



# Finance (No.2) Act 1987

## 1987 CHAPTER 51

### PART I

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER II

#### PERSONAL PENSION SCHEMES

#### *Preliminary*

#### **18 Interpretation.**

In this Chapter—

“approved”—

- (a) in relation to a scheme, means approved by the Board under this Chapter, and
- (b) in relation to arrangements, means made in accordance with a scheme which is for the time being, and was when the arrangements were made, an approved scheme,

but does not refer to cases in which approval has been withdrawn;

“authorised insurance company” means either—

- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on long term business and acting through a branch or office in the United Kingdom, or
- (b) a society registered as a friendly society under the Friendly Societies Act 1974 or the Friendly Societies Act (Northern Ireland) 1970;

“member”, in relation to a personal pension scheme, means an individual who makes arrangements in accordance with the scheme;

“personal pension arrangements” means arrangements made by an individual in accordance with a personal pension scheme;

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“personal pension scheme” means a scheme whose sole purpose is the provision of annuities or lump sums under arrangements made by individuals in accordance with the scheme;

“scheme administrator” means the person referred to in section 27 below.

## **19 Approval of schemes.**

- (1) An application to the Board for their approval of a personal pension scheme shall be in such form, shall contain such information, and shall be accompanied by such documents (in such form) as the Board may prescribe.
- (2) The Board may at their discretion grant or refuse an application for approval of a personal pension scheme, but their discretion shall be subject to the restrictions set out in sections 20 to 30 below.
- (3) The Board shall give written notice to the applicant of the grant or refusal of an application; and in the case of a refusal the notice shall state the grounds for the refusal.
- (4) If an amendment is made to an approved scheme without being approved by the Board, their approval of the scheme shall cease to have effect.

*Restrictions on approval: establishment and benefits*

## **20 Establishment of schemes.**

- (1) The Board shall not approve a personal pension scheme established by any person other than—
  - (a) a person who is authorised under Chapter III of Part I of the Financial Services Act 1986 to carry on investment business, and who carries on business of a kind mentioned in subsection (2) below;
  - (b) a building society within the meaning of the Building Societies Act 1986;
  - (c) an institution authorised under the Banking Act 1987;
  - (d) a recognised bank or licensed institution within the meaning of the Banking Act 1979.
- (2) The kinds of business referred to in subsection (1)(a) above are—
  - (a) issuing insurance policies or annuity contracts;
  - (b) managing unit trust schemes authorised under section 78(1) of the Financial Services Act 1986.
- (3) Subsection (1) above shall not apply in relation to a scheme approved by the Board by virtue of section 226(5) of the Taxes Act if it is established before 4th January 1988.
- (4) The Treasury may by order amend this section as it has effect for the time being.
- (5) An order under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

## **21 Scope of benefits.**

- (1) The Board shall not approve a personal pension scheme which makes provision for any benefit other than—
  - (a) the payment of an annuity satisfying the conditions in section 22 below;

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- (b) the payment to a member of a lump sum satisfying the conditions in section 23 below;
  - (c) the payment after the death of a member of an annuity satisfying the conditions in section 24 below;
  - (d) the payment on the death of a member of a lump sum satisfying the conditions in section 25 below;
  - (e) the payment on the death of a member of a lump sum satisfying the conditions in section 26 below.
- (2) Subsection (1) above shall not prevent the approval of a scheme which makes provision for insurance against a risk relating to the non-payment of contributions.

## **22 Annuity to member.**

- (1) The annuity must be payable by an authorised insurance company which may be chosen by the member.
- (2) Subject to subsection (3) below, the annuity must not commence before the member attains the age of 50 or after he attains the age of 75.
- (3) The annuity may commence before the member attains the age of 50 if—
  - (a) it is payable on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted, or
  - (b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.
- (4) Subject to subsection (5) below, the annuity must be payable to the member for his life.
- (5) The annuity may continue for a term certain not exceeding ten years, notwithstanding the member's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the member and before the expiry of that term, on the happening of any of the following—
  - (a) the marriage of the annuitant;
  - (b) his attaining the age of eighteen;
  - (c) the later of his attaining that age and ceasing to be in full-time education.
- (6) The annuity must not be capable of assignment or surrender, except that an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

## **23 Lump sum to member.**

- (1) The lump sum must be payable only if the member so elects on or before the date on which an annuity satisfying the conditions in section 22 above is first payable to him under the arrangements made in accordance with the scheme.
- (2) The lump sum must be payable when that annuity is first payable.

