

**Changes to legislation:** Finance Act 2011, Part 1 is up to date with all changes known to be in force on or before 30 December 2023. 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

## SCHEDULES

### SCHEDULE 16

#### BENEFITS UNDER PENSION SCHEMES

##### PART 1

##### CHANGES TO BENEFITS AVAILABLE UNDER PENSION SCHEMES ETC

##### *Unsecured and alternatively secured pension to be replaced by drawdown pension*

- 1 (1) In Part 4 of FA 2004 (pension schemes etc), section 165 (pension rules) is amended as follows.
- (2) In subsection (1)—
- (a) in pension rule 4—
- (i) for “If the member has not reached the age of 75, no payment of pension” substitute “ No payment of pension ”, and
- (ii) for paragraph (c) substitute—
- “(c) drawdown pension,”;
- (b) for pension rule 5 substitute— “ *Pension rule 5* The total amount of drawdown pension paid in each drawdown pension year in respect of a money purchase arrangement must not exceed 100% of the basis amount for the drawdown pension year. ”;
- (c) omit pension rules 6 and 7.
- <sup>F1</sup>(3) .....

##### Textual Amendments

- F1** Sch. 16 para. 1(3) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(2\)\(4\)](#)

##### *Meaning of “drawdown pension”*

- 2 Part 1 of Schedule 28 to FA 2004 (pension rules) is amended as follows.
- 3 (1) In paragraph 4 (meaning of “unsecured pension”), for “ “Unsecured pension”” substitute “ “Drawdown pension” ”.
- (2) The heading before paragraph 4 becomes “ *Drawdown pension* ”.
- 4 In paragraph 6 (short-term annuity), in sub-paragraph (1)—
- (a) in paragraph (a), for “member's unsecured pension fund” substitute “ member's drawdown pension fund ”;

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(b) in paragraph (d), omit “and ends before the member reaches the age of 75”.

5 For paragraph 7 (meaning of “income withdrawal”) substitute—

“7 Income withdrawal” means an amount (other than an annuity) which the member is entitled to be paid from the member's drawdown pension fund in respect of an arrangement.”

*Member's drawdown pension fund*

6 (1) In Part 1 of Schedule 28 to FA 2004, paragraph 8 (member's unsecured pension fund) is amended as follows.

(2) In sub-paragraph (1), for “member's unsecured pension fund” substitute “ member's drawdown pension fund ”.

(3) In sub-paragraph (1A)(a), for “unsecured pension” substitute “ drawdown pension ”.

(4) Omit sub-paragraphs (2) and (3).

(5) In sub-paragraph (4), for “unsecured pension fund” (in each place) substitute “ drawdown pension fund ”.

(6) The heading before paragraph 8 becomes “ *Member's drawdown pension fund* ”.

*Drawdown pension year and basis amount for drawdown pension year*

7 (1) In Part 1 of Schedule 28 to FA 2004, paragraph 9 (unsecured pension year) is amended as follows.

(2) In sub-paragraph (1)—

(a) for “ “Unsecured pension year” ” substitute “ “Drawdown pension year” ”;

(b) in paragraph (a), for “unsecured pension” substitute “ drawdown pension ”;

(c) at the end insert—

“This is subject to paragraph 10B.”

(3) For sub-paragraph (2) substitute—

“(2) The drawdown pension year in which the member dies is the last drawdown pension year and ends immediately before the member's death.”

(4) The heading before paragraph 9 becomes “ *Drawdown pension year and basis amount for drawdown pension year* ”.

8 (1) Paragraph 10 of that Schedule (basis amount) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(A1) This paragraph applies in relation to drawdown pension years beginning on or before the member's 75th birthday.

(1) Subject as follows, the period of three drawdown pension years beginning with the first drawdown pension year, and each succeeding period of three drawdown pension years, is a “reference period”.

(1ZA) But the reference period in which the member reaches the age of 75 ends with the drawdown pension year in which the member reaches that age.”

