



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

#### CHAPTER I

##### RETIREMENT BENEFIT SCHEMES

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

- C1** Pt. 14 Ch. 1 (ss. 590-612) modified (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#), ss. 18, 19(4), 31(2); S.I. 1995/631, [art. 2](#)

*Approval of schemes*

**590 Conditions for approval of retirement benefit schemes.**

- (1) <sup>M1</sup>Subject to section 591, the Board shall not approve any retirement benefits scheme for the purposes of this Chapter unless the scheme satisfies all of the conditions set out in subsection (2) below.
- (2) <sup>M2</sup>The conditions are—
  - [<sup>F1</sup>(a) that the scheme is bona fide established for the sole purpose (subject to any enactment or Northern Ireland legislation requiring or allowing provision for the value of any rights to be transferred between schemes or between members of the same scheme) of providing relevant benefits in respect of service as an employee;]
  - [<sup>F2</sup>(aa) that those benefits do not include any benefits payable to a person other than—
    - (i) the employee or a scheme member's ex-spouse,

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- (ii) a widow, widower, child, or dependant of the employee or of a scheme member's ex-spouse, or
  - (iii) the personal representatives of the employee or of a scheme member's ex-spouse;]
  - (b) that the scheme is recognised by the employer and employees to whom it relates, and that every employee who is, or has a right to be, a member of the scheme has been given written particulars of all essential features of the scheme which concern him;
  - (c) that there is a person resident in the United Kingdom who will be responsible for the discharge of all duties imposed on the administrator of the scheme under this Chapter;
  - (d) that the employer is a contributor to the scheme;
  - (e) that the scheme is established in connection with some trade or undertaking carried on in the United Kingdom by a person resident in the United Kingdom;
  - (f) that in no circumstances, whether during the subsistence of the scheme or later, can any amount be paid by way of repayment of an employee's contributions under the scheme.
- (3) <sup>M3</sup>Subject to subsection (1) above, the Board shall approve a retirement benefits scheme for the purposes of this Chapter if the scheme satisfies all the conditions of this subsection, that is to say—
- (a) that any benefit for an employee is a pension on retirement at a specified age not earlier than 60 [<sup>F3</sup>and not later than 75], which does not exceed one-sixtieth of the employee's final remuneration for each year of service up to a maximum of 40;
  - (b) that any benefit for any widow [<sup>F4</sup>or widower] of an employee is a pension payable on his death after retirement such that the amount payable to the widow [<sup>F4</sup>or widower] by way of pension does not exceed two-thirds of any pension or pensions payable to the employee;
  - [<sup>F5</sup>(ba) that any benefit for an ex-spouse, or for the widow or widower of an ex-spouse, is a benefit in relation to which the scheme satisfies the conditions set out in subsection (3A) below;
  - (bb) that the scheme does not allow any rights debited to a scheme member as a consequence of a pension sharing order or provision to be replaced with any rights which that scheme member would not have been able to acquire (in addition to the debited rights) had the order or provision not been made;
  - (c) that no benefits are payable under the scheme other than those mentioned in paragraphs (a), (b) and (ba) above;]
  - (d) that no pension is capable in whole or in part of surrender, commutation or assignment, [<sup>F6</sup> except—
    - (i) for the purpose of giving effect to a pension sharing order or provision, or
    - (ii) in so far as the commutation of a benefit for an ex-spouse is allowed by virtue of subsection (3A) below, or
    - (iii)] in so far as the scheme allows an employee on retirement to obtain, by commutation of [<sup>F7</sup>a pension provided for him], a lump sum or sums not exceeding in all three-eighths of his final remuneration (*disregarding any excess of that remuneration over the permitted maximum*) <sup>F8</sup> for each year of service up to a maximum of 40.
  - [<sup>F9</sup>(da) that, in a case in which—

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- (i) a lump sum may be obtained by the commutation of a part of a pension provided for an employee, and
- (ii) the amount of that pension is affected by the making of a pension sharing order or provision,

the lump sum does not exceed the sum produced by multiplying by 2.25 the amount which (after effect has been given to the pension sharing order or provision) is the amount of that pension for the first year in which it is payable;]

- [<sup>F10</sup>(e) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of pension in respect of service in any one of them may not, when aggregated with any amount payable by way of pension in respect of service in the other or others, exceed the relevant amount;
- (f) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of commuted pension in respect of service in any one of them may not, when aggregated with any amount payable by way of commuted pension in respect of service in the other or others, exceed the relevant amount;
- (g) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of pension under the scheme may not, when aggregated with any amount payable by way of pension under the other scheme or schemes, exceed the relevant amount;
- (h) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of commuted pension may not, when aggregated with any amount payable by way of commuted pension under the other scheme or schemes, exceed the relevant amount.]

[<sup>F11</sup>(3A) The conditions mentioned in subsection (3)(ba) above are—

- (a) that any benefit for an ex-spouse takes the form of a pension (with or without an entitlement to commute a part of that pension);
- (b) that any benefit for an ex-spouse is a pension payable only on the attainment by the ex-spouse of a specified age of not less than 60 and not more than 75;
- (c) that any entitlement to commute a part of the pension is exercisable only on its becoming payable;
- (d) that any benefit for the widow or widower of an ex-spouse is confined to a non-commutable pension payable on the death of the ex-spouse at a time when the ex-spouse is already entitled to receive a pension under the scheme;
- (e) that any pension provided for the widow or widower of an ex-spouse is of an amount not exceeding two-thirds of the pension payable to the ex-spouse;
- (f) that, in a case in which a lump sum may be obtained by the commutation of a part of a pension provided for an ex-spouse, the lump sum does not exceed the sum produced by multiplying the amount of the pension for the first year in which it is payable by 2.25.]

(4) The conditions set out in [<sup>F12</sup>subsections (2) to (3A)] above are in this Chapter referred to as “the prescribed conditions”.

[<sup>F13</sup>(4A) In subsection (3)(c) above “benefits” does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security.]

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[<sup>F14</sup>(4B) For the purposes of this section a benefit provided under any scheme is provided for an ex-spouse or the widow or widower of an ex-spouse, and shall be treated as not provided for an employee or the widow or widower of an employee, to the extent (and to the extent only) that—

- (a) it is provided for a person who is, or is the widow or widower of, either—
  - (i) an employee who is an ex-spouse; or
  - (ii) a scheme member’s ex-spouse;
 and

(b) it is as an ex-spouse, or as the widow or widower of an ex-spouse, that that person is the person for whom the benefit is provided.

(4C) For the purposes of this section a benefit provided for any person under any scheme is provided for that person as an ex-spouse, or as the widow or widower of an ex-spouse, to the extent (and to the extent only) that—

- (a) the benefit is provided in respect of rights of an ex-spouse that are or represent rights conferred on the ex-spouse as a consequence of a pension sharing order or provision; and
- (b) the scheme makes provision for the benefit to be treated as provided separately from any benefits which are provided under the scheme for the same person as an employee or as the widow or widower of an employee.

(4D) In this section “scheme member”, in relation to a scheme, means—

- (a) an employee; or
- (b) a person entitled to any relevant benefits under the scheme as a consequence of a pension sharing order or provision.

(4E) The following rules shall apply in calculating for the purposes of subsection (3)(da) or (3A)(f) above the amount of a person’s pension for the first year in which it is payable—

- (a) if the pension payable for the year changes, the initial pension payable shall be taken;
- (b) it shall be assumed that that person will survive for the year; and
- (c) the effect of commutation shall be ignored.

(4F) A pension provided for an ex-spouse who is an employee, or for the widow or widower of such an ex-spouse, shall be disregarded in any determination of whether the conditions set out in subsection (3)(e) to (h) above are satisfied or continue to be satisfied in the case of that employee.]

<sup>F15</sup>(5) .....

<sup>F15</sup>(6) .....

[<sup>F16</sup>(7) Subsections (8) to (10) below apply where the Board are considering whether a retirement benefits scheme satisfies or continues to satisfy the prescribed conditions.

(8) For the purpose of determining whether the scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions, that scheme shall be considered in conjunction with—

- (a) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) approved for the purposes of this Chapter,

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- (b) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) at the same time before the Board in order for them to decide whether to give approval for the purposes of this Chapter,
  - (c) any section 608 scheme or schemes relating to employees of that class or description, and
  - (d) any relevant statutory scheme or schemes relating to employees of that class or description.
- (9) If those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of the scheme mentioned in subsection (7) above (as well as the other or others).
- (10) If those conditions are not satisfied in the case of both or all of those schemes taken together, they shall not be taken to be satisfied in the case of the scheme mentioned in subsection (7) above.
- (11) The reference in subsection (8)(c) above to a section 608 scheme is a reference to a fund to which section 608 applies.]

#### Textual Amendments

- F1** S. 590(2)(a) substituted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(1)**; S.I. 2000/1093, **art. 2**
- F2** S. 590(2)(aa) inserted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(2)**; S.I. 2000/1093, **art. 2**
- F3** Words in s. 590(3)(a) substituted by Finance Act 1991 (c. 31, SIF 63:1), 34(2)(4)
- F4** 1988(F) s.35 and Sch.3 para.18 on and after 6 April 1990.
- F5** S. 590(3)(ba)(bb)(c) substituted for s. 590(3)(c) (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(3)** (with Sch. 10 para. 18(4)); S.I. 2000/1093, **art. 2**
- F6** Words in s. 590(3)(d) substituted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(4)(a)**; S.I. 2000/1093, **art. 2**
- F7** Words in s. 590(3)(d) substituted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(4)(b)**; S.I. 2000/1093, **art. 2**
- F8** S. 590(3)(e)-(h) substituted for words in s. 590(3) by Finance Act 1989 (c. 26), s. 75, Sch. 6 paras. 3(3), **18(2)** in respect of schemes not approved before 27 July 1989 (not applicable to certain employees of pre 14 March 1989 schemes). Previously: “ In paragraph (d) above “ the permitted maximum” means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury.”; and those words in s. 590(3) (as originally enacted) amended (6.4.2005) by **The Retirement Benefits Schemes (Increase in Permitted Maximum in Transitional Cases) Order 2005 (S.I. 2005/723)**, **art. 2**
- F9** S. 590(3)(da) inserted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(5)** (with Sch. 10 para. 18(5)); S.I. 2000/1093, **art. 2**
- F10** S. 590(3)(e)-(h) substituted for words in s. 590(3) by Finance Act 1989 (c. 26), s. 75, Sch. 6 paras. 3(3), **18(2)** in respect of schemes not approved before 27 July 1989 (not applicable to certain employees of pre 14 March 1989 schemes). Previously: "In paragraph (d) above "the permitted maximum" means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury."; and those words in s. 590(3) (as originally enacted) amended (6.4.2005) by **The Retirement Benefits Schemes (Increase in Permitted Maximum in Transitional Cases) Order 2005 (S.I. 2005/723)**, **art. 2**
- F11** S. 590(3A) inserted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(6)**; S.I. 2000/1093, **art. 2**

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- F12** Words in s. 590(4) substituted (with application in accordance with Sch 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(7)**; S.I. 2000/1093, **art. 2**
- F13** S. 590(4A) inserted by Finance Act 1991 (c. 31, SIF 63:1), **s. 34(3)(4)**
- F14** S. 590(4B)-(4F) inserted (with application in accordance with Sch. 10 para. 18(3)(4) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 2(8)**; S.I. 2000/1093, **art. 2**
- F15** S. 590(5)(6) repealed (*retrospectively*) by Finance Act 1991 (c. 31, SIF 63:1), ss. 36(2)(3), 123, **Sch. 19, Pt. V**, Note 8
- F16** 1989 s.75 and Sch.6 paras.3(4) and 18(3)—to have effect where a determination is made on or after 27 July 1989. *Previously*  
“(7) For the purpose of determining whether a retirement benefits scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions—(a) that scheme shall be considered in conjunction with any other retirement benefits scheme or schemes relating to employees of that class or description, and (b) if those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of each of them, but otherwise those conditions shall be taken to be satisfied in the case of none of them.”

#### Marginal Citations

- M1** Source-1970(F) s.19(1); 1971 s.21(2)
- M2** Source-1970(F) s.19(2)
- M3** Source-1970(F) s.19(2A), (2B); 1971 s.21(3); 1987 (No.2) Sch.3 1

#### [<sup>F17</sup>590A Section 590: supplementary provisions.

- (1) For the purposes of section 590(3)(e) and (f) two or more employments are relevant associated employments if they are employments in the case of which—
  - (a) there is a period during which the employee has held both or all of them,
  - (b) the period counts under the scheme in the case of both or all of them as a period in respect of which benefits are payable, and
  - (c) the period is one during which both or all of the employers in question are associated.
- (2) For the purposes of section 590(3)(g) and (h) the scheme is connected with another scheme in relation to an employee if—
  - (a) there is a period during which he has been the employee of two persons who are associated employers,
  - (b) the period counts under both schemes as a period in respect of which benefits are payable, and
  - (c) the period counts under one scheme by virtue of service with one employer and under the other scheme by virtue of service with the other employer.
- (3) For the purposes of subsections (1) and (2) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (4) In subsection (3) above the reference to control, in relation to a body corporate, shall be construed—
  - (a) where the body corporate is a close company, in accordance with section 416, and
  - (b) where it is not, in accordance with section 840.]

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#### Textual Amendments

F17 Ss. 590A-590C inserted by Finance Act 1989 (c. 26), s. 75, Sch. 6 paras. 4, 18(4)

### 590B Section 590: further supplementary provisions.

- (1) For the purposes of section 590(3)(e) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{AyC}{60}$$

- (2) For the purposes of section 590(3)(f) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3yAyC}{80}$$

- (3) For the purposes of section 590(3)(g) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{ByC}{60}$$

- (4) For the purposes of section 590(3)(h) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3yByC}{80}$$

- (5) For the purposes of this section A is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of the scheme at the time the benefits in respect of service in the employment become payable.
- (6) But where the same year (or part of a year) counts for the purposes of the scheme by virtue of more than one of the relevant associated employments it shall be counted only once in calculating the aggregate number of years service for the purposes of subsection (5) above.
- (7) For the purposes of this section B is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of any of the following—
- the scheme, and
  - the other scheme or schemes with which the scheme is connected in relation to him,

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at the time the benefits become payable.

- (8) But where the same year (or part of a year) counts for the purposes of more than one scheme it shall be counted only once in calculating the aggregate number of years service for the purpose of subsection (7) above.
- (9) For the purposes of this section C is the permitted maximum in relation to the year of assessment in which the benefits in question become payable, that is, the figure found for that year by virtue of subsections (10) and (11) below.
- (10) For the years 1988-89 and 1989-90 the figure is £60,000.
- (11) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [<sup>F18</sup>to (5A)].

#### Textual Amendments

**F18** Words in s. 590B(11) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

#### 590C Earnings cap.

- (1) In arriving at an employee's final remuneration for the purposes of section 590(3)(a) or (d), any excess of what would be his final remuneration (apart from this section) over the permitted maximum for the year of assessment in which his participation in the scheme ceases shall be disregarded.
- (2) In subsection (1) above "the permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the years 1988-89 and 1989-90 the figure is £60,000.
- (4) For any subsequent year of assessment the figure is also £60,000, subject to [<sup>F19</sup>subsections (5) and (5A)] below.
- (5) If the retail prices index for the month of [<sup>F20</sup>September] preceding a year of assessment falling within subsection (4) above is higher than it was for the previous [<sup>F20</sup>September], the figure for that year shall be an amount arrived at by—
  - (a) increasing the figure for the previous year of assessment by the same percentage as the percentage increase in the retail prices index, and
  - (b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.
- [<sup>F21</sup>(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment.]
- (6) The Treasury shall in the year of assessment 1989-90, and in each subsequent year of assessment, make an order specifying the figure which is by virtue of this section the figure for the following year of assessment.



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### Textual Amendments

- F19** Words in s. 590C(4) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(5)(8)
- F20** Word in s. 590C(5) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(4)(8)
- F21** S. 590C(5A) inserted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(5)(8)

### Modifications etc. (not altering text)

- C2** S. 590C amended (1990-91) by S.I. 1990/679, art. 2  
S. 590C amended (1991-92) by S.I. 1991/734, art. 2  
S. 590C amended (1992-93) by S.I. 1992/624, art. 2  
S. 590C amended (1993-94) by 1993 c. 34, s.106 (in place of S.I. 1993/757, art. 2)  
S. 590C amended (1994-95) by S.I. 1993/2950, art. 2  
S. 590C amended (1995-96) by S.I. 1994/3009, art. 2  
S. 590C amended (1996-97) by S.I. 1995/3034, art. 2  
S. 590C amended (1997-98) by S.I. 1996/2951, art. 2  
S. 590C amended (1998-99) by S.I. 1998/758, art. 2  
S. 590C amended (1999-2000) by S.I. 1999/592, art. 2  
S. 590C amended (2000-01) by S.I. 2000/807, art. 2  
S. 590C amended (2001-02) by S.I. 2001/637, art. 2  
S. 590C amended (2002-03) by S.I. 2002/700, art. 2  
S. 590C amended (2003-04) by S.I. 2003/843, art. 2  
S. 590C amended (2004-05) by S.I. 2004/773, art. 2  
S. 590C amended (2005-06) by S.I. 2005/720, art. 2
- C3** S. 590C(1) applied (31.3.1995) by Judicial Pensions and Retirement Act 1993 (c. 8), ss. 3(3)(a)(b), 31(2); S.I. 1995/631, art. 2

## 591 Discretionary approval.

- (1)<sup>M4</sup>The Board may, if they think fit having regard to the facts of a particular case, and subject to such conditions, if any, as they think proper to attach to the approval, approve a retirement benefits scheme for the purposes of this Chapter notwithstanding that it does not satisfy one or more of the prescribed conditions; but this subsection has effect subject to subsection (5) below.
- (2)<sup>M5</sup>The Board may in particular approve by virtue of this section a scheme—
- (a) which exceeds the limits imposed by the prescribed conditions as respects benefits for less than 40 years; or
  - (b) which provides pensions for the widows [<sup>F22</sup>and widowers] of employees on death in service, or for the children or dependants of employees; or
  - [<sup>F23</sup>(ba) which provides pensions for the widows and widowers of ex-spouses dying before the age at which their pensions become payable and for the children or dependants of ex-spouses; or]
  - (c) which provides on death in service a lump sum of up to four times the employee's final remuneration (exclusive of any refunds of contributions); or
  - (d) which allows benefits to be payable on retirement within ten years of the specified age, or on earlier incapacity; or
  - (e) which provides for the return in certain contingencies of employees' contributions; or

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- (f) which relates to a trade or undertaking carried on only partly in the United Kingdom and by a person not resident in the United Kingdom; or
  - (g) which provides in certain contingencies for securing relevant benefits [<sup>F24</sup> falling within subsection (2A) below] (but no other benefits) by means of an annuity contract <sup>F25</sup>. . . made with an insurance company of the employee's choice; or
  - (h) to which the employer is not a contributor and which provides benefits additional to those provided by a scheme to which he is a contributor.
- [<sup>F26</sup>(2A) Relevant benefits fall within this subsection if they correspond with benefits that could be provided by an approved scheme, and for this purpose—
- (a) a hypothetical scheme (rather than any particular scheme) is to be taken, and
  - (b) benefits provided by a scheme directly (rather than by means of an annuity contract) are to be taken.]
- [<sup>F27</sup>(3) In subsection (2)(g) above “insurance company” has the meaning given by section 659B.]
- (4) <sup>M6</sup>In applying this section to a scheme which was in existence on 6th April 1980, the Board shall exercise their discretion, in such cases as appear to them to be appropriate, so as to preserve—
- (a) benefits earned or rights arising out of service before 6th April 1980; and
  - (b) any rights to death-in-service benefits conferred by rules of the scheme in force on 26th February 1970.
- (5) <sup>M7</sup>The Board shall not approve a scheme by virtue of this section if to do so would be inconsistent with regulations made [<sup>F28</sup>by the Board] for the purposes of this section.
- (6) Regulations made [<sup>F28</sup>by the Board] for the purposes of this section may restrict the Board's discretion to approve a scheme by reference to the benefits provided by the scheme, the investments held for the purposes of the scheme, the manner in which the scheme is administered or any other circumstances whatever.