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- (3) The lump sum must not exceed one quarter of the total value, at the time when the lump sum is paid, of the benefits for the member provided for by the arrangements made by him in accordance with the scheme.
- (4) The lump sum must not exceed £150,000 or such other sum as may for the time being be specified in an order made by the Treasury; and an order under this subsection shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) The right to payment of the lump sum must not be capable of assignment or surrender.

## **24 Annuity after death of member.**

- (1) The annuity must be payable by an authorised insurance company which may be chosen by the member or by the annuitant.
- (2) The annuity must be payable to the surviving spouse of the member, or to a person who was at the member's death a dependant of his.
- (3) The aggregate annual amount (or, if that amount varies, the aggregate of the initial annual amounts) of all annuities to which this section applies and which are payable under the same personal pension arrangements shall not exceed—
  - (a) where before his death the member was in receipt of an annuity under the arrangements, the annual amount (or if it varied, the highest annual amount) of that annuity, or
  - (b) where paragraph (a) above does not apply, the highest annual amount of the annuity that would have been payable under the arrangements to the member (ignoring any entitlement of his to commute part of it for a lump sum) if it had vested on the day before his death.
- (4) Subject to subsections (5) to (9) below, the annuity must be payable for the life of the annuitant.
- (5) Where the annuity is payable to the surviving spouse of the member and at the time of the member's death the surviving spouse is under the age of 60, the annuity may be deferred to a time not later than—
  - (a) the time when the surviving spouse attains that age, or
  - (b) where the member's annuity is payable to the surviving spouse for a term certain as mentioned in section 22(5) above and the surviving spouse attains the age of 60 before the time when the member's annuity terminates, that time.
- (6) The annuity may cease to be payable on the marriage of the annuitant.
- (7) Where the annuity is payable to the surviving spouse of the member, it may cease before the death of the surviving spouse if—
  - (a) the member was survived by one or more dependants under the age of 18 and at the time of the member's death the surviving spouse was under the age of 45, and
  - (b) at some time before the surviving spouse attains that age no such dependant remains under the age of 18.
- (8) Where the annuity is payable to a person who is under the age of 18 when it is first payable, it must cease to be payable either—
  - (a) on his attaining that age, or

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- (b) on the later of his attaining that age and ceasing to be in full-time education, unless he was a dependant of the member otherwise than by reason only that he was under the age of 18.
- (9) The annuity may continue for a term certain not exceeding ten years, notwithstanding the original annuitant's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the original annuitant and before the expiry of that term, on the happening of any of the following—
- (a) the marriage of the annuitant to whom it is payable;
  - (b) his attaining the age of eighteen;
  - (c) the later of his attaining that age and ceasing to be in full-time education.
- (10) The annuity must not be capable of assignment or surrender, except that an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

**25 Lump sum on death of member.**

- (1) The lump sum must be payable by an authorised insurance company.
- (2) The lump sum must be payable on the death of the member before he attains the age of 75.

**26 Return of contributions on death of member.**

- (1) The lump sum must be payable only if no annuity satisfying the conditions in either section 22 or section 24 above has become payable.
- (2) Subject to subsection (3) below, the lump sum must represent no more than the return of contributions, together with reasonable interest on contributions or bonuses out of profits.
- (3) To the extent that contributions are invested in units under a unit trust scheme, the lump sum may represent the sale or redemption price of the units.

*Other restrictions on approval*

**27 Scheme administrator.**

The Board shall not approve a personal pension scheme unless they are satisfied that there is a person resident in the United Kingdom who will be responsible for the management of the scheme.

**28 Transfer payments.**

- (1) The Board shall not approve a personal pension scheme unless it makes such provision for the making, acceptance and application of transfer payments as satisfies any requirements imposed by or under regulations made by the Board.

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- (2) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

### **29 Excess contributions.**

- (1) The Board shall not approve a personal pension scheme unless it makes provision, in relation to arrangements made in accordance with the scheme, for ensuring that—
- (a) the aggregate amount of the contributions that may be made in a year of assessment by the member and an employer of his under the arrangements, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by the member, does not exceed the permitted maximum for that year, and
  - (b) any excess is repaid to the member to the extent of his contributions and otherwise to his employer.
- (2) In subsection (1) above “the permitted maximum” for a year of assessment means an amount equal to the aggregate of—
- (a) the relevant percentage of the member’s net relevant earnings for the year, and
  - (b) so much of any relief given under section 31 below for that year as is given by virtue of section 34;
- and references in subsection (1) to contributions by the member do not include references to contributions treated by virtue of section 42(3) below as paid by him.
- (3) In subsection (2) above “the relevant percentage” means 175 per cent. or, in a case where section 32(2) below applies, the relevant percentage there specified.