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- (3) In sub-paragraph (1B)(b)—
  - (a) after “subject to” insert “ sub-paragraph (1ZA) and ”;
  - (b) for “five unsecured pension years” (in both places) substitute “ three drawdown pension years ”.
- (4) In sub-paragraphs (2) and (4)—
  - (a) for “unsecured pension year” substitute “ drawdown pension year ”;
  - (b) for “member's unsecured pension fund” substitute “ member's drawdown pension fund ”.
- (5) In sub-paragraph (5)—
  - (a) for “an unsecured pension year” substitute “ a drawdown pension year ”;
  - (b) for “that unsecured pension year” substitute “ that drawdown pension year ”.
- (6) In sub-paragraph (6)—
  - (a) for “unsecured pension year” substitute “ drawdown pension year ”;
  - (b) for “member's unsecured pension fund” substitute “ member's drawdown pension fund ”.
- (7) After sub-paragraph (6) insert—
 

“(6A) But sub-paragraph (5) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.”
- (8) In sub-paragraph (7), for “member's unsecured pension fund” substitute “ member's drawdown pension fund ”.
- (9) In sub-paragraph (8), for “unsecured pension” substitute “ drawdown pension ”.
- (10) In sub-paragraph (8A), for “member's unsecured pension fund” substitute “ member's drawdown pension fund ”.
- (11) In sub-paragraph (9)(b), for “unsecured pension year” substitute “ drawdown pension year ”.

<sup>F2</sup>(12) . . . . .

#### Textual Amendments

**F2** Sch. 16 para. 8(12) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(2\)\(4\)](#)

9 After paragraph 10 of that Schedule insert—

- “10A (1) This paragraph applies in relation to drawdown pension years beginning after the member's 75th birthday.
- (2) For the first drawdown pension year beginning after the member reached the age of 75, and each succeeding drawdown pension year, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member's drawdown pension fund on the nominated date.

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- (3) In a case where the member first becomes entitled to drawdown pension in respect of the arrangement after reaching the age of 75, “the nominated date”, in relation to the first drawdown pension year in respect of the arrangement, is the first day of that year.
  - (4) In any other case, “the nominated date”, in relation to the first drawdown pension year beginning after the member reached the age of 75, is—
    - (a) if the member and the scheme administrator so agree, the day immediately before the member's 75th birthday, or
    - (b) if they do not so agree, such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, the first day of that year).
  - (5) “The nominated date”, in relation to each other drawdown pension year, is such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the first day of that year).
  - (6) On the occasion of each additional fund designation during a drawdown pension year, the basis amount of that drawdown pension year is to be recalculated in accordance with sub-paragraph (7).
  - (7) The basis amount for the drawdown pension year is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member's drawdown pension fund immediately after the additional fund designation.
  - (8) But sub-paragraph (6) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.
  - (9) “Additional fund designation” has the meaning given by paragraph 10(8).
  - (10) Paragraph 14 defines “relevant annuity”.
  - (11) Nothing in this paragraph applies in respect of an arrangement to which section 165(3A) applies.
- 10B (1) This paragraph applies if the member has reached the age of 75.
- (2) Sub-paragraph (3) applies if, at any time during a drawdown pension year in respect of an arrangement (“the current drawdown pension year”), the member notifies the scheme administrator that the member wishes the drawdown pension year following the current drawdown pension year to begin on the day on which the next drawdown pension year in respect of another arrangement relating to the member under the pension scheme (including any arrangement relating to that person as a dependant) will begin.
  - (3) The scheme administrator may determine—

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- (a) that the current drawdown pension year is to end immediately before that day, and
  - (b) that the period of 12 months beginning with that day, and each succeeding period of 12 months, is a drawdown pension year in respect of the arrangement.
- (4) The scheme administrator may not make a determination under this paragraph more than once in relation to the same arrangement.”

*Flexible drawdown: minimum income requirement etc*

<sup>F3</sup>10 .....

**Textual Amendments**

**F3** Sch. 16 para. 10 omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(2\)\(4\)](#)

*Dependants' drawdown pension*

- 11 (1) In Part 4 of FA 2004, section 167 (pension death benefit rules) is amended as follows.
- (2) In subsection (1)—
- (a) in pension death benefit rule 3—
    - (i) for “If a dependant has not reached the age of 75, no payment of pension death benefit to the dependant” substitute “ No payment of pension death benefit ”,
    - (ii) for paragraph (c) substitute—
      - “(c) dependants' drawdown pension,” and
      - (iii) for “the dependant” substitute “ a dependant ”;
  - (b) for pension death benefit rule 4 substitute— “ *Pension death benefit rule 4* The total amount of dependants' drawdown pension paid to a dependant in each drawdown pension year in respect of a money purchase arrangement must not exceed 100% of the basis amount for the drawdown pension year. But this limit does not apply in relation to an arrangement to which subsection (2A) applies. ”;
  - (c) omit pension death benefit rules 5 and 6.