#### Textual Amendments

- F22** Words in s. 591(2)(b) inserted (27.7.1999) by [Finance Act 1999 \(c. 16\), Sch. 10 para. 3\(a\)](#)
- F23** S. 591(2)(ba) inserted (with application in accordance with [Sch. 10 para 18\(3\)\(4\)](#) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 10 para. 3\(b\)](#); S.I. 2000/1093, [art. 2](#)
- F24** Words in s. 591(2)(g) inserted (with application in accordance with [s. 107\(4\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 107\(2\)\(a\)](#)
- F25** Words in s. 591(2)(g) repealed (with application in accordance with [s. 107\(4\)](#) of the repealing Act) by [Finance Act 1994 \(c. 9\), s. 107\(2\)\(b\), Sch. 26 Pt. 5\(12\)](#), Note 2
- F26** S. 591A(2A) inserted (with application in accordance with [s. 107\(4\)](#) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 107\(3\)](#)
- F27** S. 591(3) substituted (with application in accordance with [s. 60\(1\)](#) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 59\(2\)](#)
- F28** 1988(F) s.146 and Sch.13 para.6 (*deemed always to have had effect*). And see S.I. 1987 No.412 (in Part III Vol.5) regn.2— “*The Pension Scheme Surpluses (Valuation) Regulations 1989*”.

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

- C4** S. 591 restricted (5.8.1991) by [S.I. 1991/1614, reg. 3](#)

*Status: Point in time view as at 31/12/2004.*

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#### Marginal Citations

- M4** Source-1970(F) s.20(1); 1987 (No.2) Sch.3 3(2)  
**M5** Source-1970(F) s.20(2); 1971 s.21(4); 1981 s.32; 1987 (No.2) Sch.3 3(3), (4)  
**M6** Source-1970(F) s.20(3); 1987 Sch.15 3  
**M7** Source-1970(F) s.20(4), (5); 1987 (No.2) Sch.3 3(5)

#### [591A <sup>F29</sup>Effect on approved schemes of regulations under section 591.

- (1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 (“section 591 regulations”) which contain provisions restricting the Board’s discretion to approve a retirement benefits scheme by reference to any circumstances other than the benefits provided by the scheme (“relevant provisions”).
- (2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—
  - (a) contains a provision of a prohibited description, or
  - (b) does not contain a provision of a required description,unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.
- (3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.
- (4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.
- (5) In this section—
  - (a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;
  - (b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591.]

#### Textual Amendments

- F29** S. 591A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), [s.35](#)

*Status: Point in time view as at 31/12/2004.*

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

- C5** S. 591A(2) disappplied (30.7.1999) by [The Retirement Benefits Schemes \(Restriction on Discretion to Approve\) \(Additional Voluntary Contributions\) \(Amendment\) Regulations 1999 \(S.I. 1999/1964\)](#), [regs. 1, 6](#)

**[591B** <sup>F30</sup>**Cessation of approval: general provisions.**

- (1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.
- (2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—
  - (a) the alteration has been approved by the Board, or
  - (b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class.]

**Textual Amendments**

- F30** S. 591B inserted (retrospectively) by [Finance Act 1991 \(c. 31\)](#), [s. 36\(1\)\(3\)](#)

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

- C6** S. 591B modified (6.4.1996 for specified purposes and 6.4.1997 otherwise) by [Pensions Act 1995 \(c. 26\)](#), [ss. 68\(5\)](#), [s. 180\(1\)](#); [S.I. 1996/778](#), [art. 2\(5\)\(a\)](#), [Sch. Pt. 5](#); [S.I. 1997/664](#), [art. 2\(3\)](#), [Sch. Pt. 2](#)

**[**<sup>F31</sup>**591C****Cessation of approval: tax on certain schemes.**

- (1) Where an approval of a scheme to which this section applies ceases to have effect [<sup>F32</sup>otherwise than by virtue of paragraph 3(2)(a) of Schedule 23ZA], tax shall be charged in accordance with this section.
- (2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value of the assets which immediately before the date of the cessation of the approval of the scheme are held for the purposes of the scheme (taking that value as it stands immediately before that date).
- (3) Subject to section 591D(4), the person liable for the tax shall be the administrator of the scheme <sup>F33</sup> . . . .
- (4) This section applies to a retirement benefits scheme in respect of which [<sup>F34</sup>one or more] of the conditions set out below is satisfied.
- (5) The first condition is satisfied in respect of a scheme if, immediately before the date of the cessation of the approval of the scheme, the number of individuals who are members of the scheme is less than twelve.

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(6) The second condition is satisfied in respect of a scheme if at any time within the period of one year ending with the date of the cessation of the approval of the scheme, a person who is or has been a controlling director of a company which has contributed to the scheme is a member of the scheme.

[ The third condition is satisfied in respect of a scheme if—

- <sup>F35</sup>(6A) (a) at any time within the period of three years ending with the date of the cessation of the approval of the scheme, the scheme has received a transfer value in respect of any person;
- (b) contributions made by or in respect of that person to any approved pension arrangements (whether or not those from which the transfer value was received) were represented in the transfer value; and
- (c) the contributions so represented were made by or in respect of that person by reference to—
- (i) any service by him with a company of which he is or has at any time been a controlling director;
  - (ii) any remuneration in respect of any such service; or
  - (iii) any income chargeable to tax under Schedule D and immediately derived by him from the carrying on or exercise by him (whether as an individual or in partnership with others) of a trade, profession or vocation.]

(7) For the purposes of [<sup>F36</sup>this section] a person is a controlling director of a company if he is a director of it and within section 417(5)(b) in relation to it.

[ In subsection (6A) above—

- <sup>F37</sup>(8) (a) the references to the receipt of a transfer value by a scheme are references to the transfer, so as to become held for the purposes of the scheme, of any sum or asset held for the purposes of any other approved pension arrangements; and
- (b) the references to contributions to approved pension arrangements include references to—
- (i) any contributions made in accordance with, or for the purposes of, the arrangements; and
  - (ii) anything paid by way of premium or other consideration under an annuity contract for which the arrangements provide.

(9) In this section “approved pension arrangements” means—

- (a) any scheme or arrangements approved for the purposes of this Chapter or Chapter IV of this Part or, in relation to a time before 6th April 1988, the corresponding provisions then in force;
- (b) any scheme being considered for approval under this Chapter;
- (c) any annuity contract entered into for the purposes of any scheme or arrangements falling within paragraph (a) or (b) above; or
- (d) any contract or scheme approved for the purposes of Chapter III of this Part or, in relation to a time before 6th April 1988, the corresponding provisions then in force.]]

#### Textual Amendments

**F31** Ss. 591C, 591D inserted (with effect in accordance with s. 61(3) of the amending Act) by Finance Act 1995 (c. 4), s. 61(1)

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- F32** Words in s. 591C(1) inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 3(2)** (with Sch. 13 Pt. 2)
- F33** Words in s. 591C(3) repealed (31.7.1998) by Finance Act 1998 (c. 36), **Sch. 27 Pt. 3(20)**
- F34** Words in s. 591C(4) substituted (with effect in accordance with Sch. 15 para. 1(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 15 para 1(2)**
- F35** S. 591C(6A) inserted (with effect in accordance with Sch. 15 para. 1(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 15 para. 1(3)**
- F36** Words in s. 591C(7) substituted (with effect in accordance with Sch. 15 para. 1(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 15 para. 1(4)**
- F37** S. 591C(8)(9) inserted (with effect in accordance with Sch. 15 para. 1(6) of the amending Act) by Finance Act 1998 (c. 36), **Sch. 15 para. 1(5)**

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

- C7** S. 591C applied by Taxation of Chargeable Gains Act 1992 (c. 12), **s. 239A** (as inserted (with effect in accordance with **s. 61(3)** of the amending Act) by Finance Act 1995 (c. 4), s. 61(2))

**[<sup>F31</sup>591DSection 591C: supplementary.**

- (1) For the purposes of section 591C(2) the value of an asset is, subject to subsection (2) below, its market value, construing “market value” in accordance with section 272 of the 1992 Act.
- (2) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (3) below, the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.
- (3) The persons are—
  - (a) any employer who has at any time contributed to the scheme;
  - (b) any company connected with such an employer;
  - <sup>F38</sup>(c) any person who has at any time (whether or not before the making of the loan) been a member of the scheme;
  - (d) any person connected, at the time of the making of the loan or subsequently, with a person falling within paragraph (c) above.]
- (4) Where the administrator of the scheme is constituted by persons who include a person who is an approved independent trustee in relation to a scheme, that person shall not be liable for tax chargeable by virtue of section 591C.
- (5) A person is an approved independent trustee in relation to a scheme only if he is—
  - (a) approved by the Board to act as a trustee of the scheme; and
  - (b) not connected with—
    - (i) a member of the scheme;
    - (ii) any other trustee of the scheme; or
    - (iii) an employer who has contributed to the scheme.
- (6) <sup>F39</sup>.....
- (7) The reference in section 591C(1) to an approval of a scheme ceasing to have effect is a reference to—
  - (a) the scheme ceasing to be an approved scheme by virtue of section 591A(2);
  - (b) the approval of the scheme being withdrawn under section 591B(1); or

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- (c) the approval of the scheme no longer applying by virtue of section 591B(2); and any reference in section 591C to the date of the cessation of the approval of the scheme shall be construed accordingly.
- (8) For the purposes of section 591C and this section a person is a member of a scheme at a particular time if at that time a benefit—
- (a) is being provided under the scheme, or
  - (b) may be so provided,
- in respect of any past or present employment of his.
- (9) Section 839 shall apply for the purposes of this section.]

#### Textual Amendments

- F31** Ss. 591C, 591D inserted (with effect in accordance with s. 61(3) of the amending Act) by Finance Act 1995 (c. 4), s. 61(1)
- F38** S. 591D(3)(c)(d) substituted (with effect in accordance with Sch. 15 para. 2(2) of the amending Act) by Finance Act 1998 (c. 36), Sch. 15 para. 2(1)
- F39** S. 591D(6) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 71, Sch. 8 Pt. 1 (with Sch. 7)

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

- C8** S. 591D(5) applied (31.7.1998) by Finance Act 1998 (c. 36), Sch. 15 para. 7(5)

### Tax reliefs

#### 592 Exempt approved schemes.

- <sup>M8</sup>(1) This section has effect as respects—
- (a) any approved scheme which is shown to the satisfaction of the Board to be established under irrevocable trusts; or
  - (b) any other approved scheme as respects which the Board, having regard to any special circumstances, direct that this section shall apply;
- and any scheme which is for the time being within paragraph (a) or (b) above is in this Chapter referred to as an “exempt approved scheme”.
- (2) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits if, or to such extent as the Board are satisfied that, it is income from investments or deposits held for the purposes of the scheme.
- (3) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of underwriting commissions if, or to such extent as the Board are satisfied that, the underwriting commissions are applied for the purposes of the schemes and would, but for this subsection, be chargeable to tax under Case VI of Schedule D.
- [<sup>F40</sup>(4) Where the employer makes contributions to the pension scheme in respect of any individual, then—
- (a) for the purposes of Case I or II of Schedule D the contributions—
    - (i) are to be treated as not being payments of a capital nature, to the extent that they otherwise would be,

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- (ii) are allowed as a deduction in computing the amount of the profits for the period of account in which they are paid:
  - (b) for the purposes of section 75 (expenses of management: companies with investment business) the contributions —
    - (i) are to be treated as being expenses of management to the extent that they otherwise would not be; and
    - (ii) are referable to the accounting period in which they are paid;
  - (c) for the purposes of section 76 (expenses of insurance companies), the contributions—
    - (i) are to be brought into account at Step 1 in subsection (7) of that section, to the extent that they otherwise would not be; and
    - (ii) are referable to the accounting period in which they are paid.]
- (5) The amount of an employer’s contributions which may—
- [<sup>F41</sup>(a) be deducted under paragraph (a) of subsection (4) above,
  - (b) be deductible under paragraph (b) of that subsection, or
  - (c) be included at Step 1 in section 76(7),]
- shall not exceed the amount contributed by him under the scheme in respect of employees in a trade or undertaking in respect of the profits of which the employer is assessable to tax (that is to say, to United Kingdom income tax or corporation tax).
- [<sup>F42</sup>(6) A sum not paid by ordinary way of annual contribution shall for the purposes of subsection (4) above be treated, as the Board may direct, either—
- (a) as an expense deductible for the chargeable period in which the sum is paid,
  - (b) as expenses of management deductible under section 75 for that chargeable period, or
  - (c) for the purposes of section 76, as expenses payable referable to that chargeable period,
- or as an expense to be spread over such period of years as the Board think proper.]
- [<sup>F43</sup>(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the <sup>M9</sup>Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the <sup>M10</sup>Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—
- (a) shall be treated for the purposes of this section as an employer’s contribution under the scheme; and
  - (b) notwithstanding (where it is the case) that the employer’s trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on.]
- [<sup>F44</sup>(7) Any contribution paid under the scheme shall be allowed to be deducted from employment income for the year of assessment in which the contribution is paid.
- A deduction under this subsection may only be made once in respect of the same contribution.]



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(8) [<sup>F45</sup>Subject to subsection (8A) below,] the amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by an employee in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.

[<sup>F46</sup>(8A) Where an employee’s remuneration for a year of assessment includes remuneration in respect of more than one employment, the amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by the employee in that year by virtue of any employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that employment.

(8B) In arriving at an employee’s remuneration for a year of assessment for the purposes of subsection (8) or (8A) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.

(8C) In subsection (8B) above “permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of subsections (8D) and (8E) below.

(8D) For the year 1989-90 the figure is £60,000.

(8E) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [<sup>F47</sup>to (5A)].]

(9) Relief shall not be given under section 266 or 273 in respect of any payment in respect of which an allowance can be made under subsection (7) above.

(10) Subsection (2) of section 468 and subsection (3) of section 469 shall not apply to any authorised unit trust which is also an exempt approved scheme if the employer is not a contributor to the exempt approved scheme and that scheme provides benefits additional to those provided by another exempt approved scheme to which he is a contributor.

(11) Nothing in this section shall be construed as affording relief in respect of any sums to be brought into account under section 438.

(12) This section has effect only as respects income arising or contributions paid at a time when the scheme is an exempt approved scheme.

#### Textual Amendments

**F40** S. 592(4) substituted (31.12.2004 with effect in accordance with art. 1 of the amending S.I.) by The Finance Act 2004, Sections 38 to 45 and Schedule 6 (Consequential Amendment of Enactments No. 2) Order 2004 (S.I. 2004/3269), art. 2(2)

**F41** S. 592(5)(a)-(c) substituted for words in s. 592(5) (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 30(3)

**F42** S. 592(6) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), Sch. para. 30(4)

**F43** S. 592(6A) inserted (with effect as mentioned in s. 112 of the amending Act) by Finance Act 1993 (c. 34), s. 112(6)

*Status: Point in time view as at 31/12/2004.*

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- F44** S. 592(7) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 72](#) (with Sch. 7)
- F45** 1989 s.75 and Sch.6 paras.5(2), (3) and 18(4) for 1989-90 and subsequent years.
- F46** 1989 s.75 and Sch.6 paras.5(4) and 18(4) for 1989-90 and subsequent years. Subs.(8B) to (8E) do not have effect as regards such remuneration as may be prescribed by regulations—for which see Part III Vol.5 (under “Retirement benefit schemes: tax relief for contributions”).
- F47** Words in s. 592(8E) substituted (with effect for the year 1994-95 and subsequent years of assessment) by [Finance Act 1993 \(c. 34\), s. 107\(6\)\(8\)](#)

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

- C9** See 1990 s.56 and Sch.10 para.22—convertible securities relieved of charge if held for purposes of exempt approved schemes.

**Marginal Citations**

- M8** Source-1970(F) s.21(1)-(9); 1971 s.21(5); 1987 (No.2) Sch.3 4, 5
- M9** 1975 c. 60.
- M10** S.I. 1975/1503 (N.I. 15).

**593 Relief by way of deductions from contributions.**

- <sup>M11</sup>(1) Relief under section 592(7) shall be given in accordance with subsections (2) and (3) below in such cases and subject to such conditions as the Board may prescribe by regulations under section 612(3) in respect of schemes—
- (a) to which employees, but not their employers, are contributors; and
  - (b) which provide benefits additional to benefits provided by schemes to which their employers are contributors.
- (2) An employee who is entitled to relief under section 592(7) 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 administrator of the scheme—
- (a) shall accept the amount paid after the deduction in discharge of the employee’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.
- (4) Regulations under subsection (3) of section 612 may, without prejudice to the generality of that subsection—
- (a) provide for the manner in which claims for the recovery of a sum under subsection (3)(b) above 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.

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

- C10** See S.I. 1987 No.1749 (in Part III Vol.5).
- C11** See S.I. 1987 No.1749 (in Part III Vol.5).

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### Marginal Citations

M11 Source-1970(F) Sch.5 Part II 6A; 1987 (No.2) Sch.3 12

## 594 Exempt statutory schemes.

<sup>M12</sup>(1) Any contribution paid by any officer or employee under a [<sup>F48</sup>relevant] statutory scheme established under a public general Act [<sup>F49</sup>shall be allowed to be deducted from employment income for] the year of assessment in which the contribution is paid; and relief shall not be given under section 266 or 273 in respect of any contribution allowable as a deduction under this section.

[<sup>F50</sup>A deduction under this section may only be made once in respect of the same contribution.]

(2) [<sup>F51</sup>Subject to subsection (3) below,] the amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by a person in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.

[<sup>F52</sup>(3) Where a person's remuneration for a year of assessment includes remuneration in respect of more than one office or employment, the amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by the person in that year by virtue of any office or employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that office or employment.