### **30 Restriction on contributors.**

- (1) The Board shall not approve a personal pension scheme which permits the acceptance of contributions other than—
- (a) contributions by members;
  - (b) contributions by employers of members;
  - (c) minimum contributions paid by the Secretary of State under Part I of the Social Security Act 1986 or by the Department of Health and Social Services for Northern Ireland under Part II of the Social Security (Northern Ireland) Order 1986.
- (2) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (1)(c) above in respect of an individual’s service—
- (a) as director of a company, if his emoluments as such are within section 35(5) below; or
  - (b) in an office or employment to which section 36 below applies.

*Tax consequences of approval: member’s contributions*

### **31 Deduction from relevant earnings.**

A contribution paid by an individual under approved personal pension arrangements made by him shall, subject to the provisions of this Chapter, be deducted from or set off

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against any relevant earnings of his for the year of assessment in which the payment is made.

### **32 Limit on deductions.**

- (1) The maximum amount that may be deducted or set off in any year of assessment by virtue of section 31 above shall be 175 per cent. of the individual's net relevant earnings for that year.
- (2) In the case of an individual whose age at the beginning of the year of assessment is within a range specified in the first column of the following table, subsection (1) above shall have effect with the substitution for 175 per cent. of the relevant percentage specified in the second column.

51 to 55	20 per cent.
56 to 60	225 per cent.
61 or more	275 per cent.

- (3) Without prejudice to subsection (1) above, the maximum amount that may be deducted or set off in any year of assessment in respect of contributions paid by an individual to secure benefits satisfying the conditions in section 25 above shall be 5 per cent. of the individual's net relevant earnings for that year.
- (4) Where personal pension arrangements are made by an employee whose employer makes contributions under the arrangements, the maximum amount that may be deducted or set off in any year of assessment shall be reduced by the amount of the employer's contributions in the year.
- (5) Any minimum contributions treated by virtue of section 42(3) below as paid by the individual in respect of whom they are paid shall be disregarded for the purposes of this section.

### **33 Carry-back of contributions.**

- (1) An individual who pays a contribution under approved personal pension arrangements in a year of assessment (whether or not a year for which he has relevant earnings) may elect that the contribution, or part of it, shall be treated as paid—
  - (a) in the year of assessment preceding that year, or
  - (b) if he had no net relevant earnings in that preceding year of assessment, in the year of assessment before that.
- (2) Where for any year of assessment an individual—
  - (a) has relevant earnings as an underwriting member of Lloyd's or by way of commission calculated by reference to the profits of Lloyd's underwriting business, and
  - (b) there is an amount of unused relief attributable to those earnings,the individual may elect that there shall be treated as paid in that year so much of any contributions paid by him under approved personal pension arrangements in the next year of assessment but two as does not exceed the amount of the unused relief.

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- (3) In subsection (2) above, references to an amount of unused relief attributable to the earnings mentioned in subsection (2)(a) are to an amount which could have been deducted from or set off against those earnings under section 31 above if—
- (a) the individual had paid contributions under approved personal pension arrangements in the year of assessment for which he has the earnings, or
  - (b) any such contributions paid by him in that year had been greater.
- (4) An election under this section must be made not later than three months after the end of the year of assessment in which the contributions treated as paid in another year are actually paid.
- (5) Where an election is made under this section in respect of a contribution or part of a contribution, the other provisions of this Chapter shall have effect as if the contribution or part had been paid in the year specified in the election and not in the year in which it was actually paid.

### **34 Carry-forward of relief.**

- (1) Where—
- (a) for any year of assessment an individual has relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and
  - (b) there is an amount of unused relief for that year,
- relief may be given under section 31 above, up to the amount of the unused relief, in respect of so much of any contributions paid by him under approved personal pension arrangements in any of the next six years of assessment as exceeds the maximum applying for that year under section 32 above.
- (2) In this section, references to an amount of unused relief for any year are to an amount which could have been deducted from or set off against the individual's relevant earnings for that year under section 31 above if—
- (a) the individual had paid contributions under approved personal pension arrangements in that year, or
  - (b) any such contributions paid by him in that year had been greater.
- (3) Relief by virtue of this section shall be given for an earlier year rather than a later year, the unused relief taken into account in giving relief for any year being deducted from that available for giving relief in subsequent years and unused relief derived from an earlier year being exhausted before unused relief derived from a later year.
- (4) Where a relevant assessment to tax in respect of a year of assessment becomes final and conclusive more than six years after the end of that year and there is an amount of unused relief for that year which results from the making of the assessment—
- (a) that amount shall not be available for giving relief by virtue of this section for any of the six years following that year; but
  - (b) the individual may, within the period of six months beginning with the date on which the assessment becomes final and conclusive, elect that relief shall be given under section 31 above, up to that amount, in respect of so much of any contributions paid by him under approved personal pension arrangements within that period as exceeds the maximum applying under section 32 above for the year of assessment in which they are paid;
- and to the extent to which relief in respect of any contributions is given by virtue of this subsection it shall not be given by virtue of subsection (1) above.