<sup>F4</sup>(3) .....

**Textual Amendments**

**F4** Sch. 16 para. 11(3) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(2\)\(4\)](#)

*Meaning of “dependants' drawdown pension”*

- 12 Part 2 of Schedule 28 to FA 2004 (pension death benefit rules) is amended as follows.

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- 13 (1) In paragraph 18 (meaning of “dependants' unsecured pension”), for ““Dependants' unsecured pension”” substitute ““Dependants' drawdown pension””.
- (2) The heading before paragraph 18 becomes “ *Dependants' drawdown pension* ”.
- 14 In paragraph 20 (dependants' short-term annuity), in sub-paragraph (1)—
- (a) in paragraph (a), for “dependant's unsecured pension fund” substitute “ dependant's drawdown pension fund ”;
- (b) in paragraph (d), omit the words “reaches the age of 75 or”.
- 15 For paragraph 21 (meaning of “dependants' income withdrawal”) substitute—
- “21 Dependants' income withdrawal” means an amount (other than an annuity) which the dependant is entitled to be paid from the dependant's drawdown pension fund in respect of an arrangement.”

*Dependant's drawdown pension fund*

- 16 (1) In Part 2 of Schedule 28 to FA 2004, paragraph 22 (dependant's unsecured pension fund) is amended as follows.
- (2) In sub-paragraph (1), for “dependant's unsecured pension fund” substitute “ dependant's drawdown pension fund ”.
- (3) In sub-paragraph (2)(a), for “dependant's unsecured pension” substitute “dependants' drawdown pension”.
- (4) In sub-paragraph (3)—
- (a) for “dependant's unsecured pension fund” (in both places) substitute “ dependant's drawdown pension fund ”;
- (b) in paragraph (a), for “an unsecured pension fund” substitute “ a drawdown pension fund ”.
- (5) The heading before paragraph 22 becomes “ *Dependant's drawdown pension fund* ”.

*Drawdown pension year and basis amount for drawdown pension year*

- 17 (1) In Part 2 of Schedule 28 to FA 2004, paragraph 23 (unsecured pension year) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for ““Unsecured pension year”” substitute ““Drawdown pension year” ”;
- (b) in paragraph (a), for “dependants' unsecured pension” substitute “dependants' drawdown pension”;
- (c) at the end insert—
- “This is subject to paragraph 24B.”
- (3) For sub-paragraph (2) substitute—
- “(2) The drawdown pension year in which the dependant dies is the last drawdown pension year and ends immediately before the dependant's death.”
- (4) The heading before paragraph 23 becomes “ *Drawdown pension year and basis amount for drawdown pension year* ”.

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- 18 (1) Paragraph 24 of that Schedule (basis amount) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(A1) This paragraph applies in relation to drawdown pension years beginning on or before the dependant's 75th birthday.
- (1) Subject as follows, the period of three drawdown pension years beginning with the first drawdown pension year, and each succeeding period of three drawdown pension years, is a “reference period”.
- (1ZA) But the reference period in which the dependant reaches the age of 75 ends with the drawdown pension year in which the dependant reaches that age.”
- (3) In sub-paragraph (1B)(b)—
- (a) after “subject to” insert “ sub-paragraph (1ZA) and ”;
- (b) for “five unsecured pension years” (in both places) substitute “ three drawdown pension years ”.
- (4) In sub-paragraphs (2) and (4)—
- (a) for “unsecured pension year” substitute “ drawdown pension year ”;
- (b) for “dependant's unsecured pension fund” substitute “ dependant's drawdown pension fund ”.
- (5) In sub-paragraph (5)—
- (a) for “an unsecured pension year” substitute “ a drawdown pension year ”;
- (b) for “that unsecured pension year” substitute “ that drawdown pension year ”.
- (6) In sub-paragraph (6)—
- (a) for “unsecured pension year” substitute “ drawdown pension year ”;
- (b) for “dependant's unsecured pension fund” substitute “ dependant's drawdown pension fund ”.
- (7) After sub-paragraph (6) insert—
- “(6A) But sub-paragraph (5) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.”
- (8) In sub-paragraph (7), for “dependant's unsecured pension fund” substitute “ dependant's drawdown pension fund ”.
- (9) In sub-paragraph (8)—
- (a) for “sums and assets” substitute “ sums or assets ”;
- (b) for “unsecured dependants' pension” substitute “dependants' drawdown pension”.
- (10) In sub-paragraph (8A), for “dependant's unsecured pension fund” substitute “ dependant's drawdown pension fund ”.
- (11) In sub-paragraph (9)(b), for “unsecured pension year” substitute “ drawdown pension year ”.