(4) In arriving at a person's remuneration for a year of assessment for the purposes of subsection (2) or (3) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.

(5) In subsection (4) above "permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (6) and (7) below.

(6) For the year 1989-90 the figure is £60,000.

(7) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [<sup>F53</sup>to (5A)].]

### Textual Amendments

**F48** 1989 s.75 and Sch.6 paras.6(2) and 18(1) on and after 14 March 1989.

**F49** Words in s. 594(1) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by *Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 73(a)* (with Sch. 7)

**F50** Words in s. 594(1) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by *Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 73(b)* (with Sch. 7)

**F51** 1989 s.75 and Sch.6 paras.6(3) and 18(4) for 1989-90 and subsequent years.

**F52** 1989 s.75 and Sch.6 paras.6(4)(5) and 18(4) for 1989-90 and subsequent years. Subss.(4) to (7) do not have effect as regards such remuneration as may be prescribed by regulations.

**F53** Words in s. 594(7) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

*Status: Point in time view as at 31/12/2004.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

**C12** S. 594 applied (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#), **ss. 10(4)(b)(ii)**, 31(2); S.I. 1995/631, **art. 2**

**Marginal Citations**

**M12** Source-1970(F) s.22; 1972 s.74(3); 1987 (No.2) Sch.3 6

*Charge to tax in certain cases*

**595 Charge to tax in respect of certain sums paid by employer etc.**

**F54** . . . . .

**Textual Amendments**

**F54** Ss. 595, 596 repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 74, **Sch. 8 Pt. 1** (with Sch. 7)

**596 Exceptions from section 595.**

**F55** . . . . .

**Textual Amendments**

**F55** Ss. 595, 596 repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 74, **Sch. 8 Pt. 1** (with Sch. 7)

**[<sup>F56</sup>596A Charge to tax: benefits under non-approved schemes.**

**F57** . . . . . ]

**Textual Amendments**

**F56** Ss. 596A, 596B inserted (with effect in accordance with [Sch. 6 para. 18\(7\)](#) of the amending Act) by [Finance Act 1989 \(c. 26\)](#), **Sch. 6 para. 9**

**F57** Ss. 596A-596C repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 75, **Sch. 8 Pt. 1** (with Sch. 7)

**[<sup>F58</sup>596B Section 596A: supplementary provisions.**

**F59** . . . . . ]

**Textual Amendments**

**F58** Ss. 596A, 596B inserted (with effect in accordance with [Sch. 6 para. 18\(7\)](#) of the amending Act) by [Finance Act 1989 \(c. 26\)](#), **Sch. 6 para. 9**

*Status: Point in time view as at 31/12/2004.*

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**F59** Ss. 596A-596C repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 75, **Sch. 8 Pt. 1** (with Sch. 7)

**[<sup>F60</sup>596C Notional interest treated as paid if amount charged in respect of beneficial loan.**

<sup>F61</sup> .....

**Textual Amendments**

**F60** S. 596C inserted (with effect in accordance with s. 93(4) of the amending Act) by Finance Act 1998 (c. 36), s. 93(3)

**F61** Ss. 596A-596C repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 75, **Sch. 8 Pt. 1** (with Sch. 7)

**597 Charge to tax: pensions.**

<sup>F62</sup> .....

**Textual Amendments**

**F62** S. 597 repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 76, **Sch. 8 Pt. 1** (with Sch. 7)

**598 Charge to tax: repayment of employee's contributions.**

<sup>M13</sup>(1) Subject to the provisions of this section, tax shall be charged under this section on any repayment to an employee during his lifetime of any contributions (including interest on contributions, if any) if the payment is made under—

- (a) a scheme which is or has at any time been an exempt approved scheme, or
- (b) a [<sup>F63</sup>relevant] statutory scheme established under a public general Act.

(2) Where any payment is chargeable to tax under this section, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 10 per cent.

(3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.

(4) The tax shall be charged on the amount paid or, if the rules permit the administrator to deduct the tax before payment, on the amount before deduction of tax, and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.

(5) Subsection (1)(a) above shall not apply in relation to a contribution made after the scheme ceases to be an exempt approved scheme (unless it again becomes an exempt approved scheme).

(6) This section shall not apply where the employee's employment was carried on outside the United Kingdom.

(7) In relation to a statutory scheme, "employee" in this section includes any officer.

*Status: Point in time view as at 31/12/2004.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F63** 1989 s.75 and Sch.6 paras.10 and 18(1) on and after 14 March 1989.

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

**C13** 20 per cent. on and after 6 April 1988—see S.I. 1988 No.504 in Part III Vol.5

#### Marginal Citations

**M13** Source-1970(F) Sch.5 Part II 2, 3; 1971 Sch.3 7; 1987 (No.2) Sch.3 9

### 599 Charge to tax: commutation of entire pension in special circumstances.

<sup>M14</sup>(1) [<sup>F64</sup>Subject to subsection (1A) below,] where a scheme to which this section applies contains a rule allowing, in special circumstances, a payment in commutation of an employee's entire pension, and any pension is commuted, whether wholly or not, under the rule, tax shall be charged on the amount by which the sum receivable exceeds—

- (a) the largest sum which would have been receivable in commutation of any part of the pension if the scheme had secured that the aggregate value of the relevant benefits payable to an employee on or after retirement, excluding any pension which was not commutable, could not exceed three-eighths of his final remuneration (disregarding any excess of that remuneration over the permitted maximum) for each year of service up to a maximum of 40; or
- (b) the largest sum which would have been receivable in commutation of any part of the pension under any rule of the scheme authorising the commutation of part (but not the whole) of the pension, or which would have been so receivable but for those special circumstances;

whichever gives the lesser amount chargeable to tax.

[<sup>F65</sup>(1A) Subsection (1) above shall have effect in relation to the commutation of the whole or any part of a pension the amount of which has been affected by the making of any pension sharing order or provision as if paragraph (a) and the words after paragraph (b) were omitted.

(1B) Where—

- (a) a scheme to which this section applies contains a rule allowing, in special circumstances, a payment in commutation of the entire pension provided under the scheme for an ex-spouse, and
- (b) any pension is commuted, whether wholly or not, under the rule,

tax shall be charged on the amount by which the sum receivable exceeds the largest sum which would have been receivable in commutation of any part of the pension under any rule of the scheme authorising the commutation of a part (but not the whole) of the pension.

(1C) A pension provided for an ex-spouse shall be disregarded when applying subsection (1) above in relation to the commutation of any pension provided for an employee.

(1D) A pension provided for an employee shall be disregarded when applying subsection (1B) above in relation to the commutation of any pension provided for an ex-spouse.

*Status: Point in time view as at 31/12/2004.*

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- (1E) Subsections (4B) and (4C) of section 590 apply for the purposes of subsections (1C) and (1D) above as they apply for the purposes of that section.]
- (2) This section applies to—
- (a) a scheme which is or has at any time been an approved scheme, or
  - (b) a [<sup>F66</sup>relevant] statutory scheme established under a public general Act.
- (3) Where any amount is chargeable to tax under this section the administrator of the scheme shall be charged to income tax under Case VI of Schedule D on that amount, and section 598(2), (3) and (4) shall apply as they apply to tax chargeable under that section.
- (4) This section shall not apply where the employee’s employment was carried on outside the United Kingdom.
- (5) In relation to a statutory scheme, “employee” in this section includes any officer.
- (6) In applying paragraph (a) or (b) of subsection (1) above [<sup>F67</sup>, or in applying subsection (1B) above]—
- (a) the same considerations shall be taken into account, including the provisions of any other relevant scheme, as would have been taken into account by the Board in applying section 590; and
  - (b) where the scheme has ceased to be an approved scheme, account shall only be taken of the rules in force when the scheme was last an approved scheme.
- (7) Where the pension has been secured by means of an annuity contract with an insurance company and the sum receivable is payable under that contract by the insurance company, the references to the administrator of the scheme in subsection (3) above and in section 598(2) and (4) as applied by that subsection are to be read as references to the insurance company.
- [<sup>F68</sup>(8) In subsection (7) above “insurance company” has the meaning given by section 659B.]
- (9) In relation to payments made under schemes approved or established before 17th March 1987 to employees who became members before that date, subsection (1)(a) above shall have effect with the omission of the words “(disregarding any excess of that remuneration over the permitted maximum)”.
- [<sup>F69</sup>(10) In subsection (1)(a) above “the permitted maximum” means, as regards a charge to tax arising under this section in a particular year of assessment, the figure found for that year by virtue of subsections (11) and (12) below.
- (11) For the years 1988-89 and 1989-90 the figure is £60,000.
- (12) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [<sup>F70</sup>to (5A)].]

#### Textual Amendments

- F64** Words in s. 599(1) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 7(1)
- F65** S. 599(1A)-(1E) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 7(1)
- F66** 1989 s.75 and Sch.6 paras.11(2) and 18(1) on and after 14 March 1989.
- F67** Words in s. 599(6) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 7(2)
- F68** S. 599(8) substituted (with application in accordance with s. 60(2) of the amending Act) by Finance Act 1995 (c. 4), s. 59(3)

*Status: Point in time view as at 31/12/2004.*

**Changes to legislation:** *Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F69** 1989 s.75 and Sch.6 paras.11(3) and 18(8) where the charge to tax under s.559 arises on or after 14 March 1989 except where the scheme came into being before that date and the employee became a member before 1 June 1989.
- F70** Words in s. 599(12) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

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

- C14** S. 599 applied (1.4.1998) by [The Local Government Pension Scheme \(Scotland\) Regulations 1998 \(S.I. 1998/366\)](#), [regs. 1, 48\(8\), 49\(3\)](#)

**Marginal Citations**

- M14** Source-1970(F) Sch.5 Part II 2, 3; 1971 Sch.3 7; 197 (No.2) Sch.3 9

**[<sup>F71</sup>599A Charge to tax: payments out of surplus funds.**

- (1) This subsection applies to any payment which is made to or for the benefit of an employee or to his personal representatives out of funds which are or have been held for the purposes of—
  - (a) a scheme which is or has at any time been an exempt approved scheme, or
  - (b) a relevant statutory scheme established under a public general Act, and which is made in pursuance of a duty to return surplus funds.
- (2) On the making of a payment to which subsection (1) above applies, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D at the relevant rate on such amount as, after deduction of tax at that rate, would equal the amount of the payment.
- (3) Subject to subsection (4) below, the relevant rate shall be 35 per cent.
- (4) The Treasury may by order from time to time increase or decrease the relevant rate.
- (5) <sup>F72</sup> .....
- (6) <sup>F72</sup> .....
- (7) <sup>F73</sup> .....
- (8) <sup>F72</sup> .....
- (9) Any payment chargeable to tax under this section shall not be chargeable to tax under section 598, 599 or 600 or under the Regulations mentioned in paragraph 8 of Schedule 3 to the Finance Act 1971.
- (10) In this section—
 

“employee”, in relation to a relevant statutory scheme, includes any officer; references to any payment include references to any transfer of assets or other transfer of money’s worth.]

**Textual Amendments**

- F71** 1989 s.75 and Sch.6 paras.12 and 18(9) in relation to payments made on or after 27 July 1989.
- F72** S. 599A(5)(6)(8) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 77, [Sch. 8 Pt. 1](#) (with Sch. 7)



*Status: Point in time view as at 31/12/2004.*

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**F73** S. 599A(7) repealed (with effect in accordance with s. 121(8) of the repealing Act) by [Finance Act 1996 \(c. 8\)](#), s. 122(7)(c), [Sch. 41 Pt. 5\(6\)](#), Note 3

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

**C15** S. 599A(2) modified (6.4.2000) by [The Income Tax \(Charge to Tax\) \(Payments out of Surplus Funds\) \(Relevant Rate\) Order 2000 \(S.I. 2000/600\)](#), [art. 2](#)

**600 Charge to tax: unauthorised payments to or for employees.**

**F74** .....

**Textual Amendments**

**F74** S. 600 repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 78](#), [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**601 Charge to tax: payments to employers.**

<sup>M15</sup>(1) Subsection (2) below applies where a payment is made to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme and whether or not the payment is made in pursuance of Schedule 22.

(2) An amount equal to [<sup>F75</sup>the relevant percentage of the payment] shall be recoverable by the Board from the employer.

[<sup>F76</sup>(2A) The relevant percentage is 35% or such other percentage (whether higher or lower) as may be prescribed.]

(3) Subsection (2) above does not apply to any payment—

- (a) to the extent that, if this section had not been enacted, the employer would have been exempt, or entitled to claim exemption, from income tax or corporation tax in respect of the payment; or
- (b) made before the scheme became an exempt approved scheme; or
- (c) of any prescribed description; or
- (d) made in pursuance of the winding-up of the scheme where the winding-up commenced on or before 18th March 1986; or
- (e) made in pursuance of an application which—
  - (i) was made to the Board on or before that date and was not withdrawn before the making of the payment, and
  - (ii) sought the Board's assurance that the payment would not lead to a withdrawal of approval under section 19(3) of the Finance Act 1970;

(4) Subsection (2) above does not apply where the employer is a charity (within the meaning of section 506).

(5) Where any payment is made or becomes due to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme then—

- (a) if the scheme relates to a trade, profession or vocation carried on by the employer, the payment shall be treated for the purposes of the Tax Acts as a

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receipt of that trade, profession or vocation receivable when the payment falls due or on the last day on which the trade, profession or vocation is carried on by the employer, whichever is the earlier;

- (b) if the scheme does not relate to such a trade, profession or vocation, the employer shall be charged to tax on the amount of the payment under Case VI of Schedule D.

This subsection shall not apply to a payment which fell due before the scheme became an exempt approved scheme or to a payment to which subsection (2) above applies or would apply but for subsection (3)(a) or (4) above.

(6) In this section—

- (a) references to any payment include references to any transfer of assets or other transfer of money's worth; and
- (b) “prescribed” means prescribed by regulations made by the Treasury.

#### **Textual Amendments**

**F75** Words in s. 601(2) substituted (with application in accordance with s. 74(4) of the amending Act) by Finance Act 2001 (c. 9), s. 74(2)

**F76** S. 601(2A) inserted (with application in accordance with s. 74(4) of the amending Act) by Finance Act 2001 (c. 9), s. 74(3)

#### **Marginal Citations**

**M15** Source-1986 Sch.12 1; 1970(F) Sch.5 Part II 4; 1971 Sch.3 12(5)

## **602 Regulations relating to pension fund surpluses.**

<sup>M16</sup>(1) In relation to an amount recoverable as mentioned in section 601(2), the Treasury may by regulations make any of the provisions mentioned in subsection (2) below; and for this purpose the amount shall be treated as if it were—

- (a) an amount of income tax chargeable on the employer under Case VI of Schedule D for the year of assessment in which the payment is made; or
- (b) where the employer is a company, an amount of corporation tax chargeable on the company for the accounting period in which the payment is made.

(2) The provisions are—

- (a) provision requiring the administrator of the scheme or the employer (or both) to furnish to the Board, in respect of the amount recoverable and of the payment concerned, information of a prescribed kind;
- (b) provision enabling the Board to serve a notice or notices requiring the administrator or employer (or both) to furnish to the Board, in respect of the amount and payment, particulars of a prescribed kind;
- (c) provision requiring the administrator to deduct out of the payment the amount recoverable and to account to the Board for it;
- (d) provision as to circumstances in which the employer may be assessed in respect of the amount recoverable;
- (e) provision that, in a case where the employer has been assessed in respect of an amount recoverable but has not paid it (or part of it) within a prescribed period, the administrator may be assessed and charged (in the employer's name) in respect of the amount (or part unpaid);

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- (f) provision that, in a case where the amount recoverable (or part of it) has been recovered from the administrator by virtue of an assessment in the employer's name, the administrator is entitled to recover from the employer a sum equal to the amount (or part);
  - (g) provision enabling the employer or administrator (as the case may be) to appeal against an assessment made on him in respect of the amount recoverable;
  - (h) provision as to when any sum in respect of the amount recoverable is payable to the Board by the administrator or employer and provision requiring interest to be paid on any sum so payable;
  - (j) provision that an amount paid to the Board by the administrator shall be treated as paid on account of the employer's liability under section 601(2).
- (3) For the purpose of giving effect to any provision mentioned in subsection (2)(c) to (j) above, regulations under this section may include provision applying (with or without modifications) provisions of the enactments relating to income tax and corporation tax.
- (4) Subject to any provision of regulations under this section—
- (a) a payment to which section 601(2) applies shall not be treated as a profit or gain brought into charge to income tax or corporation tax and shall not be treated as part of the employer's income for any purpose of this Act; and
  - (b) the amount recoverable shall not be subject to any exemption or reduction (by way of relief, set-off or otherwise) or be available for set-off against other tax.
- (5) If the employer is a company and a payment to which section 601(1) and (2) applies is made at a time not otherwise within an accounting period of the company, an accounting period of the company shall for the purposes of subsection (1)(b) above be treated as beginning immediately before the payment is made.

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

**C16** For regulations see Part III Vol.5 (under "Pension Schemes Surpluses: administration").

**Marginal Citations**

**M16** Source-1986 Sch.12 2(1), (i), (2), (4)-(6)

**603 Reduction of surpluses.**

Schedule 22 (which provides for the reduction of certain pension fund surpluses) shall have effect.

*Supplementary provisions*

**604 Application for approval of a scheme.**

<sup>M17</sup>(1) An application for the approval for the purposes of this Chapter of any retirement benefits scheme shall be made in writing by [<sup>F77</sup>the appropriate applicant] to the Board before the end of the first year of assessment for which approval is required, and shall be accompanied by—

- (a) two copies of the instrument or other document constituting the scheme; and

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- (b) two copies of the rules of the scheme and, except where the application is being sought on the setting up of the scheme, two copies of the accounts of the scheme for the last year for which such accounts have been made up; and
- (c) such other information and particulars (including copies of any actuarial report or advice given to the [<sup>F78</sup>appropriate applicant,] administrator or employer in connection with the setting up of the scheme) as the Board may consider relevant.

[<sup>F79</sup>(1A) In subsection (1) above “the appropriate applicant” means—

- (a) in the case of a trust scheme, the trustee or trustees of the scheme; and
  - (b) in the case of a non-trust scheme, the scheme sponsor or scheme sponsors;
- and subsection (9) of section 611AA applies for the purposes of this subsection as it applies for the purposes of that section.]

(2) The form in which an application for approval is to be made, or in which any information is to be given, in pursuance of this section may be prescribed by the Board.

#### Textual Amendments

- F77** Words in s. 604(1) substituted (with effect in accordance with Sch. 15 para. 3(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 15 para. 3(1)(a)
- F78** Words in s. 604(1)(c) inserted (with effect in accordance with Sch. 15 para. 3(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 15 para. 3(1)(b)
- F79** S. 604(1A) inserted (with effect in accordance with Sch. 15 para. 3(3) of the amending Act) by Finance Act 1998 (c. 36), Sch. 15 para. 3(2)

#### Marginal Citations

- M17** Source-1970(F) Sch.5 Part II 6, 7, 8, 9; 1987 (No.2), Sch.3 11, 13-15

## 605 Information.

<sup>M18</sup>(1) <sup>F80</sup> .....