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- (5) In this section “a relevant assessment to tax” means an assessment on the individual’s relevant earnings or on the profits or gains of a partnership from which the individual derives relevant earnings.

### **35 Meaning of “relevant earnings”.**

- (1) In this Chapter, “relevant earnings”, in relation to an individual, means any income of his which is chargeable to tax for the year of assessment in question and is within subsection (2) below.
- (2) Subject to subsections (3) to (5) below, income is within this subsection if it is—
- (a) emoluments chargeable under Schedule E from an office or employment held by the individual;
  - (b) income from any property which is attached to or forms part of the emoluments of an office or employment held by him;
  - (c) income which is chargeable under Schedule D and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation (either as an individual or as a partner acting personally in a partnership);
  - (d) income treated as earned income by virtue of section 383 of the Taxes Act (patent rights).
- (3) Where section 36 below applies to an office or employment held by the individual, neither emoluments from the office or employment nor income from any property which is attached to it or forms part of its emoluments are within subsection (2) above.
- (4) The following are not income within subsection (2) above—
- (a) anything in respect of which tax is chargeable under Schedule E and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares;
  - (b) anything in respect of which tax is chargeable by virtue of section 187 of the Taxes Act (payments on termination of employment, etc.).
- (5) Emoluments of an individual as director of a company are not income within subsection (2) above if—
- (a) the income of the company consists wholly or mainly of investment income, and
  - (b) the individual, either alone or together with any other persons who are or have been at any time directors of the company, controls the company.
- (6) For the purposes of subsection (5) above—
- “director” includes any person occupying the position of director by whatever name called;
  - “investment income” shall be construed in accordance with paragraph 11 of Schedule 16 to the Finance Act 1972;
  - “controls” shall be construed in accordance with section 534 of the Taxes Act.
- (7) For the purposes of this Chapter, a married woman’s relevant earnings shall not be treated as her husband’s relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.

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### **36 Earnings from pensionable employment.**

- (1) This section applies to an office or employment held by an individual if—
  - (a) service in it is service to which a relevant superannuation scheme relates,
  - (b) the individual is a participant in the scheme, and
  - (c) neither subsection (4) nor subsection (5) below applies to his participation in the scheme.
- (2) This section applies whether or not the duties of the office or employment are performed wholly or partly in the United Kingdom or the individual is chargeable to tax in respect of it.
- (3) In subsection (1) above “a relevant superannuation scheme” means a scheme or arrangement—
  - (a) the object or one of the objects of which is the provision, in respect of persons serving in particular offices or employments, of relevant benefits within the meaning of section 26(1) of the Finance Act 1970, and
  - (b) which is established by a person other than the individual.
- (4) This subsection applies to an individual’s participation in a scheme if the scheme provides no benefits in relation to him other than—
  - (a) an annuity payable to his surviving spouse or a dependant of his;
  - (b) a lump sum payable on his death in service.
- (5) This subsection applies to an individual’s participation in a scheme if any sums paid pursuant to the scheme with a view to the provision of relevant benefits for him are treated as his income for the purposes of the Income Tax Acts.

### **37 Meaning of “net relevant earnings”.**

- (1) Subject to subsections (3) to (7) below, in this Chapter “net relevant earnings”, in relation to an individual, means the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions within subsection (2) below which fall to be made from the relevant earnings in computing for the purposes of income tax his total income for that year.
- (2) Deductions are within this subsection if they are—
  - (a) deductions which but for section 130(1), (n) or (o) of the Taxes Act (annuities, royalties, rents etc.) could be made in computing the profits or gains of the individual;
  - (b) deductions made by virtue of section 189, section 192 or section 194(3) of the Taxes Act (necessary expenses etc.);
  - (c) deductions in respect of relief under Schedule 9 or 10 to the Finance Act 1981 (stock relief);
  - (d) deductions in respect of losses or capital allowances, being losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual or the individual’s wife or husband.
- (3) For the purposes of this section, an individual’s relevant earnings shall be taken to be those earnings before giving effect to any capital allowances, other than deductions allowable in computing profits or gains, but after taking into account the amounts on which charges fall to be made under the Capital Allowances Act 1968 (including

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the enactments which under the Taxes Act are to be treated as contained in Part I of the Capital Allowances Act 1968); and in subsections (4) and (5) below references to income (other than references to total income) shall be construed similarly.