<sup>F5</sup>(12) .....

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#### Textual Amendments

**F5** Sch. 16 para. 18(12) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(2\)\(4\)](#)

19 After paragraph 24 of that Schedule insert—

- “24A (1) This paragraph applies in relation to drawdown pension years beginning after the dependant's 75th birthday.
- (2) For each drawdown pension year beginning after the dependant reached the age of 75, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's drawdown pension fund on the nominated date.
- (3) “The nominated date” is such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the first day of that year).
- (4) On the occasion of each additional fund designation during a drawdown pension year, the basis amount of that drawdown pension year is to be recalculated in accordance with sub-paragraph (5).
- (5) The basis amount for the drawdown pension year is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's drawdown pension fund immediately after the additional fund designation.
- (6) But sub-paragraph (4) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.
- (7) “Additional fund designation” has the meaning given by paragraph 24(8).
- (8) Paragraph 14 defines “relevant annuity”.
- (9) Nothing in this paragraph applies in respect of an arrangement to which section 167(2A) applies.
- 24B (1) This paragraph applies if the dependant has reached the age of 75.
- (2) Sub-paragraph (3) applies if, at any time during a drawdown pension year in respect of an arrangement (“the current drawdown pension year”), the dependant notifies the scheme administrator that the dependant wishes the drawdown pension year following the current drawdown pension year to begin on the day on which the next drawdown pension year in respect of another arrangement relating to the dependant under the pension scheme (including any arrangement relating to that person as a member of the scheme) will begin.
- (3) The scheme administrator may determine—

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- (a) that the current drawdown pension year is to end immediately before that day, and
  - (b) that the period of 12 months beginning with that day, and each succeeding period of 12 months, is a drawdown pension year in respect of the arrangement.
- (4) The scheme administrator may not make a determination under this paragraph more than once in relation to the same arrangement.”

*Flexible drawdown: minimum income requirement etc*

<sup>F6</sup>20 .....

**Textual Amendments**

**F6** Sch. 16 para. 20 omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(2\)\(4\)](#)

*Foreign pensions: temporary non-residents*

- 21 (1) In Part 9 of ITEPA 2003 (pension income), Chapter 4 (foreign pensions: general rules) is amended as follows.
- (2) In section 574 (“pension”: interpretation)—
- (a) for subsection (1) substitute—
 

“(1) For the purposes of this Chapter “pension” includes—

    - (a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a relevant non-UK scheme or an overseas pension scheme,
    - (b) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004), and
    - (c) if conditions A and B are met, a pension which is paid voluntarily or is capable of being discontinued.”;
  - (b) for subsection (4) substitute—
 

“(4) In this section—

    - “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders;
    - “overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act);
    - “relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004.”
- (3) In section 575(1) (taxable pension income), at the end insert “ and section 576A ”.
- (4) After section 576 insert—

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### “576A Temporary non-residents

- (1) If this section applies in relation to a tax year, any relevant non-UK income withdrawal under a relevant non-UK scheme which—
  - (a) is paid to a person in respect of a flexible drawdown arrangement relating to the person under the scheme,
  - (b) is paid in a year of non-residence, and
  - (c) would not, apart from this section, be chargeable to tax under this Part,
 is to be treated for the purposes of section 575 as if it arose in that tax year.
- (2) This section applies in relation to a tax year if—
  - (a) the person satisfies the residence requirements for the tax year (“the year of return”),
  - (b) the person did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,
  - (c) there are fewer than 5 tax years between—
    - (i) the last tax year before the year of return for which the person satisfied those requirements (“the year of departure”), and
    - (ii) the year of return, and
  - (d) the person satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.
- (3) For the purposes of this section—
  - (a) a person satisfies the residence requirements for a tax year if the person—
    - (i) is resident in the United Kingdom during that year, and
    - (ii) is not Treaty non-resident at any time in that year;
  - (b) a person is Treaty non-resident at any time if, at that time, the person falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.
- (4) If—
  - (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for the year of return, and
  - (b) the person—
    - (i) is not domiciled in the United Kingdom in that year, or
    - (ii) is not ordinarily resident in the United Kingdom in that year,
 any amounts of relevant non-UK income withdrawal falling within subsection (1) which were remitted in a year of non-residence are treated as remitted in the year of return.
- (5) This section does not apply to any relevant non-UK income withdrawal paid 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.