[<sup>F81</sup>(1A) The Board may by regulations make any of the following provisions—

- (a) provision requiring prescribed persons to furnish to the Board at prescribed times information relating to any of the matters mentioned in subsection (1B) below;
- (b) provision enabling the Board to serve a notice requiring prescribed persons to furnish to the Board, within a prescribed time, particulars relating to any of those matters;
- (c) provision enabling the Board to serve a notice requiring prescribed persons to produce to the Board, within a prescribed time, documents relating to any of those matters;
- (d) provision enabling the Board to serve a notice requiring prescribed persons to make available for inspection on behalf of the Board books, documents and other records, being books, documents and records which relate to any of those matters;
- (e) provision requiring prescribed persons to preserve for a prescribed time books, documents and other records, being books, documents and records which relate to any of those matters.

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- (1B) The matters referred to in subsection (1A) above are—
- <sup>F82</sup>(a) a scheme which is or has been an approved scheme;
  - (b) a relevant statutory scheme;
  - (c) an annuity contract by means of which benefits provided under an approved scheme or a relevant statutory scheme have been secured;
  - (d) a retirement benefits scheme which is not an approved scheme but in relation to which an application for approval for the purposes of this Chapter has been made.
- (1C) A person who fails to comply with regulations made under subsection (1A)(e) above shall be liable to a penalty not exceeding £3,000.
- (1D) Regulations under subsection (1A) above may make different provision for different descriptions of case.
- (1E) In subsection (1A) above “prescribed” means prescribed by regulations made under that subsection.]
- (2) <sup>F80</sup> .....
- (3) It shall be the duty of every employer—
- (a) if there subsists in relation to any of his employees a retirement benefits scheme to which he contributes and which is neither an approved scheme nor a <sup>F83</sup>relevant] statutory scheme, to deliver particulars of that scheme to the Board within three months beginning with the date on which the scheme first comes into operation in relation to any of his employees, and
  - (b) when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to—
    - (i) any retirement benefits scheme relating to the employer which is neither an approved scheme nor a <sup>F83</sup>relevant] statutory scheme; and
    - (ii) the employees of his to whom any such scheme relates.
- (4) It shall be the duty of the administrator of a retirement benefits scheme which is neither an approved scheme nor a <sup>F83</sup>relevant] statutory scheme, when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to the scheme.

#### Textual Amendments

- F80** S. 605(1)(2) repealed (1.1.1996) by [Finance Act 1994 \(c. 4\)](#), s. 105(3)(5), [Sch. 26 Pt. 5\(12\)](#), Note 3; S.I. 1995/3125, [art. 2](#)
- F81** S. 605(1A)-(1E) inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), s. 105(2)
- F82** S. 605(1B)(a) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [Sch. 15 para. 4](#)
- F83** 1989 s.75 and Sch.6 paras.14 and 18(1) on and after 14 March 1989.

#### Marginal Citations

- M18** Source-1970(F) Sch.5 Part II 6, 7, 8, 9; 1987 (No.2) Sch.3 11, 13-15

*Status: Point in time view as at 31/12/2004.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**[<sup>F84</sup>605A False statements etc.**

- (1) A person who fraudulently or negligently makes a false statement or false representation on making an application for the approval for the purposes of this Chapter of—
- (a) a retirement benefits scheme, or
  - (b) an alteration in such a scheme,
- shall be liable to a penalty not exceeding £3,000.
- (2) In a case where—
- (a) a person fraudulently or negligently makes a false statement or false representation, and
  - (b) in consequence that person, or any other person, obtains relief from or repayment of tax under this Chapter,
- the person mentioned in paragraph (a) above shall be liable to a penalty not exceeding £3,000.]

**Textual Amendments**

**F84** S. 605A inserted (with application in accordance with s. 106(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 106\(1\)](#)

**[<sup>F85</sup>606 Default of administrator etc.**

- (1) This section applies in relation to a retirement benefits scheme if at any time—
- (a) there is no administrator of the scheme, or
  - (b) the person who is, or all of the persons who are, the administrator of the scheme cannot be traced, or
  - (c) the person who is, or all of the persons who are, the administrator of the scheme is or are in default for the purposes of this section.
- (2) If the scheme is a trust scheme, then—
- (a) if subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (3) below is fulfilled, the trustee or trustees shall at that time be responsible for the discharge of all duties imposed on the administrator under this Chapter (whenever arising) and liable for any tax due from the administrator in the administrator's capacity as such (whenever falling due);
  - (b) if subsection (1)(a) above applies, or subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (3) below is not fulfilled, the employer shall at that time be so responsible and liable;
- and paragraph (b) above shall apply to a person in his capacity as the employer even if he is also the administrator, or a trustee, of the scheme.
- (3) The condition is that there is at least one trustee of the scheme who—
- (a) can be traced,
  - (b) is resident in the United Kingdom, and
  - (c) is not in default for the purposes of this section.
- (4) If the scheme is a non-trust scheme, then—

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- (a) if subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (5) below is fulfilled, the scheme sponsor or scheme sponsors shall at that time be responsible for the discharge of all duties imposed on the administrator under this Chapter (whenever arising) and liable for any tax due from the administrator in the administrator's capacity as such (whenever falling due);
- (b) if subsection (1)(a) above applies, or subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (5) below is not fulfilled, the employer shall at that time be so responsible and liable;
- and paragraph (b) above shall apply to a person in his capacity as the employer even if he is also the administrator of the scheme, or a scheme sponsor.
- (5) The condition is that there is at least one scheme sponsor who—
- can be traced,
  - is resident in the United Kingdom, and
  - is not in default for the purposes of this section.
- (6) Where at any time—
- paragraph (b) or (c) of subsection (1) above applies in relation to a scheme, and
  - a person is by virtue of this section responsible for the discharge of any duties, or liable for any tax, in relation to the scheme,
- then at that time the person or persons mentioned in paragraph (b) or (as the case may be) paragraph (c) of subsection (1) above shall not, by reason only of being the administrator of the scheme, be responsible for the discharge of those duties or liable for that tax.
- (7) Where the scheme is a trust scheme and the employer is not a contributor to the scheme, subsection (2) above shall have effect as if—
- for “the employer”, in the first place where those words occur, there were substituted “the scheme sponsor or scheme sponsors”, and
  - for “the employer”, in the second place where those words occur, there were substituted “scheme sponsor”.
- (8) Where the scheme is a non-trust scheme and the employer is not a contributor to the scheme, subsection (4) above shall have effect as if paragraph (b) and the words after that paragraph were omitted.
- (9) No liability incurred under this Chapter [<sup>F86</sup>or Chapter 2 of Part 6 of ITEPA 2003 (benefits from non-approved pension schemes)]—
- by the administrator of a scheme, or
  - by a person by virtue of this section,
- shall be affected by the termination of a scheme or by its ceasing to be an approved scheme or to be an exempt approved scheme.
- [<sup>F87</sup>(9A) Where by virtue of this section any person is the person, or one of the persons, responsible for the discharge of the duties of the administrator of a scheme, any power or duty by virtue of this Part to serve any notice on, or to do any other thing in relation to, the administrator may be exercised or performed, instead, by the service of that notice on that person or, as the case may be, by the doing of that other thing in relation to that person.]
- (10) Where by virtue of this section a person becomes responsible for the discharge of any duties, or liable for any tax, the Board shall, as soon as is reasonably practicable, notify

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him of that fact; but any failure to give such notification shall not affect that person's being responsible or liable by virtue of this section.

- (11) A person is in default for the purposes of this section if—
- (a) he has failed to discharge any duty imposed on him under this Chapter, or
  - (b) he has failed to pay any tax due from him by virtue of this Chapter [<sup>F88</sup>or Chapter 2 of Part 6 of ITEPA 2003 (benefits from non-approved pension schemes)],

and (in either case) the Board consider the failure to be of a serious nature.

[<sup>F89</sup>(11A) In determining for the purposes of this section—

- (a) whether all of the persons who are the administrator of a scheme are at any time in default in respect of an amount of tax chargeable by virtue of section 591C, or
- (b) whether a trustee of a scheme is in default in respect of any amount of tax so chargeable,

the persons who at that time are trustees of the scheme or hold appointments in relation to the scheme under section 611AA(4) to (6) shall be deemed not to include any person who by virtue of section 591D(4) is not liable for that tax.]

- (12) References in this section to a trust scheme, a non-trust scheme, trustees and scheme sponsors shall be construed in accordance with section 611AA.

[<sup>F90</sup>(13) References in this section to the employer include, where the employer is not resident in the United Kingdom, any person who is treated as UK representative of the employer under section 126 of the Finance Act 1995 or section 150 of the Finance Act 2003.]

- (14) This section does not apply for the purposes of sections 602 and 603 and Schedule 22.]

#### **Textual Amendments**

- F85** S. 606 substituted (with application in accordance with s. 104(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 104\(1\)](#)
- F86** Words in s. 606(9) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 79\(2\)](#) (with Sch. 7)
- F87** S. 606(9A) inserted (retrospectively) by [Finance Act 1998 \(c. 36\), Sch. 15 para. 5\(1\)](#)
- F88** Words in s. 606(11)(b) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 79\(3\)](#) (with Sch. 7)
- F89** S. 606(11A) inserted (with effect in accordance with Sch. 15 para. 5(3) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 15 para. 5\(2\)](#)
- F90** S. 606(13) substituted (with effect in accordance with s. 155(2) of the amending Act) by [Finance Act 2003 \(c. 14\), Sch. 27 para. 1\(2\)](#)

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

- C17** S. 606 excluded (temp. 6.4.2005 to 5.4.2006) by [The Pension Protection Fund \(Tax\) \(2005-06\) Regulations 2005 \(S.I. 2005/1907\), regs. 1, 8\(2\)](#)
- C18** S. 606(13) modified (with effect in accordance with s. 153(4) of the modifying Act) by [Finance Act 2003 \(c. 14\), s. 153\(2\)\(a\)](#)



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## **[<sup>F91</sup>606A] Recourse to scheme members.**

- (1) This section applies where—
  - (a) an approval of a retirement benefits scheme has ceased to have effect;
  - (b) a person (“the employer”) has become liable by virtue of section 606 to any tax chargeable on the administrator of the scheme under section 591C;
  - (c) the employer has failed, either in whole or in part, to pay that tax; and
  - (d) a person falling within subsection (2) below (“the relevant member”) was a member of the scheme at the time (“the relevant time”) immediately before the date of the cessation of its approval.
- (2) A person falls within this subsection in relation to any tax chargeable under section 591C if—
  - (a) at the relevant time or at any time before that time he was a controlling director of the employer; or
  - (b) he is a person by or in respect of whom any contributions were made by reference to which the condition in subsection (6A) of that section has been satisfied for the purpose of the charge to that tax.
- (3) Subject to subsection (4) below, if in a case where this section applies—
  - (a) the employer has ceased to exist, or
  - (b) the Board notify the relevant member that they consider the failure of the employer to pay the unpaid tax to be of a serious nature,the relevant member shall be treated as included in the persons on whom the unpaid tax was charged and shall be assessable accordingly.
- (4) The amount of tax for which the relevant member shall be taken to be assessable by virtue of this section shall not exceed the amount determined by—
  - (a) taking the amount equal to 40 per cent. of his share of the scheme; and
  - (b) subtracting from that amount his share of any tax charged under section 591C that has already been paid otherwise than by another person on whom it is treated as charged in accordance with this section.
- (5) For the purposes of this section the relevant member’s share of the scheme is the amount equal to so much of the value of the assets held for the purposes of the scheme at the relevant time (taking the value at that time) as, on a just and reasonable apportionment, would have fallen to be treated as the value at that time of the assets then held for the purposes of the provision under the scheme of benefits to or in respect of the relevant member.
- (6) For the purposes of this section the relevant member’s share of an amount of tax already paid is such sum as bears the same proportion to the amount paid as is borne by his share of the scheme to the total value at the relevant time of the assets then held for the purposes of the scheme.
- (7) The reference in subsection (5) above to the provision of benefits to or in respect of the relevant member includes a reference to the provision of a benefit to or in respect of a person connected with the relevant member.
- (8) For the purposes of this section a person is a controlling director of a company if he is a director of the company and is within section 417(5)(b) in relation to the company.

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- (9) A notification given to any person for the purposes of subsection (3)(b) above may be included in any assessment on that person of the tax to which he becomes liable by virtue of the notification.
- (10) An assessment to tax made by virtue of this section shall not be out of time if it is made within three years after the date on which the tax which the employer has failed to pay first became due from him.
- (11) Subsections (1) to (3) of section 591D shall apply to the determination of the value at any time of an asset held for the purposes of a scheme as they apply for the purposes of section 591C(2).
- (12) Subsections (7) and (8) of section 591D shall apply for the purposes of this section as they apply for the purposes of subsection (1) of section 591C and section 591C, respectively.
- (13) Section 839 (connected persons) shall apply for the purposes of this section.]

#### Textual Amendments

**F91** S. 606A inserted (with effect in accordance with Sch. 15 para. 6(2) of the amending Act) by Finance Act 1998 (c. 36), Sch. 15 para. 6(1)

#### 607 Pilots' benefit fund.

- <sup>M19</sup>(1) The Board may, if they think fit, and subject to such conditions as they think proper to attach to the approval, approve a pilots' benefit fund for the purposes of this Chapter as if it were a retirement benefits scheme and notwithstanding that it does not satisfy one or more of the conditions set out in section 590(2) and (3).
- (2) If a fund is approved by virtue of this section—
- (a) sections 592, [F<sup>92</sup>598 to 599A] and 604 to 606 shall have effect in relation to the fund with the modifications specified in subsection (3) below;
  - (b) pensions paid out of the fund and any sums chargeable to tax in connection with the fund [F<sup>93</sup>in accordance with section 584 of ITEPA 2003 (unauthorised payments)] shall be treated for the purposes of the Income Tax Acts as earned income; and
  - (c) Chapter III of this Part shall have effect as if a member of the fund were the holder of a pensionable office or employment and his earnings as a pilot (estimated in accordance with the provisions of Case II of Schedule D) were remuneration from such an office or employment.
- (3) The modifications referred to in subsection (2)(a) above are as follows—
- [F<sup>94</sup>(a) in section 592—
    - (i) subsections (4) to (6) shall be omitted; and
    - (ii) for subsection (7) there shall be substituted—
 

“(7) Any contribution paid under the scheme by a member of the fund shall, in assessing tax under Schedule D, be allowed to be deducted as an expense.”;]
  - (b) in [F<sup>95</sup>sections 598 to 599A and sections 604 to 606]—

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- (i) for references to an employee there shall be substituted references to a member or former member of the fund;
- (ii) in section 599(1)(a) for the reference to a year of service there shall be substituted a reference to a year as a pilot licensed by a pilotage authority or authorised by a competent harbour authority;
- (iii) [<sup>F96</sup>section 606(2)(b), (4)(b), (7), (8) and (13)] and so much of any other provision as applies to an employer shall be omitted; <sup>F97</sup> . . .
- (iv) <sup>F97</sup> . . . . .

(4) In this section “pilots’ benefit fund” means a fund established under section 15(1)(i) of the <sup>M20</sup>Pilotage Act 1983 or any scheme supplementing or replacing any such fund.

#### Textual Amendments

- F92** Words in s. 607(2)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 80\(2\)](#) (with [Sch. 7](#))
- F93** Words in s. 607(2)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 80\(3\)](#) (with [Sch. 7](#))
- F94** S. 607(3)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 80\(4\)](#) (with [Sch. 7](#))
- F95** Words in s. 607(3)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 80\(5\)](#) (with [Sch. 7](#))
- F96** Words in s. 607(3)(b)(iii) substituted (with application in accordance with s. 104(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 104\(2\)](#)
- F97** S. 607(3)(b)(iv) and preceding word repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 80\(6\), Sch. 8 Pt. 1](#) (with [Sch. 7](#))

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

- C19** See [Sch. 1 para. 4 Pilotage Act 1987](#)—continuation of fund following repeal of s. 15(1)(i) [Pilotage Act 1983](#) by [Pilotage Act 1987](#) (*on and after 1 February 1988 by virtue of S.I. 1987 No. 2138*).

#### Marginal Citations

- M19** [Source-1980 s. 35](#)
- M20** [1983 c. 21](#).

### 608 Superannuation funds approved before 6th April 1980.

- <sup>M21</sup>(1) This section applies to any fund which immediately before 6th April 1980 was an approved superannuation fund for the purposes of section 208 of the 1970 Act if—
  - (a) it has not been approved under this Chapter (or under Chapter II of Part II of the [Finance Act 1970](#)); and
  - (b) no sum has been paid to it by way of contribution since 5th April 1980.
- (2) Subject to subsection (3) below, exemption from income tax shall, on a claim being made in that behalf, be allowed to a fund to which this section applies in respect of—
  - (a) income derived from investments or deposits of the fund;
  - (b) any underwriting commissions which apart from this subsection would be chargeable to tax under Case VI of Schedule D; and
  - (c) any profits or gains which (apart from this subsection) would be chargeable to tax under Case VI of Schedule D by virtue of section 56(1)(a) and (2);

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if, or to such extent as the Board are satisfied that, the income, commissions, profits or gains are applied for the purposes of the fund.

(3) No claim under subsection (2) above shall be allowed unless the Board are satisfied that the terms on which benefits are payable from the fund have not been altered since 5th April 1980.

(4) <sup>F98</sup> . . . . .

**Textual Amendments**

**F98** S. 608(4) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 81, Sch. 8 Pt. 1** (with Sch. 7)

**Marginal Citations**

**M21** Source-1980 s.36 (1), (2), (4), (6)

**609 Schemes approved before 23rd July 1987.**

Schedule 23 to this Act, which makes provision with respect to retirement benefit schemes approved before 23rd July 1987, shall have effect.

**610 Amendments of schemes.**

<sup>M22</sup>(1) This section applies to any amendment of a retirement benefits scheme proposed in connection with an application for the Board’s approval for the purposes of this Chapter which is needed in order to ensure that approval is so given, or designed to enhance the benefits under the scheme up to the limits suitable in a scheme for which approval is sought.

(2) A provision, however expressed, designed to preclude any amendment of a scheme which would have prejudiced its approval under section 208 or 222 of the 1970 Act shall not prevent any amendment to which this section applies.

(3) In the case of a scheme which contains no powers of amendment, the administrator of the scheme may, with the consent of all the members of the scheme, and of the employer (or of each of the employers), make any amendment to which this section applies.

