction of Employers Relief\) Regulations 2005 \(S.I. 2005/3458\)](#), regs. 1(1), **7** (with regs. 2-4)
- C3** S. 236 applied (with modifications) (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 6(6)**
- C4** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(2)**
- C5** [S. 236\(5A\)](#) restricted (14.9.2023) by [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023 \(S.I. 2023/912\)](#), regs. 1(2), **7(2)(b)** (with reg. 1(3))

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](#)

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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\(2\)](#)