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- (6) This section does not apply to any relevant non-UK income withdrawal paid to or in respect of a transfer member of a relevant non-UK scheme unless the payment is referable to the member's relevant transfer fund under the scheme.
- (7) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any relevant non-UK income withdrawal treated by virtue of this section as arising in the year of return (or as preventing a charge to that tax from arising as a result).
- (8) In this section—
- “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
  - “flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;
  - “member's relevant transfer fund” has the same meaning as in Schedule 34 to FA 2004 (see paragraph 4(2) of that Schedule);
  - “member's UK tax-relieved fund” has the same meaning as in that Schedule (see paragraph 3(2));
  - “relevant non-UK income withdrawal”, in relation to a relevant non-UK scheme, means an amount paid under the scheme which, if the scheme were a registered pension scheme, would be income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004);
  - “relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004;
  - “relieved member” and “transfer member” have the same meaning as in that Schedule (see paragraph 1(7) and (8));
  - “year of non-residence” means any tax year which falls between the year of departure and the year of return.”

*Pensions under registered pension schemes: temporary non-residents*

- 22 (1) In Part 9 of ITEPA 2003 (pension income), Chapter 5A (pensions under registered pension schemes) is amended as follows.
- (2) In section 579B (taxable pension income), at the end insert—
- “This is subject to section 579CA.”
- (3) After section 579C insert—

**“579CA Temporary non-residents**

- (1) If this section applies in relation to a tax year, any income withdrawal or dependants' income withdrawal under the registered pension scheme which—
- (a) is paid to a person in respect of a flexible drawdown arrangement relating to the person under the scheme,
  - (b) is paid in a year of non-residence, and

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- (c) would not, apart from this section, be chargeable to tax under this Part,

is to be treated for the purposes of section 579B as if it accrued in that tax year.
- (2) This section applies in relation to a tax year if—
  - (a) the person satisfies the residence requirements for the tax year (“the year of return”),
  - (b) the person did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,
  - (c) there are fewer than 5 tax years between—
    - (i) the last tax year before the year of return for which the person satisfied those requirements (“the year of departure”), and
    - (ii) the year of return, and
  - (d) the person satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.
- (3) For the purposes of this section—
  - (a) a person satisfies the residence requirements for a tax year if the person—
    - (i) is resident in the United Kingdom during that year, and
    - (ii) is not Treaty non-resident at any time in that year;
  - (b) a person is Treaty non-resident at any time if, at that time, the person falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.
- (4) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any income withdrawal or dependants' income withdrawal treated by virtue of this section as accruing in the year of return (or as preventing a charge to that tax from arising as a result).
- (5) In this section—
  - “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
  - “flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;
  - “year of non-residence” means any tax year which falls between the year of departure and the year of return.”
- (4) For section 579D (interpretation) substitute—

#### **“579D Interpretation**

In this Chapter—

- “dependants' income withdrawal” has the meaning given by paragraph 21 of Schedule 28 to FA 2004;
- “income withdrawal” has the meaning given by paragraph 7 of that Schedule;

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“pension under a registered pension scheme” includes—

- (a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a registered pension scheme, and
- (b) income withdrawal or dependants' income withdrawal under a registered pension scheme.”

*Lump sums to be payable to persons aged 75 or over*

- 23 Part 1 of Schedule 29 to FA 2004 (lump sum rule) is amended as follows.
- 24 (1) Paragraph 1 (pension commencement lump sum) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) omit paragraph (a);
  - (b) in paragraph (b), after “available” insert “ (but see sub-paragraph (3A)) ”.
- (3) After sub-paragraph (3) insert—
- “(3A) In a case where—
- (a) the member becomes entitled to a lump sum before reaching the age of 75, but
  - (b) it is not paid to the member until after the member has reached that age,
- the reference in sub-paragraph (1)(b) to the lump sum being paid is to be read as a reference to the member becoming entitled to it.”
- (4) In sub-paragraph (6), for the words from “even though” to the end substitute “ even though the condition in sub-paragraph (1)(c) is not met. ”
- 25 In paragraph 2 (pension commencement lump sum: calculation of permitted maximum), after sub-paragraph (7) insert—
- “(7A) For the purposes of determining the available portion of the member's lump sum allowance—
- (a) the fact that benefit crystallisation event 5 or benefit crystallisation event 5B has occurred in relation to the member is to be disregarded, and
  - (b) anything which, but for paragraph 2 or 15A of Schedule 32, would have been a benefit crystallisation event is to be treated as if it were such an event.”
- 26 In paragraph 3 (pension commencement lump sum: calculation of applicable amount), in sub-paragraph (7), for the definition of “AC” substitute—
- “AC is—
- (a) in a case where the member becomes entitled to the pension before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension, disregarding paragraph 3 of Schedule 32, and
  - (b) in a case where the member becomes entitled to the pension after reaching that age, the amount that would have been so crystallised (disregarding that paragraph) but for paragraph 2 of that Schedule.”