**Marginal Citations**

**M22** Source-1971 s.22(1)-(3)

**611 Definition of “retirement benefits scheme”.**

(1) <sup>M23</sup>In this Chapter “retirement benefits scheme” means, subject to the provisions of this section, a scheme for the provision of benefits consisting of or including relevant benefits, but does not include—

- [<sup>F99</sup>(a)] any national scheme providing such benefits[<sup>F100</sup>; or
- (b) any scheme providing such benefits which is an approved personal pension scheme under Chapter IV of this Part].

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- (2) References in this Chapter to a scheme include references to a deed, agreement, series of agreements, or other arrangements providing for relevant benefits notwithstanding that it relates or they relate only to—
- a small number of employees, or to a single employee, or
  - the payment of a pension starting immediately on the making of the arrangements.
- (3) The Board may, if they think fit, treat a <sup>F101</sup> . . . scheme relating to [<sup>F102</sup>scheme members] of two or more different classes or descriptions as being for the purposes of this Chapter [<sup>F103</sup> and Chapter IV of this Part] two or more <sup>F101</sup> . . . benefits schemes relating respectively to such one or more of those classes or descriptions of those [<sup>F102</sup>scheme members] as the Board think fit.
- (4) For the purposes of this section, and of any other provision of this Chapter—
- [<sup>F104</sup>scheme members] may be regarded as belonging to different classes or descriptions if they are employed by different employers; and
  - a particular class or description of [<sup>F105</sup>scheme member] may consist of a single [<sup>F105</sup>scheme member], or any number of [<sup>F105</sup>scheme members], however small.
- (5) <sup>M24</sup>Without prejudice to subsections (3) and (4) above, the Board may continue to treat as two different schemes, for the purposes of this Chapter, any retirement benefits scheme which, in pursuance of paragraph 5 of Schedule 3 to the Finance Act 1971 (schemes in existence before 5th April 1973), they treated, immediately before the coming into force of this Chapter, as two separate schemes for the purposes of Chapter II of Part II of the Finance Act 1970.
- [<sup>F106</sup>(6) In this section “scheme member”, in relation to a scheme means—
- an employee; or
  - a person whose rights under the scheme derive from a pension sharing order or provision<sup>F107</sup>; or
  - if the scheme is an approved personal pension scheme under Chapter IV of this Part, any other person who is a member of the scheme.]]

#### Textual Amendments

- F99** Words in s. 611(1) renumbered as s. 611(1)(a) (28.7.2000) by virtue of Finance Act 2000 (c. 17), Sch. 13 para. 4(2) (with Sch. 13 Pt. 2)
- F100** S. 611(1)(b) and preceding word added (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 4(2) (with Sch. 13 Pt. 2)
- F101** Words in s. 611(3) repealed (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 4(3)(a), Sch. 40 Pt. 2(4) (with Sch. 13 Pt. 2)
- F102** Words in s. 611(3) substituted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 9(1)
- F103** Words in s. 611(3) inserted (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 4(3)(b) (with Sch. 13 Pt. 2)
- F104** Words in s. 611(4)(a) substituted (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 4(4) (with Sch. 13 Pt. 2)
- F105** Words in s. 611(4)(b) substituted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 9(1)
- F106** S. 611(6) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 9(2)
- F107** S. 611(6)(c) and preceding word added (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 4(5) (with Sch. 13 Pt. 2)

*Status: Point in time view as at 31/12/2004.*

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#### Marginal Citations

**M23** Source-1970(F) s.25

**M24** Source-1971 Sch.3 5

#### [<sup>F108</sup>611] Definition of relevant statutory scheme.

- [<sup>F109</sup>(1) In this Chapter any reference to a relevant statutory scheme is to—
- (a) a statutory scheme established before 14th March 1989, or
  - (b) a statutory scheme established on or after that date and entered in the register maintained by the Board for the purposes of this section, or
  - (c) a parliamentary pension scheme.
- (2) The Board shall maintain a register for the purposes of this section and shall enter in it the relevant particulars of any statutory scheme established on or after 14th March 1989 which is reported to the Board by the authority responsible for establishing it as a scheme the provisions of which correspond with those of an approved scheme.
- (3) The reference in subsection (2) above to the relevant particulars, in relation to a scheme, is a reference to—
- (a) the identity of the scheme,
  - (b) the date on which it was established,
  - (c) the authority responsible for establishing it, and
  - (d) the date on which that authority reported the scheme to the Board.
- (4) Where the Board enter the relevant particulars of a scheme in the register maintained by them for the purposes of this section, they shall inform the authority responsible for establishing the scheme of the date of the entry.

[ In subsection (1)(c) “parliamentary pension scheme” means—

- [<sup>F110</sup>(5) (a) the Parliamentary pension scheme within the meaning of the <sup>M25</sup>Parliamentary and other Pensions Act 1987;
- (b) any pension scheme established for members of the Scottish Parliament under section 81(4) of the Scotland Act 1998;
  - (c) any pension scheme established for members of the Welsh Assembly under section 18(2) of the Government of Wales Act 1998;
  - (d) any pension scheme established for members of the Northern Ireland Assembly under section 48(2) of the Northern Ireland Act 1998;
  - (e) the pension scheme established for members of the European Parliament under section 4 of the <sup>M26</sup>European Parliament (Pay and Pensions) Act 1979;
  - (f) the pension scheme established under section 3 of the <sup>M27</sup>Ministerial Salaries and Members’ Pensions Act (Northern Ireland) 1965;
  - (g) the pension scheme established under the <sup>M28</sup>Assembly Pensions (Northern Ireland) Order 1976.

#### Textual Amendments

**F108** S. 611A inserted (14.3.1989) by [Finance Act 1989 \(c. 26\)](#), Sch. 6 paras. 15, **18(1)**

**F109** S. 611A(1) substituted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 5 para. 5(1)**

*Status: Point in time view as at 31/12/2004.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F110** S. 611A(5) added (with effect in accordance with s. 52(2) of the amending Act) by Finance Act 1999 (c. 16), Sch. 5 para. 5(2)

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

**C20** Definition employed for purposes of S.I. 1987 No.1749, regn.5(2), (“The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987”—in Part III Vol.5).

**Marginal Citations**

**M25** 1987 c.45.

**M26** 1979 c.50.

**M27** 1965 c.18(N.I.).

**M28** S.I. 1976/1779.

[<sup>F111</sup> **611A** **Definition of the administrator.**

- (1) In this Chapter references to the administrator, in relation to a retirement benefits scheme, are to the person who is, or the persons who are, for the time being the administrator of the scheme by virtue of the following provisions of this section.
- (2) Subject to subsection (7) below, where—
  - (a) the scheme is a trust scheme, and
  - (b) at any time the trustee, or any of the trustees, is or are resident in the United Kingdom,the administrator of the scheme at that time shall be the trustee or trustees of the scheme.
- (3) Subject to subsection (7) below, where—
  - (a) the scheme is a non-trust scheme, and
  - (b) at any time the scheme sponsor, or any of the scheme sponsors, is or are resident in the United Kingdom,the administrator of the scheme at that time shall be the scheme sponsor or scheme sponsors.
- (4) At any time when the trustee of a trust scheme is not resident in the United Kingdom or (if there is more than one trustee) none of the trustees is so resident, the trustee or trustees shall ensure that there is a person, or there are persons—
  - (a) resident in the United Kingdom, and
  - (b) appointed by the trustee or trustees to be responsible for the discharge of all duties relating to the scheme which are imposed on the administrator under this Chapter.
- (5) At any time when the scheme sponsor of a non-trust scheme is not resident in the United Kingdom or (if there is more than one scheme sponsor) none of the scheme sponsors is so resident, the scheme sponsor or scheme sponsors shall ensure that there is a person, or there are persons—
  - (a) resident in the United Kingdom, and
  - (b) appointed by the scheme sponsor or scheme sponsors to be responsible for the discharge of all duties relating to the scheme which are imposed on the administrator under this Chapter.
- (6) Without prejudice to subsections (4) and (5) above—
  - (a) the trustee or trustees of a trust scheme, or

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- (b) the scheme sponsor or scheme sponsors of a non-trust scheme, may at any time appoint a person who is, or persons who are, resident in the United Kingdom to be responsible for the discharge of all duties relating to the scheme which are imposed on the administrator under this Chapter.
- (7) Where at any time there is or are a person or persons—
- (a) for the time being appointed under subsection (4), (5) or (6) above as regards a scheme, and
  - (b) resident in the United Kingdom,
- the administrator of the scheme at that time shall be that person or those persons (and no other person).
- (8) Any appointment under subsection (4), (5) or (6) above—
- (a) must be in writing, and
  - (b) if made after the time when the scheme is established, shall constitute an alteration of the scheme for the purposes of section 591B(2).
- (9) In this section—
- (a) references to a trust scheme are to a retirement benefits scheme established under a trust or trusts;
  - (b) references to the trustee or trustees, in relation to a trust scheme and to a particular time, are to the person who is the trustee, or the persons who are the trustees, of the scheme at that time;
  - (c) references to a non-trust scheme are to a retirement benefits scheme not established under a trust or trusts, and
  - (d) references to the scheme sponsor or scheme sponsors, in relation to a retirement benefits scheme and to a particular time, are references to any person who established the scheme and is in existence at that time or, if more than one, all such persons.]

#### **Textual Amendments**

**F111** S. 611AA inserted (with application in accordance with s. 103(3) of the amending Act) by [Finance Act 1994 \(c. 4\), s. 103\(1\)](#)

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

**C21** S. 611AA excluded (temp. 6.4.2005 to 5.4.2006) by [The Pension Protection Fund \(Tax\) \(2005-06\) Regulations 2005 \(S.I. 2005/1907\), regs. 1, 9\(2\)](#)

### **611A Definition of relevant statutory scheme.**

- (1) In this Chapter any reference to a relevant statutory scheme is to—
- (a) a statutory scheme established before 14th March 1989, or
  - (b) a statutory scheme established on or after that date and entered in the register maintained by the Board for the purposes of this section, or
  - (c) a parliamentary pension scheme.]
- (2) The Board shall maintain a register for the purposes of this section and shall enter in it the relevant particulars of any statutory scheme established on or after 14th March 1989 which is reported to the Board by the authority responsible for establishing it as a scheme the provisions of which correspond with those of an approved scheme.



*Status: Point in time view as at 31/12/2004.*

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- (3) The reference in subsection (2) above to the relevant particulars, in relation to a scheme, is a reference to—
- (a) the identity of the scheme,
  - (b) the date on which it was established,
  - (c) the authority responsible for establishing it, and
  - (d) the date on which that authority reported the scheme to the Board.
- (4) Where the Board enter the relevant particulars of a scheme in the register maintained by them for the purposes of this section, they shall inform the authority responsible for establishing the scheme of the date of the entry.
- (5) In subsection (1)(c) “parliamentary pension scheme” means—
- (a) the Parliamentary pension scheme within the meaning of the <sup>M25</sup>Parliamentary and other Pensions Act 1987;
  - (b) any pension scheme established for members of the Scottish Parliament under section 81(4) of the Scotland Act 1998;
  - (c) any pension scheme established for members of the Welsh Assembly under section 18(2) of the Government of Wales Act 1998;
  - (d) any pension scheme established for members of the Northern Ireland Assembly under section 48(2) of the Northern Ireland Act 1998;
  - (e) the pension scheme established for members of the European Parliament under section 4 of the <sup>M26</sup>European Parliament (Pay and Pensions) Act 1979;
  - (f) the pension scheme established under section 3 of the <sup>M27</sup>Ministerial Salaries and Members’ Pensions Act (Northern Ireland) 1965;
  - (g) the pension scheme established under the <sup>M28</sup>Assembly Pensions (Northern Ireland) Order 1976.]]

#### Textual Amendments

**F108** S. 611A inserted (14.3.1989) by Finance Act 1989 (c. 26), Sch. 6 paras. 15, **18(1)**

**F109** S. 611A(1) substituted (with effect in accordance with s. 52(2) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 5 para. 5(1)**

**F110** S. 611A(5) added (with effect in accordance with s. 52(2) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 5 para. 5(2)**

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

**C20** Definition employed for purposes of S.I. 1987 No.1749, regn.5(2), (“The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987”—in Part III Vol.5).

#### Marginal Citations

**M25** 1987 c.45.

**M26** 1979 c.50.

**M27** 1965 c.18(N.I.).

**M28** S.I. 1976/1779.

## 612 Other interpretative provisions, and regulations for purposes of this Chapter.

- (1) <sup>M29</sup>In this Chapter, except where the context otherwise requires—  
<sup>F112</sup> .....

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“approved scheme” means a retirement benefits scheme for the time being approved by the Board for the purposes of this Chapter;

“director” in relation to a company includes—

- (a) in the case of a company the affairs of which are managed by a board of directors or similar body, a member of that board or body,
- (b) in the case of a company the affairs of which are managed by a single director or similar person, that director or person,
- (c) in the case of a company the affairs of which are managed by the members themselves, a member of that company;

and includes a person who is to be or has been a director;

“employee”—

- (a) in relation to a company, includes any officer of the company, any director of the company and any other person taking part in the management of the affairs of the company, and
- (b) in relation to any employer, includes a person who is to be or has been an employee;

and “employer” and other cognate expressions shall be construed accordingly;

“exempt approved scheme” has the meaning given by section 592(1);

“final remuneration” means the average annual remuneration of the last three years’ service;

“pension” includes annuity;

“the permitted maximum” has the meaning given by section 590(3);

“relevant benefits” means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death [F113, or by virtue of a pension sharing order or provision], or in anticipation of retirement, or, in connection with past service, after retirement or death, or to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a person occurring during his service or of his death by accident so occurring and for no other reason;

“remuneration” does not include—

- (a) anything [F114 which is chargeable to tax as employment income and] which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares; or
- (b) anything in respect of which tax is chargeable by virtue of [F115 Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.)];

“service” means service as an employee of the employer in question and other expressions, including “retirement”, shall be construed accordingly; and

“statutory scheme” means a retirement benefits scheme established by or under any enactment—

- (a) the particulars of which are set out in any enactment, or in any regulations made under any enactment, or
- (b) which has been approved as an appropriate scheme by a Minister or government department (including the head of a Northern Ireland department or a Northern Ireland department).

- (2) M30 Any reference in this Chapter [F116, in relation to a scheme,] to the provision of relevant benefits, or of a pension, for employees [F117 or ex-spouses] includes a

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reference to the provision of relevant benefits or a pension by means of a contract between the administrator or the employer or the employee [<sup>F118</sup>or ex-spouse] and a third person; and any reference to pensions or contributions paid, or payments made, under a scheme includes a reference to pensions or contributions paid, or payments made, under such a contract entered into for the purposes of the scheme.

[<sup>F119</sup>(2A) In subsection (2) above the reference to the employer is a reference to the person who is the employer in relation to the scheme.]

(3) <sup>M31</sup>The Board may make regulations generally for the purpose of carrying the preceding provisions of this Chapter into effect.

### Textual Amendments

- F112** S. 612(1): definition of "administrator" repealed (with effect in accordance with s. 103(3) of the repealing Act) by Finance Act 1994 (c. 9), s. 103(2), Sch. 26 Pt. 5(12), Note 4
- F113** Words in s. 612(1) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 10(1)
- F114** S. 612(1): words in definition of "remuneration" substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 82(a) (with Sch. 7)
- F115** S. 612(1): words in definition of "remuneration" substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 82(b) (with Sch. 7)
- F116** Words in s. 612(2) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 10(2)(a)
- F117** Words in s. 612(2) substituted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 10(2)(b)
- F118** Words in s. 612(2) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 10(2)(c)
- F119** S. 612(2A) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 10(3)

### Modifications etc. (not altering text)

- C22** Definition employed for purposes of S.I. 1987 No.1749, regn.2(1A) ("The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987"—in Part III Vol.5).
- C23** See s.686—liability to additional rate of certain income of discretionary trusts.
- C24** Interpretation employed for purposes of S.I. 1987 No.1749, regn.2(1) ("The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987" in Part III Vol.5).
- C25** S. 612(2) applied (6.4.2003 with effect in accordance with s. 723(1) of the affecting Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 400(2) (with Sch. 7)
- C26** For regulations see Part III Vol.5

### Marginal Citations

- M29** Source-1970(F) s.26 (1); 1971 Sch.3 12(4); 1986 Sch.12 1(10); 1987 (No.2) Sch.3 7
- M30** Source-1970(F) s.26(2); 1987 (No.2) Sch.3 8
- M31** Source-1970(F) Sch.5 Part II 10; 1971 Sch.3 13(3)

*Status: Point in time view as at 31/12/2004.*

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## CHAPTER II

### OTHER PENSION FUNDS AND SOCIAL SECURITY BENEFITS AND CONTRIBUTIONS

#### 613 Parliamentary pension funds.

[<sup>F120</sup>(1) <sup>M32</sup>The salary of a Member of the House of Commons shall, for all the purposes of the Income Tax Acts, be treated as reduced by the amounts deducted in pursuance of section 1 of the <sup>M33</sup>House of Commons Members' Fund Act 1939; but a Member shall not by reason of any such deduction be entitled to relief under any other provision of the Income Tax Acts.

(2) In subsection (1) above the reference to salary shall be construed as mentioned in subsection (3) of section 1 of the House of Commons Members' Fund Act 1939, the reference to amounts deducted includes a reference to amounts required to be set aside under that subsection, and "deduction" shall be construed accordingly.]

(3) <sup>F121</sup>.....

(4) <sup>M34</sup>The respective trustees of—

(a) the House of Commons Members' Fund established under section 1 of that Act of 1939;

(b) the Parliamentary Contributory Pension Fund;

[<sup>F122</sup>(bb) any fund maintained for the purposes of a pension scheme—

(i) established for members of the Scottish Parliament under section 81(4) of the Scotland Act 1998,

(ii) established for members of the Welsh Assembly under section 18(2) of the Government of Wales Act 1998, or

(iii) established for members of the Northern Ireland Assembly under section 48(2) of the Northern Ireland Act 1998;]

(c) the Members' Contributory Pension (Northern Ireland) Fund constituted under section 3(2) of the <sup>M35</sup>Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965; and

(d) the Assembly Contributory Pension Fund constituted under the <sup>M36</sup>Assembly Pensions (Northern Ireland) Order 1976;

shall be entitled to exemption from income tax in respect of all income derived from those [<sup>F123</sup>funds] or any investment of those [<sup>F123</sup>funds].

A claim under this subsection shall be made to the Board.

#### Textual Amendments

**F120** S. 613(1)(2) (which were repealed by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 83, Sch. 8 Pt. 1](#)) restored (retrospectively) by [Finance Act 2005 \(c. 7\), Sch. 10 para. 63](#)

**F121** S. 613(3) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 83, Sch. 8 Pt. 1](#) (with Sch. 7)

**F122** S. 613(4)(bb) inserted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 5 para. 4](#)

**F123** Words in s. 613(4) substituted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 5 para. 4](#)

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### Marginal Citations

- M32** Source-1970 s.211(1), (4)  
**M33** 1939 c. 49.  
**M34** Source-1970 s.211(2) 1981 s.50(1); PPA 1987 Sch.3 2(1)  
**M35** 1965 c. 18 (N.I.).  
**M36** S.I. 1976/1779.