- (4) In the case of an individual's partnership profits, the amount to be included in arriving at his net relevant earnings shall be his share of the partnership income (estimated in accordance with the Income Tax Acts) after making from it any such deductions in respect of—
- (a) payments made by the partnership,
  - (b) relief given to the partnership under Schedule 9 or 10 to the Finance Act 1981, and
  - (c) capital allowances falling to be made to the partnership,
- as would be made in computing the tax payable in respect of that income.
- (5) Where, in a year of assessment for which an amount is deducted or set off under section 31 above against the net relevant earnings of an individual,—
- (a) a deduction in respect of such a loss or allowance of the individual as is mentioned in subsection (2)(d) above falls to be made in computing the total income of the individual or the individual's wife or husband, and
  - (b) the deduction or part of it falls to be so made from income other than relevant earnings,
- the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment in accordance with subsection (6) below.
- (6) The deduction shall be made so far as possible from the individual's net relevant earnings for the first of the subsequent years of assessment (whether or not he is entitled to relief under section 31 above for that year), and then, so far as it cannot be so made, from those of the next year, and so on.
- (7) An individual's net relevant earnings for any year of assessment shall be computed without regard to any deduction or set-off under section 31 above which falls to be made for that year in respect of the individual or the individual's wife or husband.

#### *Other tax consequences of approval*

### **38 Employer's contributions.**

Where contributions are paid by an employer under approved personal pension arrangements made by his employee, those contributions shall not be regarded as emoluments of the employment chargeable to tax under Schedule E.

### **39 Exemption for scheme investments.**

- (1) Income derived by a person from investments or deposits held by him for the purposes of an approved personal pension scheme shall be exempt from income tax.
- (2) A gain accruing to a person on his disposal of investments held by him for the purposes of an approved personal pension scheme shall not be a chargeable gain for the purposes of capital gains tax.
- (3) In section 323(4) of the Taxes Act (which lists the premiums referable to an insurance company's pension business) after paragraph (aa) there shall be inserted—

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“(ab) any contract made under approved personal pension arrangements within the meaning of Chapter II of Part I of the Finance (No. 2) Act 1987”;

and nothing in the preceding provisions of this section shall be construed as affording relief in respect of any sums to be brought into account under section 314 of the Taxes Act.

(4) In section 6 of the Finance Act 1975 (investment by pension funds in building societies) at the end of subsection (3) there shall be added “and section 39 of the Finance (No. 2) Act 1987”.

#### **40 Unit trusts.**

(1) Subsection (2) of section 354 and subsection (3) of section 354A of the Taxes Act (which treat unit holders under unit trust schemes as receiving certain payments) shall not apply to any authorised unit trust which is also an approved personal pension scheme.

(2) A gain accruing to a unit holder on his disposal of units in an authorised unit trust which is also an approved personal pension scheme shall not be a chargeable gain for the purposes of capital gains tax.

#### **41 Treatment of annuities.**

(1) An annuity payable under approved personal pension arrangements shall be treated as earned income of the annuitant.

(2) Subsection (1) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the arrangements.

(3) In section 230 of the Taxes Act (which gives special treatment to purchased life annuities) at the end of subsection (7) (exclusions) there shall be added—

“, or

(e) to any annuity payable under approved personal pension arrangements within the meaning of Chapter II of Part I of the Finance (No. 2) Act 1987.”.

#### *Miscellaneous*

#### **42 Minimum contributions under Social Security Act 1986.**

(1) Where under Part I of the Social Security Act 1986 the Secretary of State pays minimum contributions for the purposes of approved personal pension arrangements, the amount of the employee’s share of those contributions shall, instead of being the amount provided for in that Part, be the grossed-up equivalent of the amount so provided for.

(2) For the purposes of this section—

“the employee’s share” of minimum contributions is so much of the contributions as is attributable to the percentage mentioned in paragraph (a)

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of the definition of “rebate percentage” in section 3(3) of the Social Security Act 1986;

“the grossed-up equivalent” of an amount is such sum as, after deduction of income tax at the basic rate in force for the year of assessment for which the contributions are paid, is equal to that amount.