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- 27 (1) Paragraph 3A (recycling of pension commencement lump sums) is amended as follows.
- (2) In sub-paragraph (2), for “sub-paragraphs (3) and (4)” substitute “ sub-paragraphs (3) to (4A) ”.
- (3) After sub-paragraph (4) insert—
- “(4A) This paragraph does not apply if—
- (a) the member has reached the age of 75 when the contributions are paid as mentioned in sub-paragraph (2)(a), and
- (b) the contributions are not paid by an employer of the member.”
- (4) For sub-paragraph (5) substitute—
- “(5) The appropriate amount” is—
- (a) where the member becomes entitled to the lump sum before reaching the age of 75, so much of the amount crystallised by the benefit crystallisation event constituted by its payment (or the amount that would have been so crystallised but for paragraph 15A of Schedule 32) as does not exceed the amount of the member's lifetime allowance which is available on it;
- (b) where the member becomes entitled to the lump sum after reaching that age, the amount of the lump sum.”
- 28 (1) Paragraph 4 (serious ill-health lump sum) is amended as follows.
- (2) In sub-paragraph (1)—
- <sup>F7</sup>(a) .....
- (b) omit paragraph (e) (and the “and” before it).
- (3) After sub-paragraph (2) insert—
- “(3) For the purposes of sub-paragraph (2)—
- (a) the fact that benefit crystallisation event 5 or benefit crystallisation event 5B has occurred in relation to the member is to be disregarded, and
- (b) anything which, but for paragraph 2 of Schedule 32, would have been a benefit crystallisation event is to be treated as if it were such an event.”

#### Textual Amendments

**F7** Sch. 16 para. 28(2)(a) 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(3)(a)

- 29 In paragraph 7 (trivial commutation lump sum), in sub-paragraph (1)(e), omit “but has not reached the age of 75”.
- 30 In paragraph 10(1) (winding-up lump sum)—
- (a) at the end of paragraph (d) insert “ and ”;
- (b) omit paragraph (f) (and the “and” before it).
- 31 In paragraph 12 (interpretation of Part 1), after sub-paragraph (1) insert—

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“(1A) For the purposes of determining whether all or part of the member's lifetime allowance is available—

- (a) the fact that benefit crystallisation event 5 or benefit crystallisation event 5B has occurred in relation to the member is to be disregarded, and
- (b) anything which, but for paragraph 2 or 15A of Schedule 32, would have been a benefit crystallisation event is to be treated as if it were such an event.”

*Lump sum death benefits to be payable to persons aged 75 or over*

32 Part 2 of Schedule 29 to FA 2004 (lump sum death benefit rule) is amended as follows.

33 (1) Paragraph 13 (defined benefits lump sum death benefit) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) In that sub-paragraph—

- (a) omit paragraph (a);
- (b) omit paragraph (c) (but not the “and” after it);
- <sup>F8</sup>(c) .....

<sup>F9</sup>(4) .....

**Textual Amendments**

**F8** Sch. 16 para. 33(3)(c) omitted (with effect in accordance with s. 21(10) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(9\)\(a\)](#)

**F9** Sch. 16 para. 33(4) omitted (with effect in accordance with s. 21(10) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(9\)\(b\)](#)

34 (1) Paragraph 14 (pension protection lump sum death benefit) is amended as follows.

(2) In sub-paragraph (1), omit paragraph (a).

(3) In sub-paragraph (3), for the definition of “AC” substitute—

“AC is—

- (a) in a case where the member became entitled to the pension 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 became entitled to the pension after having reached that age, the amount that would have been so crystallised but for paragraph 2 of Schedule 32.”.

35 (1) Paragraph 15 (uncrystallised funds lump sum death benefit) is amended as follows.