## 614 Exemptions and reliefs in respect of income from investments etc. of certain pension schemes.

- (1) <sup>F124</sup> .....
- (2) <sup>M37</sup> Any interest or dividends received by the person in whom is vested any of the Family Pension Funds mentioned in section 273 of the <sup>M38</sup>Government of India Act 1935, and having effect as a scheme made under section 2 of the <sup>M39</sup>Overseas Pensions Act 1973, on sums forming part of that fund shall be exempt from income tax.
- [<sup>F125</sup>(2A) The reference in subsection (2) above to interest on sums forming part of a fund include references to any amount which is treated as income by virtue of paragraph 1 of Schedule 13 to the Finance Act 1996 (relevant discounted securities) and derives from any investment forming part of that fund.]
- (3) <sup>M40</sup> Income derived from investments or deposits of any fund referred to in [<sup>F126</sup>section 648, 649, 650 or 651 of ITEPA 2003] shall not be charged to income tax, and any income tax deducted from any such income shall be repaid by the Board to the persons entitled to receive the income.
- (4) <sup>M41</sup> In respect of income derived from investments or deposits of the Overseas Service Pensions Fund established pursuant to section 7(1) of the <sup>M42</sup>Overseas Aid Act 1966, the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (5) <sup>M43</sup> In respect of dividends and other income derived from investments, deposits or other property of a superannuation fund to which section 615(3) applies the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (6) <sup>M44</sup> A claim under this section shall be made to the Board.

### Textual Amendments

- F124** S. 614(1) repealed (3.5.1994) by Finance Act 1994 (c. 9), Sch. 26 Pt. 5(22)  
**F125** S. 614(2A) inserted (with effect in accordance with s. 105(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 14 para. 34 (with Sch. 15)  
**F126** Words in s. 614(3) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 84 (with Sch. 7)

### Marginal Citations

- M37** Source-1970 s.213(1)  
**M38** 1935 c. 2.  
**M39** 1973 c. 21.

*Status: Point in time view as at 31/12/2004.*

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- M40** Source-1970 s.214(2), 216(2); 1973 s.53(1)  
**M41** Source-1970 s.217(2), (4)  
**M42** 1966 c. 21.  
**M43** Source-1970 s.218(1)  
**M44** Source-1970 s.212(3), 213(1), 214(3), 216(2), 217(2), 218(1); 1987 Sch.15 2(13)

## 615 Exemption from tax in respect of certain pensions.

- (1) <sup>F127</sup> .....
- (2) <sup>F127</sup> .....
- (3) <sup>M45</sup> Where an annuity is paid from a superannuation fund to which this subsection applies to a person who is not resident in the United Kingdom, income tax shall not be deducted from any payment of the annuity or accounted for under section 349(1) by the trustees or other persons having the control of the fund.
- (4) <sup>F127</sup> .....
- (5) <sup>F127</sup> .....
- (6) <sup>M46</sup> Subsection (3) above applies to any superannuation fund which—
- (a) is bona fide established under irrevocable trusts in connection with some trade or undertaking carried on wholly or partly outside the United Kingdom;
  - (b) has for its sole purpose [<sup>F128</sup>(subject to any enactment or Northern Ireland legislation requiring or allowing provision for the value of any rights to be transferred between schemes or between members of the same scheme)] the provision of superannuation benefits in respect of persons' employment in the trade or undertaking wholly outside the United Kingdom; and
  - (c) is recognised by the employer and employed persons in the trade or undertaking;
- and for the purposes of this subsection duties performed in the United Kingdom the performance of which is merely incidental to the performance of other duties outside the United Kingdom shall be treated as performed outside the United Kingdom.
- (7) <sup>M47</sup> In this section—
- “pension” includes a gratuity or any sum payable on or in respect of death or, in the case of a pension falling within subsection (2)(g) above, ill-health, and a return of contributions with or without interest thereon or any other addition thereto;
- “overseas territory” means any territory or country outside the United Kingdom;
- “the Pensions (Increase) Acts” means the <sup>M48</sup>Pensions (Increase) Act 1971 and any Act passed after that Act for purposes corresponding to the purposes of that Act;
- “United Kingdom trust territory” means a territory administered by the government of the United Kingdom under the trusteeship system of the United Nations.
- (8) <sup>F127</sup> .....

- [<sup>F129</sup>(9) For the purposes of this section, a person shall be taken to be employed in the public service of an overseas territory at any time when—

*Status: Point in time view as at 31/12/2004.*

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- (a) he is employed in any capacity under the government of that territory, or under any municipal or other local authority in it,
- (b) he is employed, in circumstances not falling within paragraph (a) above, by a body corporate established for any public purpose in that territory by an enactment of a legislature empowered to make laws for that territory, or
- (c) he is the holder of a public office in that territory in circumstances not falling within either paragraph (a) or (b).

(10) For the purposes of subsection (9), references to the government of an overseas territory include references to a government constituted for two or more overseas territories, and to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.]

**Textual Amendments**

**F127** S. 615(1)(2)(4)(5)(8) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 85, **Sch. 8 Pt. 1** (with Sch. 7)

**F128** Words in s. 615(6)(b) inserted (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), **Sch. 10 para. 11**

**F129** S. 615(9)(10) inserted (17.6.2002) by [International Development Act 2002 \(c. 1\)](#), s. 20(2), **Sch. 3 para. 9(3)** (with Sch. 5); S.I. 2002/1408, **art. 2**

**Marginal Citations**

**M45** Source-1970 s.218(3)

**M46** Source-1970 s.218(4)

**M47** Source-1970 s.214(5), 215(3), 216(4), 217(4)

**M48** 1971 c. 56.

**616 Other overseas pensions.**

<sup>F130</sup> .....

**Textual Amendments**

**F130** S. 616 repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), Sch. 6 para. 86, **Sch. 8 Pt. 1** (with Sch. 7)

**617 Social security benefits and contributions.**

(1) <sup>F131</sup> .....

(2) <sup>F131</sup> .....

(3) <sup>M49</sup> Subject to subsection (4) <sup>F132</sup> . . . below, no relief or deduction shall be given or allowed in respect of any contribution paid by any person under—

(a) Part I of the Social Security [<sup>F133</sup>Contributions and Benefits Act 1992], or

(b) Part I of the Social Security [<sup>F134</sup>Contributions and Benefits (Northern Ireland) Act 1992].

*Status: Point in time view as at 31/12/2004.*

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- [<sup>F135</sup>(4) Subsection (3) above shall not apply to a contribution if it is a secondary Class 1 contribution [<sup>F136</sup>, a Class 1A contribution or a Class 1B contribution] (within the meaning of Part I of either of those Acts) and is allowable—
- (a) as a deduction in computing profits or gains;
  - (b) as expenses of management deductible under section 75 or [<sup>F137</sup> falls to be brought into account under section 76 as expenses payable];
  - (c) as expenses of management or supervision deductible under section 121;
  - [<sup>F138</sup>(d) as a deduction under section 336 of ITEPA 2003 (deductions for expenses) from the taxable earnings from an office or employment; or
  - (e) as a deduction under section 332(3)(a) from the profits or fees of the profession or vocation of a minister of religion, or a deduction under section 351(1) of ITEPA 2003 from the taxable earnings from an employment as such a minister.]]
- (5) <sup>F139</sup> .....
- (6) <sup>F140</sup> .....

**Textual Amendments**

- F131** S. 617(1)(2) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 87\(2\), Sch. 8 Pt. 1](#) (with Sch. 7)
- F132** Words in s. 617(3) repealed (with effect in accordance with s. 65(4) of the repealing Act) by [Finance Act 1997 \(c. 16\), s. 65\(2\), Sch. 18 Pt. 6\(5\)](#), Note
- F133** Words in s. 617(3)(a) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), ss. 4, 7\(2\), Sch. 2 para. 93\(4\)](#)
- F134** Words in s. 617(3)(b) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\), ss. 4, 7\(2\), Sch. 2 para. 33\(4\)](#)
- F135** S. 617(4) substituted (with effect in accordance with s. 65(5) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 65\(3\)](#)
- F136** Words in s. 617(4) substituted (with effect in accordance with s. 61(2) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 61\(1\)](#)
- F137** Words in s. 617(4)(b) substituted (28.9.2004 with effect in accordance with art. 1(2) of the amending S.I.) by [The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 \(Consequential Amendment of Enactments\) Order 2004, Sch. para. 31\(2\)](#)
- F138** S. 617(4)(d)(e) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 87\(3\)](#) (with Sch. 7)
- F139** S. 617(5) repealed (with effect in accordance with s. 147(3) of the repealing Act) by [Finance Act 1996 \(c. 8\), s. 147\(1\), Sch. 41 Pt. 5\(15\)](#), Note
- F140** S. 617(6) repealed (24.4.2000 for specified purposes and 9.4.2001 otherwise) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(1\), Sch. 8 para. 1\(3\), Sch. 13 Pt. 5; S.I. 2000/1047, art. 2\(2\)\(a\), Sch. Pt. 1](#)

**Marginal Citations**

- M49** Source-1970 s.219(3)

[<sup>F141</sup>**617A**Tax credits under Part 1 of Tax Credits Act 2002

<sup>F142</sup> .....



*Status: Point in time view as at 31/12/2004.*

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### Textual Amendments

- F141** S. 617A inserted (prosp.) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 3 para. 14** (the insertion being brought into force at 6.4.2003 by S.I. 2003/962, **art. 2(3)(d)(iii)**)
- F142** S. 617A repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 88, **Sch. 8 Pt. 1** (with Sch. 7)

## CHAPTER III

### RETIREMENT ANNUITIES

#### 618 Termination of relief under this Chapter, and transitional provisions.

- <sup>M50</sup>(1) Nothing in this Chapter shall apply in relation to—
- (a) a contract made or trust scheme established on or after [<sup>F143</sup>1st July] 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) Subject to subsection (4) below, the terms of a contract made, or the rules of a trust scheme established, on or after 17th March 1987 and before [<sup>F143</sup>1st July] 1988 and approved by the Board under section 620 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 635(4).
- (3) Subject to subsection (5) below, the rules of a trust scheme established before 17th March 1987 and approved by the Board under section 620 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 (2) above.
- (4) Subsection (2) 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 notice to the Board that subsection (2) 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 notice to the Board that subsection (2) 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.
- (5) Subsection (3) 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 notice to the Board that subsection (3) is not to apply; and where notice is given to the Board, 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.

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#### **Textual Amendments**

**F143** 1988(F) s.54(2)—*deemed always to have had effect. Previously*  
“4th January”.

#### **Marginal Citations**

**M50** Source-1987 (No.2) s.54

### **619 Exemption from tax in respect of qualifying premiums.**

- (1) <sup>M51</sup>Where in any year of assessment an individual is (or would but for an insufficiency of profits or gains be) chargeable to income tax in respect of relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and pays a qualifying premium, then—
- (a) relief from income tax shall be given under this section in respect of that qualifying premium, but only on a claim made for the purpose, and where relief is to be so given, the amount of that premium shall, subject to the provisions of this section, be deducted from or set off against his relevant earnings for the year of assessment in which the premium is paid; and
  - (b) any annuity payable to the same or another individual shall be treated as earned income of the annuitant to the extent to which it is payable in return for any amount on which relief is so given.

Paragraph (b) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the annuity contract under which it is paid.

- (2) <sup>M52</sup>Subject to the provisions of this section and section 626, the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums, and whether or not including premiums in respect of a contract approved under section 621) shall not be more than 17.5 per cent. of the individual’s net relevant earnings for that year.
- (3) Subject to the provisions of this section, the amount which may be deducted or set off in any year of assessment in respect of qualifying premiums paid under a contract approved under section 621 (whether in respect of one or more such premiums) shall not be more than 5 per cent. of the individual’s net relevant earnings for that year.
- (4) <sup>M53</sup>An individual who pays a qualifying premium in a year of assessment (whether or not a year for which he has relevant earnings) may [<sup>F144</sup> on or before the 31st January next following ] that year elect that the premium shall be treated as paid—
- (a) in the last preceding year of assessment; or
  - (b) if he had no net relevant earnings in the year referred to in paragraph (a) above, in the last preceding year of assessment but one;

and where an election is made under this subsection in respect of a premium the other provisions of this Chapter shall have effect as if the premium had been paid in the year specified in the election and not in the year in which it was actually paid.

- (5) <sup>M54</sup>Where relief under this section for any year of assessment is claimed and allowed (whether or not relief then falls to be given for that year), and afterwards there is made any assessment, alteration of an assessment, or other adjustment of the claimant’s liability to tax, there shall be made also such adjustments, if any, as are consequential

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thereon in the relief allowed or given under this section for that or any subsequent year of assessment.

(6) Where relief under this section is claimed and allowed for any year of assessment in respect of any payment, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or a later year of assessment nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract; and references in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section.

(7) If any person, for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this section, knowingly makes any false statement or false representation, he shall be liable to a penalty not exceeding [<sup>F145</sup>£3,000].

#### Textual Amendments

**F144** Words in s. 619(4) substituted (with effect in accordance with s. 135(2) of the amending Act) by Finance Act 1996 (c. 8), Sch. 21 para. 17

**F145** 1989 s.170(4)(a), (6) in relation to things done or omitted to be done on or after 27 July 1989. Previously “£500”.

#### Marginal Citations

**M51** Source-1970 s.226(1), (4), 227(1)

**M52** Source-1970 s.227(1A), (1B); 1971 s.20(2); 1980 s.31(1), (2)

**M53** Source-1970 s.227(1BB); 1980 s.33(2)

**M54** Source-1970 s.227(10), (11), (13)

## 620 Qualifying premiums.

(1) <sup>M55</sup>In this Chapter “qualifying premium” means, subject to subsection (5) below, a premium or other consideration paid by an individual—

- (a) under an annuity contract for the time being approved by the Board under this section as having for its main object the provision for the individual of a life annuity in old age, or
- (b) under a contract for the time being approved under section 621.

(2) <sup>M56</sup>Subject to subsection (3) and (4) below, the Board shall not approve a contract under this section unless it appears to them to satisfy the conditions that it is made by the individual with a person lawfully carrying on in the United Kingdom the business of granting annuities on human life, and that it does not—

- (a) provide for the payment by that person during the life of the individual of any sum except sums payable by way of annuity to the individual; or
- (b) provide for the annuity payable to the individual to commence before he attains the age of 60 or after he attains the age of 75; or
- (c) provide for the payment by that person of any other sums except sums payable by way of annuity to the individual’s widow or widower and any sums which, in the event of no annuity becoming payable either to the individual or to a widow or widower, are payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits; or

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- (d) provide for the annuity, if any, payable to a widow or widower of the individual to be of a greater annual amount than that paid or payable to the individual; or
  - (e) provide for the payment of any annuity otherwise than for the life of the annuitant;
- and that it does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.
- (3) A contract shall not be treated as not satisfying the requirements of subsection (2) above by reason only that it—
- (a) gives the individual the right to receive, by way of commutation of part of the annuity payable to him, a lump sum not exceeding three times the annual amount of the remaining part of the annuity, taking, where the annual amount is or may be different in different years, the initial annual amount, and
  - (b) makes any such right depend on the exercise by the individual of an election at or before the time when the annuity first becomes payable to him.
- (4) <sup>M57</sup>The Board may, if they think fit, and subject to any conditions they think proper to impose, approve, under this section, a contract otherwise satisfying the preceding conditions, notwithstanding that the contract provides for one or more of the following matters—
- (a) for the payment after the individual's death of an annuity to a dependant not the widow or widower of the individual;
  - (b) for the payment to the individual of an annuity commencing before he attains the age of 60, if the annuity 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;
  - (c) if the individual's occupation is one in which persons customarily retire before attaining the age of 60, for the annuity to commence before he attains that age;
  - (d) for the annuity payable to any person to continue for a term certain (not exceeding ten years), notwithstanding his death within that term, or for the annuity payable to any person to terminate, or be suspended, on marriage (or re-marriage) or in other circumstances;
  - (e) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by his personal representatives in the distribution of the estate so as to give effect to a testamentary disposition, or to the rights of those entitled on intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.
- (5) <sup>M58</sup>Subject to section 621(5), section 619 and subsections (1) to (4) above shall apply in relation to a contribution under a trust scheme approved by the Board as they apply in relation to a premium under an annuity contract so approved, with the modification that, for the condition as to the person with whom the contract is made, there shall be substituted a condition that the scheme—
- (a) is established under the law of any part of, and administered in, the United Kingdom; and
  - (b) is established for the benefit of individuals engaged in or connected with a particular occupation (or one or other of a group of occupations), and for the purpose of providing retirement annuities for them, with or without subsidiary benefits for their families or dependants; and

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- (c) is so established under irrevocable trusts by a body of persons comprising or representing a substantial proportion of the individuals so engaged in the United Kingdom, or of those so engaged in England, Wales, Scotland or Northern Ireland;
- and with the necessary adaptations of other references to the contract or the person with whom it is made.
- (6) Exemption from income tax shall be allowed in respect of income derived from investments or deposits of any fund maintained for the purpose mentioned in subsection (5)(b) above under a scheme for the time being approved under that subsection.
- (7) The Board may at any time, by notice given to the persons by and to whom premiums are payable under any contract for the time being approved under this section, or to the trustees or other persons having the management of any scheme so approved, withdraw that approval on such grounds and from such date as may be specified in the notice.
- (8) <sup>M59</sup>Nothing in sections 4 and 6 of the <sup>M60</sup>Policies of Assurance Act 1867 (obligations of assurance companies in respect of notices of assignment of policies of life assurance) shall be taken to apply to any contract approved under this section.
- (9) For the purposes of any provision applying this subsection “approved annuities” means—
- (a) annuities under contracts approved by the Board under this section, being annuities payable wholly in return for premiums or other consideration paid by a person who (when the premiums or other consideration are or is payable) is, or would but for an insufficiency of profits or gains be, chargeable to tax in respect of relevant earnings from a trade, profession, vocation, office or employment carried on or held by him; and
- (b) annuities or lump sums under approved personal pension arrangements within the meaning of Chapter IV of this Part.

#### Marginal Citations

**M55** Source-1970 s.226(1)(b), 1971 s.20(1)

**M56** Source-1970 s.226(2), 226A(5); 1976 s.30(2); 1971 s.20(3)

**M57** Source-1970 s.226(3), 226A(5)

**M58** Source-1970 s.226(5)-(7)

**M59** Source-1970 s.226(12), (13); 1987 (No.2) Sch.2 1

**M60** 1867 c. 144.

#### 621 Other approved contracts.

<sup>M61</sup>(1) The Board may approve under this section—

- (a) a contract the main object of which is the provision of an annuity for the wife or husband of the individual, or for any one or more dependants of the individual,
- (b) a contract the sole object of which is the provision of a lump sum on the death of the individual before he attains the age of 75.