- (3) The employee’s share of minimum contributions paid for a year of assessment by the Secretary of State for the purposes of approved personal pension arrangements shall be treated for the purposes of income tax—
  - (a) as income for that year of the individual in respect of whom it is paid, and
  - (b) as contributions paid in that year by that individual under those arrangements.
- (4) The Board may make regulations—
  - (a) providing for the recovery by the Secretary of State from the Board, in such circumstances as may be prescribed by the regulations, of any increase attributable to this section in the sums paid by the Secretary of State out of the National Insurance Fund;
  - (b) requiring the Secretary of State to give the Board such information as may be so prescribed about minimum contributions paid by the Secretary of State;
  - (c) prescribing circumstances in which this section or any provision of it shall not apply;
  - (d) making such provision as appears to the Board to be necessary or expedient for the purposes of supplementing the provisions of this section.
- (5) Any payment received by the Secretary of State by virtue of this section shall be paid into the National Insurance Fund.
- (6) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (7) In relation to Northern Ireland, this section shall have effect as if—
  - (a) references to the Secretary of State were references to the Department of Health and Social Services for Northern Ireland;
  - (b) references to Part I and section 3(3) of the Social Security Act 1986 were references to Part II and Article 5(3) of the Social Security (Northern Ireland) Order 1986; and
  - (c) references to the National Insurance Fund were references to the Northern Ireland National Insurance Fund.

#### **43 Withdrawal of approval.**

- (1) If in the opinion of the Board the facts concerning an approved personal pension scheme or its administration or arrangements made in accordance with it do not warrant the continuance of their approval of the scheme, they may at any time by written notice given to the scheme administrator withdraw their approval of the scheme.
- (2) If in the opinion of the Board the facts concerning any approved personal pension arrangements do not warrant the continuance of their approval in relation to the arrangements, they may at any time by written notice given to the individual who made them and to the scheme administrator withdraw their approval in relation to the arrangements.

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- (3) Without prejudice to the generality of subsection (2) above, the Board may withdraw their approval in relation to any personal pension arrangements if they are of the opinion that securing the provision of benefits under the arrangements was not the sole purpose of the individual in making them.
- (4) A notice under subsection (1) or subsection (2) above shall state the grounds on which, and the date from which, approval is withdrawn.
- (5) The Board may not withdraw their approval from a date earlier than the date when the facts were first such that they did not warrant the continuance of their approval (so, however, that in a case within subsection (3) above their approval may be withdrawn from the day the arrangements in question were made).

#### **44 Tax on unauthorised payments etc.**

- (1) This section applies to any payment within subsection (2) below which is made—
  - (a) out of funds which are or have been held for the purposes of a personal pension scheme which is or has at any time been approved, and
  - (b) to or for the benefit of an individual who has made personal pension arrangements in accordance with the scheme.
- (2) A payment is within this subsection if—
  - (a) it is not expressly authorised by the rules of the scheme, or
  - (b) it is made at a time when the scheme or the arrangements are not approved and it would not have been expressly authorised by the rules of the scheme or by the arrangements when the scheme or, as the case may be, the arrangements were last so approved.
- (3) The individual referred to in subsection (1)(b) above, whether or not he is the recipient of the payment, shall be chargeable to tax under Schedule E on the amount of the payment for the year of assessment in which the payment is made.
- (4) This section applies to a transfer of assets or other transfer of money's worth as it applies to a payment, and in relation to such a transfer the reference in subsection (3) above to the amount of the payment shall be read as a reference to the value of the transfer.

#### **45 Relief by deduction from contributions.**

- (1) In such cases and subject to such conditions as the Board may prescribe in regulations, relief under section 31 above shall be given in accordance with subsections (2) and (3) below.
- (2) An individual who is entitled to such relief in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate on the contribution.
- (3) The scheme administrator—
  - (a) shall accept the amount paid after the deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
  - (b) may recover an amount equal to the deduction from the Board.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Regulations under this section may make provision for carrying subsections (2) and (3) above into effect and, without prejudice to the generality of that, may—
  - (a) provide for the manner in which claims for the recovery of a sum under subsection (3)(b) may be made;
  - (b) provide for the giving of such information, in such form, as may be prescribed by or under the regulations;
  - (c) provide for the inspection by persons authorised by the Board of books, documents and other records.
- (5) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

**46 Claims for relief.**

Except where section 45 above applies, relief under section 31 above in respect of a contribution shall be given only on a claim made for the purpose.