(2) In sub-paragraph (1)—

- (a) omit paragraphs (a) and (c);
- (b) at the end of paragraph (d) insert “, and
- (e) it is not a charity lump sum death benefit.”;

<sup>F10</sup>(c) .....

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<sup>F11</sup>(3) .....

#### Textual Amendments

- F10** Sch. 16 para. 35(2)(c) omitted (with application in accordance with Sch. 2 para. 20 of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 19\(4\)\(a\)](#)
- F11** Sch. 16 para. 35(3) omitted (with application in accordance with Sch. 2 para. 20 of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 19\(4\)\(a\)](#)

- 36 (1) Paragraph 16 (annuity protection lump sum death benefit) is amended as follows.
- (2) In sub-paragraph (1), omit paragraph (a).
- (3) In sub-paragraph (3), for the definition of “AC” substitute—
- “AC is—
- (a) in a case where the member became entitled to the pension or annuity before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension or annuity, disregarding paragraphs 3 and 4 of Schedule 32, and
- (b) in a case where the member became entitled to the pension or annuity after having reached that age, the amount that would have been so crystallised (disregarding those paragraphs) but for paragraph 2 of that Schedule.”.
- 37 (1) Paragraph 17 (unsecured pension fund lump sum death benefit) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) For the purposes of this Part a lump sum death benefit is a drawdown pension fund lump sum death benefit if—
- (a) it is paid in respect of income withdrawal to which the member was entitled under an arrangement at the date of the member's death, and
- (b) it is not a charity lump sum death benefit.”
- (3) In sub-paragraph (2)—
- (a) for “an unsecured pension fund lump sum death benefit” substitute “ a drawdown pension fund lump sum death benefit ”;
- (b) omit paragraph (b);
- (c) at the end of paragraph (c) insert “, and
- (d) it is not a charity lump sum death benefit.”
- (4) In sub-paragraph (3), for “an unsecured pension fund lump sum death benefit” substitute “ a drawdown pension fund lump sum death benefit ”.
- (5) In sub-paragraph (4), for “unsecured pension fund” substitute “ drawdown pension fund ”.
- (6) The heading before paragraph 17 becomes “ *Drawdown pension fund lump sum death benefit* ”.
- 38 (1) Paragraph 18 (charity lump sum death benefit) is amended as follows.

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- (2) In sub-paragraph (1)—
- (a) omit paragraph (a);
  - (b) in paragraph (c), for the words from “in respect of” to “Schedule 28)” substitute “in respect of the member's drawdown pension fund”;
  - (c) in paragraph (d), omit from “(or, if the member” to the end.

- (3) After sub-paragraph (1) insert—

“(1A) A lump sum death benefit is also a charity lump sum death benefit if—

- (a) the member had reached the age of 75 at the date of the member's death,
- (b) there are no dependants of the member,
- (c) it is paid in respect of relevant uncrystallised funds in respect of a money purchase arrangement at the date of the member's death, and
- (d) it is paid to a charity nominated by the member.

(1B) “Relevant uncrystallised funds” has the meaning given by paragraph 15(2).”

- (4) In sub-paragraph (2)—

- (a) omit paragraph (b);
- (b) in paragraph (d), for “the dependant's alternatively secured pension fund” substitute “the dependant's drawdown pension fund”;
- (c) in paragraph (e), omit from “(or, if neither the member” to the end.

- (5) In sub-paragraph (4), for the words from “representing” to “pension fund” substitute “representing what is the member's or dependant's drawdown pension fund”.

- 39 In paragraph 20(1) (trivial commutation lump sum death benefit), omit—

- (a) paragraph (a), and
- (b) paragraph (c) (but not the “and” after it).

### *Serious ill-health lump sum charge*

F1240 .....

#### **Textual Amendments**

**F12** Sch. 16 para. 40 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(3)(a)

### *Special lump sum death benefits charge*

- 41 (1) In Part 4 of FA 2004, section 206 (special lump sum death benefits charge) is amended as follows.

- (2) In subsection (1), for paragraph (c) substitute—

“(c) a drawdown pension fund lump sum death benefit.”.

- (3) After that subsection insert—

“(1A) The special lump sum death benefits charge also arises where—

- (a) a defined benefits lump sum death benefit, or

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(b) an uncrystallised funds lump sum death benefit,  
 is paid by a registered pension scheme in respect of a member who had  
 reached the age of 75 at the date of the member's death.”