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- (2) The Board shall not approve the contract unless it appears to them that it is made by the individual with a person lawfully carrying on in the United Kingdom the business of granting annuities on human life.
- (3) The Board shall not approve a contract under subsection (1)(a) above unless it appears to them to satisfy all the following conditions, that is to say—
- (a) that any annuity payable to the wife or husband or dependant of the individual commences on the death of the individual,
  - (b) that any annuity payable to the individual commences at a time after the individual attains the age of 60, and, unless the individual's annuity is one to commence on the death of a person to whom an annuity would be payable under the contract if that person survived the individual, cannot commence after the time when the individual attains the age of 75;
  - (c) that the contract does not provide for the payment by the person contracting with the individual of any sum, other than any annuity payable to the individual's wife or husband or dependant, or to the individual, except, in the event of no annuity becoming payable under the contract, any sums payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits;
  - (d) that the contract does not provide for the payment of any annuity otherwise than for the life of the annuitant;
  - (e) that the contract does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.
- (4) The Board may, if they think fit, and subject to any conditions that they think proper to impose, approve a contract under subsection (1)(a) above notwithstanding that, in one or more respects, they are not satisfied that the contract complies with the provisions of paragraphs (a) to (e) of subsection (3) above.
- (5) The main purpose of a trust scheme, or part of a trust scheme, within section 620(5) may be to provide annuities for the wives, husbands and dependants of the individuals, or lump sums payable on death and in that case—
- (a) approval of the trust scheme shall be subject to subsections (1) to (4) above with any necessary modifications, and not subject to section 620(2) to (4);
  - (b) the provisions of this Chapter shall apply to the scheme or part of the scheme when duly approved as they apply to a contract approved under this section; and
  - (c) section 620(6) shall apply to any duly approved trust scheme, or part of a trust scheme.
- (6) Except as otherwise provided in this Chapter (and in particular except in section 620), any reference in the Tax Acts to a contract or scheme approved under that section shall include a reference to a contract or scheme approved under this section.

#### **Marginal Citations**

**M61** Source-1970 s.226A(1)-(4), (6), (7); 1971 Sch.2 1; 1976 s.30(2)

*Status: Point in time view as at 31/12/2004.*

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## 622 Substituted retirement annuity contracts.

- <sup>M62</sup>(1) The Board may, if they think fit, and subject to any conditions they think proper to impose, approve an annuity contract under section 620 notwithstanding that the contract provides that the individual by whom it is made—
- (a) may agree with the person with whom it is made that a sum representing the value of the individual’s accrued rights under it should be applied as the premium or other consideration either under another annuity contract made between them and approved by the Board under section 620, or under personal pension arrangements made between them and approved by the Board under Chapter IV of this Part; or
  - (b) may require the person with whom it is made to pay such a sum to such other person as the individual may specify, to be applied by that other person as the premium or other consideration either under an annuity contract made between the individual and him and approved by the Board under section 620, or under personal pension arrangements made between the individual and him and approved by the Board under Chapter IV of this Part.
- (2) References in subsection (1) above to the individual by whom the contract is made include references to any widow, widower or dependant having accrued rights under the contract.
- (3) Where in pursuance of any such provision as is mentioned in subsection (1) above of an annuity contract approved under section 620, or of a corresponding provision of a contract approved under section 621(1)(a), a sum representing the value of accrued rights under one contract (“the original contract”) is paid by way of premium or other consideration under another contract (“the substituted contract”), any annuity payable under the substituted contract shall be treated as earned income of the annuitant to the same extent that an annuity payable under the original contract would have been so treated.

### Marginal Citations

**M62** Source-1978 s.26(1)-(3); 1987 (No.2) Sch.2 4

## 623 Relevant earnings.

- (1) <sup>M63</sup>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<sup>F146</sup>.
- (2) Subject to subsection (1) above<sup>F146</sup>, “relevant earnings”, in relation to any individual, means, for the purposes of this Chapter, any income of his chargeable to tax for the year of assessment in question, being either—
  - (a) income arising in respect of remuneration from an office or employment held by him other than a pensionable office or employment; or
  - (b) income from any property which is attached to or forms part of the emoluments of any such office or employment held by him; or
  - (c) income which is chargeable under *Schedule B* or<sup>F147</sup> *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, in the case of a partnership, as a partner personally acting therein; or

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- (d) income treated as earned income by virtue of section 529;  
but does not include any remuneration as director of a company whose income consists wholly or mainly of investment income [<sup>F148</sup>(that is to say, income which, if the company were an individual, would not be earned income)], being a company of which he is a controlling director.
- (3) For the purposes of this Chapter, an office or employment is a pensionable office or employment if, and only if, service in it is service to which a sponsored superannuation scheme relates (not being a scheme under which the benefits provided in respect of that service are limited to a lump sum payable on the termination of the service through death or disability before the age of 75 or some lower age); but references to a pensionable office or employment apply whether or not the duties are performed wholly or partly in the United Kingdom or the holder is chargeable to tax in respect of it.
- (4) Service in an office or employment shall not for the purposes of subsection (3) above be treated as service to which a sponsored superannuation scheme relates by reason only of the fact that the holder of the office or employment might (though he does not) participate in the scheme by exercising or refraining from exercising an option open to him by virtue of that service.
- (5) <sup>M64</sup>For the purposes of relief under section 619, an individual's relevant earnings are 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 [<sup>F149</sup>the Capital Allowances Act (including enactments which under this Act are to be treated as contained in that Act)]; and references to income in the following provisions of this section (other than references to total income) shall be construed similarly.
- (6) Subject to the following provisions of this section "net relevant earnings" means, in relation to an individual, the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions falling to be made from the relevant earnings in computing for the purposes of income tax his total income for that year, being—
- (a) deductions which but for section 74(m), (p) or (q) could be made in computing his profits or gains; or
  - (b) deductions in respect of relief under Schedule 9 of the Finance Act 1981 (stock relief); or
  - (c) deductions in respect of losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual *or of the individual's wife or husband*<sup>F150</sup>.
- (7) Where in any year of assessment for which an individual claims and is allowed relief under section 619—
- (a) there falls to be made in computing the total income of the individual *that of his wife or her husband*<sup>F151</sup> a deduction in respect of any such loss or allowance of the individual as is mentioned in subsection (6)(c) above; 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 (being deducted as far as may be from those of the immediately following year, whether or



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not he claims or is entitled to claim relief under this section for that year, and so far as it cannot be so deducted, then from those of the next year, and so on).

- (8)<sup>M65</sup> An individual's net relevant earnings for any year of assessment are to be computed without regard to any relief which falls to be given for that year under section 619 either<sup>F151</sup> to that individual or to that individual's wife or husband<sup>F151</sup>.
- (9) An individual's relevant earnings, in the case of partnership profits, shall be taken to be his share of the partnership income, estimated in accordance with the Income Tax Acts, but the amount to be included in respect of those earnings in arriving at his net relevant earnings shall be his share of that income after making therefrom all such deductions (if any) in respect of payments made by the partnership or of relief given to the partnership under Schedule 9 of the Finance Act 1981 (stock relief) or in respect of capital allowances falling to be made to the partnership as would be made in computing the tax payable in respect of that income.

#### Textual Amendments

- F146** *S. 623(1) and words in s. 623(2) repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.*
- F147** *Words in s. 623(2)(c) repealed by 1988(F) s.148 and Sch.14 Part V from 6 April 1988.*
- F148** *1989 s.107 and Sch.12 para.15—in relation to accounting periods beginning after 31 March 1989. Previously*  
“(construed in accordance with paragraph 7 of Schedule 19)”.
- F149** *Words in s. 623(5) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), Sch. 2 para. 53*
- F150** *Words in s. 623(6)(c) repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.*
- F151** *Words in s. 623(7)(a)(8) repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.*

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

- C27** *S. 623(2)(c) extended (with effect in accordance with s. 44 of the extending Act) by Finance Act 1998 (c. 36), Sch. 6 paras. 1, 2*
- C28** *S. 623(2)(c) extended (with effect in accordance with Sch. 22 paras. 16-18 of the extending Act) by Finance Act 2002 (c. 23), Sch. 22 para. 4*

#### Marginal Citations

- M63** *Source-1970 s.226(8)-(10); 1976 s.30(2); 1972 Sch.24 17*
- M64** *Source-1970 s.227(4), (5)(a), (aa), (b), (6); 1971 Sch.8 16; 1970 s.33(3); 1981 s.35; 1986 s.56(7), Sch.13 2*
- M65** *Source-1970 s.227(8), (9); 1980 s.33(4); 1981 s.35*

## 624 Sponsored superannuation schemes and controlling directors.

- (1)<sup>M66</sup> In section 623 “a sponsored superannuation scheme” means a scheme or arrangement—
- relating to service in particular offices or employments, and
  - having for its object or one of its objects to make provision in respect of persons serving in those offices or employments against future retirement or partial retirement, against future termination of service through death or disability, or against similar matters,

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being a scheme or arrangement under which any part of the cost of the provision so made is or has been borne otherwise than by those persons by reason of their service (whether it is the cost or part of the cost of the benefits provided, or of paying premiums or other sums in order to provide those benefits, or of administering or instituting the scheme or arrangement).

(2) For the purposes of subsection (1) above a person shall be treated as bearing by reason of his service the cost of any payment made or agreed to be made in respect of his service, if that payment or the agreement to make it is treated under the Income Tax Acts as increasing his income, or would be so treated if he were chargeable to tax under [F152section 15 of ITEPA 2003 in respect of his general earnings] from that service.

(3) <sup>M67</sup>In section 623 “controlling director” means a director of a company, the directors of which have a controlling interest in the company, who is the beneficial owner of, or able either directly or through the medium of other companies or by any other indirect means to control, more than 5 per cent. of the ordinary share capital of the company; and for the purposes of this definition—

“company” means one within the <sup>M68</sup>Companies Act 1985 or the <sup>M69</sup>Companies (Northern Ireland) Order 1986; and

“director” means—

- (a) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person;
- (c) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate;

and includes any person who is to be or has been a director.

#### Textual Amendments

**F152** Words in s. 624(2) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by *Income Tax (Earnings and Pensions) Act 2003 (c. 1)*, **Sch. 6 para. 89** (with Sch. 7)

#### Marginal Citations

**M66** Source-1970 s.226(11)

**M67** Source-1970 s.226(9), 224(1)

**M68** 1985 c. 6.

**M69** S.I. 1986/1032 (N.I. 6).

## 625 Carry-forward of unused relief under section 619.

<sup>M70</sup>(1) Where—

- (a) in any year of assessment an individual is (or would but for an insufficiency of profits or gains be) chargeable to income tax in respect of relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, but
- (b) there is unused relief for that year, that is to say, an amount which could have been deducted from or set off against the individual’s relevant earnings for that year under subsection (1) of section 619 if—

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- (i) he had paid a qualifying premium in that year; or
- (ii) the qualifying premium or premiums paid by him in that year had been greater;

then, subject to section 655(1)(b), relief may be given under that section, up to the amount of the unused relief, in respect of so much of any qualifying premium or premiums paid by the individual in any of the next six years of assessment as exceeds the maximum applying for that year under subsection (2) of that section.

- (2) 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.
- (3) 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 619, up to that amount, in respect of so much of any qualifying premium or premiums paid by him within that period as exceeds the maximum applying under subsection (2) of that section for the year of assessment in which they were paid;and to the extent to which relief in respect of any premium or premiums is given by virtue of this subsection it shall not be given by virtue of subsection (1) above.
- (4) 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.

**Marginal Citations**

M70 Source-1970 s.277A; 1980 s.32(1)

**626 Modification of section 619 in relation to persons over 50.**

<sup>M71</sup>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 Table set out below, section 619(2) shall have effect for that year with the substitution for the reference to 17.5 per cent. of a reference to the relevant percentage specified in the second column of the Table.

TABLE

<i>Age range</i>	<i>Percentage</i>
51 to 55	20
56 to 60	22½
61 or more	27½

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#### Marginal Citations

**M71** Source-1970 s.228; 1987 (No.2) s.54(2)

#### <sup>F153</sup> 627 Lloyd's underwriters.

.....

#### Textual Amendments

**F153** S. 627 repealed (with effect as mentioned in s. 228(4) of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), s. 228(2)(a), [Sch. 26 Pt. 5\(25\)](#), Note 1

#### 628 Partnership retirement annuities.

<sup>M72</sup>(1) Where a person (“the former partner”) has ceased to be a member of a partnership on retirement, because of age or ill-health or on death and, under—

- (a) the partnership agreement; or
- (b) an agreement replacing the partnership agreement or supplementing it or supplementing an agreement replacing it; or
- (c) an agreement made with an individual who acquires the whole or part of the business carried on by the partnership;

annual payments are made for the benefit of the former partner or [<sup>F154</sup>a widow, widower or dependant of the former partner] and are for the purposes of income tax income of the person for whose benefit they are made, the payments shall be treated as earned income of that person, except to the extent that they exceed the limit specified in subsection (2) below.

(2) The limit mentioned in subsection (1) above is 50 per cent. of the average of the amounts which, in the best three of the relevant years of assessment, were the former partner's shares of the relevant profits or gains; and for this purpose—

- (a) the former partner's share in any year of the relevant profits or gains is, subject to subsection (3) below, so much of the relevant profits or gains as fell to be included in a return of his income for that year; and
- (b) the relevant profits or gains are the profits or gains of any trade, profession or vocation on which the partnership or any other partnership of which the former partner was a member was assessed to income tax; and
- (c) the relevant years of assessment are the last seven years of assessment in which he was required to devote substantially the whole of his time to acting as a partner in the partnership or those partnerships; and
- (d) the best three of the relevant years of assessment are those three of them in which the amounts of his shares of the relevant profits were highest;

but where, in any of the relevant years, the circumstances were such that any of the profits or gains of a partnership were not assessable to income tax, paragraphs (a), (b) and (d) above shall apply as they would apply had those profits or gains been so assessable.

(3) If the retail prices index for the month of December in the last of the seven years referred to in paragraph (c) of subsection (2) above is higher than it was for the month

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of December in any of the other years referred to in that paragraph, the amount which, for that other year, was the former partner's share of the relevant profits or gains shall be treated for the purposes of that subsection as increased by the same percentage as the percentage increase in that index.

- (4) If the retail prices index for the month of December preceding a year of assessment after that in which the former partner ceased to be a member of the partnership is higher than it was for the month of December in the year of assessment in which he ceased to be such a member, the amount which under subsection (2) above is the limit for the first-mentioned year of assessment shall be treated as increased by the same percentage as the percentage increase in that index.
- (5) Where the former partner ceased to be a member of the partnership before the year 1974-75, subsection (4) above shall have effect as if he had ceased to be a member in that year.

#### Textual Amendments

**F154** 1988(F) s.35 and Sch.3 para.19 for 1990-91 and subsequent years. Previously "his widow or a dependant of his".

#### Marginal Citations

**M72** Source-1974 s.16; 1982 s.39(1); 1980 s.34(3)

## 629 Annuity premiums of Ministers and other officers.

<sup>M73</sup>(1) For the purposes of this Chapter so much of any salary which—

- (a) is payable to the holder of a qualifying office who is also a Member of the House of Commons, and
- (b) is 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,

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 (3)(a) below) is payable to him as a Member holding that qualifying office shall be treated as remuneration from the office of Member and not from the qualifying office.

(2) In this section—

“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 section 2(2)(b), (c) or (d) of the Parliamentary and other <sup>M74</sup>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

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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.

- (3) In subsection (2) 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.

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

**C29** S. 629 applied (with modifications) (with effect in accordance with s. 52(2) of the affecting Act) by Finance Act 1999 (c. 16), **Sch. 5 para. 6**

**Marginal Citations**

**M73** Source-1970 s.229

**M74** 1987 c. 45.

## CHAPTER IV

### PERSONAL PENSION SCHEMES

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

**C30** Pt. 14 Ch. 5 excluded (1.5.1995) by Finance Act 1995 (c. 4), **s. 60(5)**

#### *Preliminary*

### **630 Interpretation.**

[<sup>F155</sup>(1)] <sup>M75</sup>In this Chapter—

“approved”—

- (a) in relation to a scheme [<sup>F156</sup>(other than an approved retirement benefits scheme)], means approved by the Board under this Chapter; and
- (b) in relation to arrangements, means—
  - (i) <sup>F157</sup>made in accordance with a scheme which is for the time being, and was when the arrangements were made, an approved scheme<sup>F158</sup>; or
  - (ii) made in accordance with a scheme which is for the time being an approved converted scheme but which was, when the arrangements were made, an approved retirement benefits scheme;]

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

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[<sup>F159</sup>“approved converted scheme” means an approved personal pension scheme which is such a scheme by virtue of paragraph 3(2)(b) of Schedule 23ZA;]

[<sup>F160</sup>“approved retirement benefits scheme” means a retirement benefits scheme approved under Chapter I of this Part;]

[<sup>F161</sup>“authorised insurance company” has the meaning given by section 659B;]

[<sup>F162</sup>“the earnings threshold” for any year of assessment is £3,600;

[<sup>F163</sup>“higher level contributions”, in the case of any year of assessment, means contributions in excess of the earnings threshold for the year;]

[<sup>F164</sup>“income withdrawal” means a payment of income, under arrangements made in accordance with a personal pension scheme, otherwise than by way of an annuity;]

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

[<sup>F165</sup>“pension date”, in relation to any personal pension arrangements, means [<sup>F166</sup>(subject to section 638ZA)] the date determined in accordance with the arrangements on which—

- (a) an annuity such as is mentioned in section 634 is first payable, or
- (b) the member elects to defer the purchase of such an annuity and to make income withdrawals in accordance with section 634A;]

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

[<sup>F167</sup>“the personal pension fund”, in the case of any personal pension arrangement and an individual, means the accrued rights to which the individual is entitled conferring prospective entitlement to benefits under the arrangement;

“personal pension scheme” means a scheme whose sole purpose is the provision of annuities [<sup>F168</sup>, income withdrawals] or lump sums under arrangements made by individuals in accordance with the scheme;

[<sup>F169</sup>“retirement benefits scheme” has the same meaning as in Chapter I of this Part (see section 611);]

“scheme administrator” means the person referred to in section 638(1);

[<sup>F170</sup>and references to an employee or to an employer include references to the holder of an office or to the person under whom an office is held.]

<sup>F171</sup>(1A) [The Treasury may by order amend the definition of “the earnings threshold” in subsection (1) above for any year of assessment by varying the amount there specified.]

<sup>F172</sup>(2) [For the purposes of this Chapter the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated by reference to—

- (a) the value on that date, determined by or on behalf of the scheme administrator, of the [<sup>F173</sup>personal pension fund] under the arrangements in question, and
- (b) the current published tables of rates of annuities prepared for the purposes of this Chapter by the Government Actuary.

[<sup>F174</sup>Where a lump sum falls to be paid on the date in question, the reference is to the value of the personal pension fund after allowing for that payment.]