**47 Appeals.**

- (1) Where the Board—
  - (a) refuse an application by notice under section 19 above, or
  - (b) withdraw an approval by notice under section 43 above,the person to whom the notice is given may appeal to the Special Commissioners against the refusal or, as the case may be, the withdrawal.
- (2) An appeal under this section shall be made by written notice stating the grounds for the appeal and given to the Board before the end of the period of thirty days beginning with the day on which the notice of refusal or withdrawal was given to the appellant.
- (3) On an appeal under this section against the withdrawal of an approval, the Special Commissioners may, instead of allowing or dismissing the appeal, order that the withdrawal shall have effect from a date other than that determined by the Board.
- (4) The bringing of an appeal under this section shall not affect the validity of the decision appealed against pending the determination of the proceedings.

**48 Adjustment of relief.**

Where relief under section 31 above for any year of assessment is claimed and allowed (whether or not it then falls to be given for that year), and afterwards an assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax is made, there shall also be made such consequential adjustments in the relief allowed or given under section 31 for that or any subsequent year as are appropriate.

**49 Exclusion of double relief.**

- (1) Where relief under section 31 above is claimed and allowed for any year of assessment in respect of a contribution, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or any subsequent year, nor (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.

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*Status: This is the original version (as it was originally enacted).*

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- (2) References in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under section 31 above.

**50 Information about payments.**

- (1) An inspector may give a notice to a scheme administrator requiring him to provide the inspector with—
- (a) such particulars as the notice may require relating to contributions paid under approved personal pension arrangements made in accordance with the scheme;
  - (b) such particulars as the notice may require relating to payments by way of return of contributions;
  - (c) copies of such accounts as the notice may require.
- (2) A person to whom a notice is given under this section shall comply with the notice within the period of thirty days beginning with the day on which it is given.

**51 Information: penalties.**

- (1) A person who knowingly makes a false statement or false representation on making an application under section 19 above or for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this Chapter shall be liable to a penalty not exceeding £500.
- (2) At the end of the first column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.) there shall be added—

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“Regulations under section 45 of the Finance (No. 2) Act 1987  
 Section 50 of that Act”.

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- (3) At the end of the second column of that Table there shall be added—

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“Regulations under section 45 of the Finance (No. 2) Act 1987”.

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**52 Remuneration of Ministers and other officers.**

- (1) This section applies to any salary—
- (a) payable to the holder of a qualifying office who is also a Member of the House of Commons, and
  - (b) payable for a period in respect of which the holder is not a participant in relation to that office in arrangements contained in the Parliamentary pension scheme but is a participant in relation to his membership of the House of Commons in any such arrangements, or for any part of such a period.
- (2) So much of any salary to which this section applies as is equal to the difference between a Member’s pensionable salary and the salary which (in accordance with any such resolution as is mentioned in subsection (4)(a) below) is payable to him as a Member holding that qualifying office, shall be treated for the purposes of this Chapter as remuneration from the office of Member and not from the qualifying office.
- (3) In this section—



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“Member’s pensionable salary” means a Member’s ordinary salary under any resolution of the House of Commons which, being framed otherwise than as an expression of opinion, is for the time being in force relating to the remuneration of Members or, if the resolution provides for a Member’s ordinary salary thereunder to be treated for pension purposes as being at a higher rate, a notional yearly salary at that higher rate;

“qualifying office” means an office mentioned in paragraph (b), (c) or (d) of subsection (2) of section 2 of the Parliamentary and other Pensions Act 1987;

“the Parliamentary pension scheme” has the same meaning as in that Act; and, without prejudice to the power conferred by virtue of paragraph 13 of Schedule 1 to that Act, regulations under section 2 of that Act may make provision specifying the circumstances in which a person is to be regarded for the purposes of this section as being or not being a participant in relation to his membership of the House of Commons, or in relation to any office, in arrangements contained in the Parliamentary pension scheme.

- (4) In subsection (3) above “a Member’s ordinary salary”, in relation to any resolution of the House of Commons, means—
- (a) if the resolution provides for salary to be paid to Members at different rates according to whether or not they are holders of particular offices, or are in receipt of salaries or pensions as the holders or former holders of particular offices, a Member’s yearly salary at the higher or highest rate; and
  - (b) in any other case, a Member’s yearly salary at the rate specified in or determined under the resolution.

### **53 Contributions under unapproved arrangements.**

Where contributions are paid by an employer under personal pension arrangements made by his employee then, if those arrangements are not approved arrangements and the contributions are not otherwise chargeable to income tax as income of the employee, the contributions shall be regarded for all the purposes of the Income Tax Acts as emoluments of the employment chargeable to tax under Schedule E.