(4) In subsection (4), for “35%” substitute “ 55% ”.

<sup>F13</sup>(5) .....

#### Textual Amendments

**F13** Sch. 16 para. 41(5) omitted (with application in accordance with Sch. 2 para. 20 of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 17\(5\)](#)

#### *Exemption from income tax of certain lump sums and lump sum death benefits*

42 (1) Section 636A of ITEPA 2003 (exemption for certain lump sums under registered pension schemes) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), after “serious ill-health lump sum” insert “ paid to a member who has not reached the age of 75 ”;

<sup>F14</sup>(b) .....

<sup>F15</sup>(c) .....

<sup>F16</sup>(3) .....

<sup>F17</sup>(4) .....

(5) In subsection (7)—

(a) after “ “defined benefits lump sum death benefit”, ” insert—

“ “drawdown pension fund lump sum death benefit”, ”;

(b) after “ “pension protection lump sum death benefit”, ” insert “ and ”;

(c) omit “ “unsecured pension fund lump sum death benefit”, ” (and the “and” before it).

#### Textual Amendments

**F14** Sch. 16 para. 42(2)(b) omitted (with effect in accordance with s. 22(12) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 22\(11\)\(a\)](#)

**F15** Sch. 16 para. 42(2)(c) omitted (with application in accordance with Sch. 2 para. 20 of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 19\(4\)\(a\)](#)

**F16** [Sch. 16 para. 42\(3\)](#) 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\(3\)\(a\)](#)

**F17** Sch. 16 para. 42(4) omitted (with effect in accordance with s. 22(12) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 22\(11\)\(a\)](#)

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*Lifetime allowance charge: benefit crystallisation events*

- 43 In section 216 of FA 2004 (benefit crystallisation events and amounts crystallised), in the table in subsection (1), after the entry for benefit crystallisation event 5A insert—

“5B. The individual reaching the age of 75 when there is a money purchase funds arrangement relating to the individual under any of the relevant pension schemes”.

- 44 (1) Schedule 32 to FA 2004 (benefit crystallisation events: supplementary) is amended as follows.  
 (2) After paragraph 14 insert—

*“Benefit crystallisation event 5B: meaning of “remaining unused funds”*

- 14A For the purposes of benefit crystallisation event 5B “remaining unused funds” means—

- (a) in relation to a cash balance arrangement, a sum equal to what would, on the valuation assumption in section 277(a), be available for the provision of benefits to or in respect of the member if the member became entitled to them on reaching the age of 75, and
- (b) in relation to any other arrangement, such of the sums and assets held for the purposes of the arrangement as are not member-designated funds and have not been applied towards the provision of a scheme pension or a dependants' scheme pension.”

- (3) After paragraph 15 insert—

*“Benefit crystallisation event 6: prevention of overlap with other events*

- 15A Benefit crystallisation event 6 does not apply in relation to a pension commencement lump sum paid in respect of a money purchase arrangement if—
- (a) the individual becomes entitled to it before reaching the age of 75, but
  - (b) it is not paid to the individual until after the individual has reached that age.”

*Annual allowance charge: persons meeting flexible drawdown conditions*

<sup>F18</sup>45 .....

**Textual Amendments**

- F18** Sch. 16 para. 45 omitted (with effect in accordance with Sch. 1 para. 66(3) of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 66\(2\)\(b\)](#)

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*Removal of certain charges to inheritance tax in respect of pension schemes*

- 46 IHTA 1984 is amended as follows.
- 47 (1) Section 12 (dispositions allowable for income tax or conferring benefits under pension scheme) is amended as follows.
- (2) After subsection (2) insert—
- “(2ZA) Where a person who is a member of a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme omits to exercise pension rights under the pension scheme, section 3(3) above does not apply in relation to the omission.”
- (3) Omit subsections (2A) to (2E).
- 48 Omit the following provisions—
- (a) section 151A(person dying with alternatively secured pension fund);
  - (b) section 151B(relevant dependant with pension fund inherited from member over 75);
  - (c) section 151BA(rate or rates of charge under section 151B);
  - (d) section 151C(dependant dying with other pension fund);
  - (e) section 151D(unauthorised payment where person dies over 75 with pension or annuity);
  - (f) section 151E(rate or rates of charge under section 151D).

**Changes to legislation:**

Finance Act 2011, Part 1 is up to date with all changes known to be in force on or before 30 December 2023. 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.

[View outstanding changes](#)

**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):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)