### **54 Retirement annuities.**

- (1) Nothing in Chapter III of Part IX of the Taxes Act shall apply in relation to—
- (a) a contract made or trust scheme established on or after 4th January 1988, or
  - (b) a person by whom contributions are first paid on or after that date under a trust scheme established before that date.
- (2) For the year 1987–88 and subsequent years of assessment the Taxes Act shall have effect with the substitution of the following section for section 228—

#### **“228 Amount of relief for persons over fifty.**

In the case of an individual whose age at the beginning of a year of assessment is within a range specified in the first column of the following table, section 227(1A) above shall have effect for that year with the substitution for 175 per cent. of the relevant percentage specified in the second column.

51 to 55

| 20 per cent. |

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56 to 60	225 per cent.
61 or more	275 per cent.”.

- (3) Subject to subsection (5) below, the terms of a contract made, or the rules of a trust scheme established, on or after 17th March 1987 and before 4th January 1988 and approved by the Board under section 226 of the Taxes Act shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to the individual by whom the contract is made, or an individual paying contributions under the scheme, of a lump sum exceeding £150,000 or such other sum as may for the time being be specified in an order under section 23(4) above.
- (4) Subject to subsection (6) below, the rules of a trust scheme established before 17th March 1987 and approved by the Board under section 226 of the Taxes Act shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to any person first paying contributions under the scheme on or after 17th March 1987 of a lump sum such as is mentioned in subsection (3) above.
- (5) Subsection (3) above shall not apply—
- (a) to a contract if, before the end of January 1988, the persons by and to whom premiums are payable under it jointly give written notice to the Board that subsection (3) is not to apply, or
  - (b) to a scheme if, before the end of January 1988, the trustees or other persons having the management of the scheme give written notice to the Board that subsection (3) is not to apply;
- and where notice is given to the Board under this subsection, the contract or scheme shall, with effect from the date with effect from which it was approved, cease to be approved.
- (6) Subsection (4) above shall not apply in the case of any person paying contributions under a scheme if, before the end of January 1988, he and the trustees or other persons having the management of the scheme jointly give written notice to the Board that subsection (4) is not to apply; and where notice is given to the Board under this subsection, the scheme shall cease to be approved in relation to the contributor with effect from the date on which he first paid a contribution under it or (if later) the date with effect from which it was approved.

## 55 Transitional provisions: general.

- (1) Where approved personal pension arrangements are made by an individual who pays qualifying premiums within the meaning of section 226(1)(b) of the Taxes Act—
- (a) the amount that may be deducted or set off by virtue of section 31 above in any year of assessment shall be reduced by the amount of any qualifying premiums which are paid in the year by the individual and in respect of which relief is given for the year under section 227 of the Taxes Act; and
  - (b) the relief which, by virtue of section 227A of the Taxes Act, may be given under section 227 by reference to the individual’s unused relief for any year shall be reduced by the amount of any contributions paid by him in that year under the approved personal pension arrangements.
- (2) Where an individual elects under section 33 above that a contribution or part of a contribution shall be treated as paid in the year of assessment 1984–85, 1985–86 or 1986–87, the payment shall be treated as the payment of a qualifying premium for

the purposes of Chapter III of Part IX of the Taxes Act; and in such a case references in section 33 to an amount of unused relief shall be construed in accordance with section 227A of that Act.

- (3) The references in section 34 above to unused relief for any year are, for years of assessment before 1987–88, references to unused relief within the meaning of section 227A of the Taxes Act.

## **56 Transitional provisions: approvals.**

- (1) The Board may grant or refuse an application for approval of a personal pension scheme under section 19 above at any time on or after 1st August 1987, but they shall not grant an application so as to approve a scheme with effect from a date earlier than 4th January 1988.
- (2) The Board may by regulations make provision for applications for approval of personal pension schemes to be granted provisionally in cases where the applications are made before 1st August 1989, notwithstanding that the Board have not satisfied themselves that the schemes comply with the requirements of sections 20 to 30 above; and such regulations may, in particular, provide—
  - (a) for the contents and form of certificates or other documents which the Board may require the applicant to give them before they grant an application provisionally;
  - (b) for the making of such amendments of the rules of the scheme after the provisional grant of an application as are necessary to enable the scheme to comply with the requirements of sections 20 to 30 above, and for those amendments to have effect as from the date of approval of the scheme;
  - (c) for the withdrawal of approval of the scheme as from that date if it does not comply with the requirements of sections 20 to 30 above and such amendments as are mentioned in paragraph (b) above are not made;and may make such supplementary provision as appears to the Board to be necessary or expedient.
- (3) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

## **57 Minor and consequential amendments.**

Schedule 2 to this Act (which makes minor and consequential amendments to certain enactments relating to retirement annuities etc.) shall have effect.