(3) <sup>F175</sup> .....

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- (4) The Board may make provision by regulations as to the basis on which the tables mentioned in subsection (2)(b) above are to be prepared and the manner in which they are to be applied.]]]

### Textual Amendments

- F155** S. 630 renumbered as s. 630(1) (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by virtue of [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F156** S. 630(1): words in definition of "approved" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para 2\(a\)](#) (with [Sch. 13 Pt. 2](#))
- F157** S. 630(1): in definition of "approved", words in para. (b) renumbered as para. (b)(i) (28.7.2000) by virtue of [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(2\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F158** S. 630(1): in definition of "approved", para. (b) and preceding word inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(2\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F159** S. 630(1): definition of "approved converted scheme" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(a\)](#) (with [Sch. 13 Pt. 2](#))
- F160** S. 630(1): definition of "approved retirement benefits scheme" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F161** S. 630(1): definition of "authorised insurance company" substituted (with effect in accordance with s. 60(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 59\(4\)](#)
- F162** S. 630(1): definition of "the earnings threshold" inserted (with effect in accordance with [Sch. 13 para. 5\(8\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(c\)](#) (with [Sch. 13 Pt. 2](#))
- F163** S. 630(1): definition of "higher level contributions" inserted (with effect in accordance with [Sch. 13 para. 5\(8\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(d\)](#) (with [Sch. 13 Pt. 2](#))
- F164** S. 630(1): definition of "income withdrawal" inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F165** S. 630(1): definition of "pension date" inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F166** S. 630(1): words in definition of "pension date" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(3\)](#) (with [Sch. 13 Pt. 2](#))
- F167** S. 630(1): definition of "the personal pension fund" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(e\)](#) (with [Sch. 13 Pt. 2](#))
- F168** S. 630(1): words in definition of "personal pension scheme" inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F169** S. 630(1): definition of "retirement benefits scheme" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(f\)](#) (with [Sch. 13 Pt. 2](#))
- F170** 1988(F) s.55(1)—*from 1 July 1988.*
- F171** S. 630(1A) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(5\)](#) (with [Sch. 13 Pt. 2](#))
- F172** S. 630(2)-(4) inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(3\)](#)
- F173** Words in s. 630(2)(a) substituted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(6\)\(a\)](#) (with [Sch. 13 Pt. 2](#))
- F174** Words in s. 630(2) added (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(6\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F175** S. 630(3) repealed (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(7\)](#), [Sch. 40 Pt. 2\(4\)](#) (with [Sch. 13 Pt. 2](#))

### Marginal Citations

- M75** Source-1987 (No.2) s.18



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### 631 Approval of schemes.

- <sup>M76</sup>(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 632 to [<sup>F176</sup>638A][<sup>F177</sup>(and, where applicable, Schedule 23ZA)].
- [<sup>F178</sup>(2A) An application for approval of a personal pension scheme may, if the Board think fit, be granted subject to conditions.]
- (3) The Board shall give notice to the applicant of the grant or refusal of an application; and
- [<sup>F179</sup>(a) in the case of a grant subject to conditions, the notice shall state that the grant is so subject and shall specify the conditions; and
- (b)] 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.

#### Textual Amendments

**F176** Words in s. 631(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 94\(2\)](#)

**F177** Words in s. 631(2) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 6\(2\)](#) (with [Sch. 13 Pt. 2](#))

**F178** [S. 631\(2A\)](#) inserted (with effect in accordance with [Sch. 13 para. 6\(5\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 6\(3\)](#) (with [Sch. 13 Pt. 2](#))

**F179** Words in s. 631(3) inserted (with effect in accordance with [Sch. 13 para. 6\(5\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 6\(4\)](#) (with [Sch. 13 Pt. 2](#))

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

**C31** See [S.I. 1987 No.1765](#) (in Part III Vol.5) for regulations governing the provisional approval of schemes where application is made before 10 August 1989.

#### Marginal Citations

**M76** Source-1987 (No.2) s.19

### [<sup>F180</sup>631A Conversion of certain approved retirement benefits schemes.

Schedule 23ZA to this Act (which makes provision for or in connection with the conversion of certain retirement benefits schemes approved under Chapter I of this Part into personal pension schemes approved under this Chapter) shall have effect.]

#### Textual Amendments

**F180** [S. 631A](#) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 7](#) (with [Sch. 13 Pt. 2](#))

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### *Restrictions on approval*

#### **632 Establishment of schemes.**

<sup>M77</sup>(1) [<sup>F181</sup>Subject to subsection (1A), the] Board shall not approve a personal pension scheme established by any person other than—

- (a) a person who [<sup>F182</sup>has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance or to manage unit trust schemes authorised under section 243 of that Act;]
- [<sup>F183</sup>[<sup>F184</sup>(aa) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000 which—
  - (i) has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; and
  - (ii) fulfils any one of the requirements under subsections (5), (6) or (7) of section 659B;
- (ab) a firm which has permission under paragraph 4 of Schedule 4 to the Financial Services and Markets Act 2000 (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to manage unit trust schemes authorised under section 243 of that Act;
- (ac) a person who qualifies for authorisation under Schedule 5 to the Financial Services and Markets Act 2000;]]
- (b) a building society within the meaning of the <sup>M78</sup>Building Societies Act 1986;
- [<sup>F185</sup>(bb) <sup>F186</sup>.....]
- [<sup>F187</sup>(c) a person falling within section 840A(1)(b);]
- [<sup>F185</sup>(cc) a body corporate which is a subsidiary or holding company of [<sup>F188</sup>a person falling within section 840A(1)(b)], or is a subsidiary of the holding company of [<sup>F189</sup>such a person];]
- (d) <sup>F190</sup>.....
- [<sup>F191</sup>(e) an institution which—
  - [<sup>F192</sup>(i) is an EEA firm of the kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to the Financial Services and Markets Act 2000,
  - (ii) qualifies for authorisation under paragraph 12(1) or (2) of that Schedule, and
  - (iii) has permission under that Act to manage portfolios of investments.]]

[<sup>F193</sup>(1A) The Board may approve a personal pension scheme established by any person other than a person mentioned in subsection (1)(a) to (e) if the scheme is established under a trust or trusts.]

[<sup>F194</sup>(2) In subsection (1)(a) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.]

[<sup>F195</sup>(2A) In subsection 1(cc) above “holding company” and “subsidiary” are to be construed in accordance with section 736 of the <sup>M79</sup>Companies Act 1985 or Article 4 of the <sup>M80</sup>Companies (Northern Ireland) Order 1986.]

[<sup>F196</sup>(2B) <sup>F197</sup>.....]

(3) Subsection (1) above shall not apply in relation to a scheme approved by the Board by virtue of section 620(5) if it was established before [<sup>F198</sup>1st July] 1988.

*Status: Point in time view as at 31/12/2004.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The Treasury may by order amend this section as it has effect for the time being.

#### Textual Amendments

- F181** Words in s. 632(1) substituted (1.10.2000) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 2000 \(S.I. 2000/2317\)](#), [arts. 1, 2\(2\)](#)
- F182** Words in s. 632(1)(a) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(2\)](#)
- F183** S. 632(1)(aa) inserted (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 3\(a\)](#)
- F184** S. 632(1)(aa)-(ac) substituted for s. 632(1)(aa) (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(3\)](#)
- F185** S.I. 1988 No.993
- F186** S. 632(1)(bb) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(4\)](#)
- F187** S. 632(1)(c) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(5\)](#)
- F188** Words in s. 632(1)(cc) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(6\)\(a\)](#)
- F189** Words in s. 632(1)(cc) substituted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(6\)\(b\)](#)
- F190** S. 632(1)(d) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(7\)](#)
- F191** S. 632(1)(e) added (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 3\(b\)](#)
- F192** S. 632(1)(e)(i)-(iii) substituted for s. 632(1)(e)(i)(ii) (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(8\)](#)
- F193** S. 632(1A) inserted (1.10.2000) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 2000 \(S.I. 2000/2317\)](#), [arts. 1, 2\(3\)](#)
- F194** S. 632(2) substituted for s. 632(2)(2ZA) (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(9\)](#)
- F195** S.I. 1988 No.993
- F196** S. 632(2B) inserted (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 5](#)
- F197** S. 632(2B) omitted (1.12.2001 with effect in accordance with art. 1(2)(a) of the amending S.I) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 41\(10\)](#)
- F198** 1988(F) s.54(2)(a)—*deemed always to have had effect. Previously* “4th January”.

#### Marginal Citations

- M77** Source-1987 (No.2) s.20
- M78** 1986 c. 53.

*Status: Point in time view as at 31/12/2004.*

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**M79** 1985 c.6

**M80** S.I. 1986 No.1032.

**[<sup>F199</sup> 632A Eligibility to make contributions.**

- (1) The Board shall not approve a personal pension scheme if it permits, in relation to arrangements made by a member in accordance with the scheme, the acceptance of—
  - (a) contributions by the member, or
  - (b) contributions by an employer of the member,
 at a time when the member is not eligible to make contributions.
- (2) The Board shall not approve a personal pension scheme unless it makes provision for ensuring, in relation to any such arrangements, that any contributions accepted at a time when the member is not eligible to make contributions are repaid—
  - (a) to the member, to the extent of his contributions; and
  - (b) as to the remainder, to his employer.
- (3) The following provisions of this section, and the provisions of section 632B, have effect for determining for the purposes of subsections (1) and (2) above the times at which a member is eligible to make contributions (and, for those purposes, a member is not eligible to make contributions at any other time).
- (4) A member is eligible to make contributions at any time during a year of assessment for which he has actual net relevant earnings.
- (5) A member who does not have actual net relevant earnings for a year of assessment (“the relevant year”) is eligible to make contributions at any time during that year if—
  - (a) for at least some part of the year he does not hold an office or employment to which section 645 applies; and
  - (b) the condition in any of subsections (6) to (9) below is satisfied.
- (6) Condition A is that at some time in the relevant year the member is resident and ordinarily resident in the United Kingdom.
- (7) Condition B is that the member—
  - (a) at some time during the five years of assessment preceding the relevant year, has been resident and ordinarily resident in the United Kingdom; and
  - (b) was resident and ordinarily resident in the United Kingdom when he made the personal pension arrangements in question.
- (8) Condition C is that at some time in the relevant year the member is a person who performs duties which, by virtue of section 132(4)(a), are treated as being performed in the United Kingdom.
- (9) Condition D is that at some time in the relevant year the member is the spouse of a person who performs such duties as are mentioned in subsection (8) above.]

**Textual Amendments**

**F199** Ss. 632A, 632B inserted (6.4.2001) by *Finance Act 2000 (c. 17)*, **Sch. 13 para. 8** (with *Sch. 13 Pt. 2*)

*Status: Point in time view as at 31/12/2004.*

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**[<sup>F199</sup>632B] Eligibility to make contributions: concurrent membership.**

- (1) A member who would not, apart from this section, be eligible to make contributions during a year of assessment shall be eligible to make contributions at any time during that year if—
  - (a) throughout the year he holds an office or employment to which section 645 applies;
  - (b) the condition in any of subsections (6) to (9) of section 632A is satisfied in his case as respects the year;
  - (c) he is not, and has not been, a controlling director of a company at any time in the year or in any of the five years of assessment preceding it;
  - (d) for at least one of the five years of assessment preceding the year, the aggregate of his grossed-up remuneration from each office and each employment held on 5th April in that preceding year does not exceed the remuneration limit for the relevant year; and
  - (e) the total relevant contributions made in the year do not exceed the earnings threshold for the year.
- (2) For the purposes of paragraphs (c) and (d) of subsection (1) above, no account shall be taken of any year of assessment earlier than the year 2000-01.
- (3) For the purposes of paragraph (c) of subsection (1) above, a person is a controlling director of a company at any time if at that time—
  - (a) he is a director, as defined by section 612(1); and
  - (b) he is within paragraph (b) of section 417(5) in relation to the company.
- (4) For the purposes of paragraph (d) of subsection (1) above—
  - (a) “grossed up”, in relation to a person’s remuneration from an office or employment, means increased by being multiplied by a figure determined in accordance with an order made by the Treasury (or left unchanged, if that figure is unity);
  - (b) “remuneration” shall be construed in accordance with an order made by the Treasury;
  - (c) “the remuneration limit” for any year of assessment is £30,000;
  - (d) “the relevant year” means the year of assessment first mentioned in subsection (1) above.

The Treasury may by order amend the definition of “the remuneration limit” in paragraph (c) above for any year of assessment by varying the amount there specified.
- (5) For the purposes of paragraph (e) of subsection (1) above and the following provisions of this section, “the total relevant contributions”, in the case of a year of assessment, means the aggregate amount of the contributions made in the year—
  - (a) by the member in question, and
  - (b) by any employer of his,

under arrangements made by the member under the scheme in question, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member.
- (6) If—

*Status: Point in time view as at 31/12/2004.*

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- (a) in the case of a member, the total relevant contributions in a year of assessment, apart from this subsection, exceed the earnings threshold for the year, and
  - (b) but for that, the member would be eligible to make contributions by virtue of subsection (1) above at any time in that year,
- the repayment required by subsection (2) of section 632A is repayment of the relevant excess contributions only (so that the condition in subsection (1)(e) above becomes satisfied).
- (7) In subsection (6) above “the relevant excess contributions” means—
- (a) to the extent that a contribution is the first which caused the total relevant contributions in the year to exceed the earnings threshold for the year, that contribution; and
  - (b) all subsequent contributions in the year.
- (8) The Treasury may by order make provision requiring any person who claims to be eligible to make contributions by virtue of this section to provide to—
- (a) the Board,
  - (b) an officer of the Board, or
  - (c) the scheme administrator of the personal pension scheme concerned,
- such declarations, certificates or other evidence in support of the claim as may be specified or described in, or determined in accordance with, the order.
- (9) A person shall only be eligible to make contributions by virtue of this section in a year of assessment if he complies with any requirements imposed by order under subsection (8) above.]

#### **Textual Amendments**

**F199** Ss. 632A, 632B inserted (6.4.2001) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 8](#) (with [Sch. 13 Pt. 2](#))

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

**C32** [S. 632B\(4\)\(a\)](#) modified (6.4.2001 in accordance with art. 1(1) of the modifying S.I.) by [The Personal Pension Schemes \(Concurrent Membership\) Order 2000 \(S.I. 2000/2318\)](#), [art. 3\(1\)](#)

### **633 Scope of benefits.**

- <sup>M81</sup>(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 634 [<sup>F200</sup>or income withdrawals with respect to which the conditions in section 634A are satisfied];
  - (b) the payment to a member of a lump sum satisfying the conditions in section 635;
  - (c) the payment after the death of a member of an annuity satisfying the conditions in section 636 [<sup>F201</sup>or income withdrawals with respect to which the conditions in section 636A are satisfied];
  - (d) the payment on the death of a member of a lump sum satisfying [<sup>F202</sup>the conditions in section 637 (death benefit);]

*Status: Point in time view as at 31/12/2004.*

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[<sup>F203</sup>(e) the payment on or after the death of a member of a lump sum [<sup>F204</sup>with respect to which the conditions in section 637A (return of contributions) are satisfied]].

(2) <sup>F205</sup> .....

#### Textual Amendments

**F200** Words in s. 633(1)(a) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(2)

**F201** Words in s. 633(1)(c) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(3)

**F202** Words in s. 633(1)(d) substituted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(4)

**F203** S. 633(1)(e) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(5)

**F204** Words in s. 633(1)(e) substituted (with effect in accordance with s. 172(3) of the amending Act) by Finance Act 1996 (c. 8), s. 172(1)

**F205** S. 633(2) repealed (with effect in accordance with Sch. 13 para. 9(3) of the repealing Act) by Finance Act 2000 (c. 17), Sch. 13 para. 9(2), Sch. 40 Pt. 2(4), Note 1 (with Sch. 13 Pt. 2)

#### Marginal Citations

**M81** Source-1987 (No.2) s.21

### 634 Annuity to member.

<sup>M82</sup>(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 expiry of that term, on the happening of any of the following—

- (a) the marriage of the annuitant;
- (b) his attaining the age of 18;
- (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, [<sup>F206</sup>except that—

- (a) an annuity may be assigned or surrendered for the purpose of giving effect to a pension sharing order or provision; and
- (b) 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.

*Status: Point in time view as at 31/12/2004.*

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### Textual Amendments

**F206** Words in s. 634(6) substituted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), Sch. 10 para 12(1); S.I. 2000/1093, art. 2

### Marginal Citations

**M82** Source-1987 (No.2) s.22

## [<sup>F207</sup> 634] **Income withdrawals by member.**

- (1) Where a member elects to defer the purchase of an annuity such as is mentioned in section 634, income withdrawals may be made by him during the period of deferral, subject as follows.
 

[ The Board shall not refuse to approve a personal pension scheme by reason only that

<sup>F208</sup>(1A) it makes provision for arrangements under the scheme which enable a member who makes such an election as is mentioned in subsection (1) above to apply different parts of the personal pension fund at different times in the purchase of different annuities satisfying the conditions in section 634 (whether commencing on the same day or on different days).]
- (2) Income withdrawals must not be made before the member attains the age of 50, unless—
  - (a) they are available 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.
- (3) Income withdrawals must not be made after the member attains the age of 75.
- (4) The aggregate amount of income withdrawals by a member in each successive period of twelve months [<sup>F209</sup>in each valuation period] must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him—
 

[<sup>F210</sup>(a) in the case of the initial period, on the relevant reference date; and

(b) in the case of any subsequent valuation period,

[<sup>F211</sup>(i) on a particular day in the period of sixty days ending with the relevant reference date]<sup>F212</sup>, or

(ii) immediately after the last qualifying annuitisation,

whichever is the later]].

[ For the purposes of subsection (4) above—

<sup>F213</sup>(4A) (a) “annuitisation” means the application of part of the personal pension fund in the purchase of an annuity satisfying the conditions in section 634; and

(b) an annuitisation is a “qualifying annuitisation”, in relation to any such period of twelve months as is mentioned in subsection (4) above, if it has taken place—

  - (i) in an earlier such period, but
  - (ii) since the relevant reference date.]



*Status: Point in time view as at 31/12/2004.*

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[<sup>F214</sup>(5) For the purposes of this section, in the case of any arrangements the relevant reference date—

- (a) for the period beginning with the member’s pension date (“the initial period”), is that pension date; and
- (b) for each succeeding period, is the first day of the period;

and, subject to subsection (5D) below, any period mentioned in paragraph (a) or (b) above (a “valuation period”) is a period of three years.]

[ Where—

<sup>F215</sup>(5A) (a) a member has made an election under subsection (1) above in respect of two or more personal pension arrangements under the same personal pension scheme, and

- (b) in the case of one or more of those arrangements, the relevant reference date for any valuation period after the initial period would not, apart from this subsection, coincide with a date which is (or, but for the ending of the period of deferral, would be) the relevant reference date for a valuation period in the case of the arrangements with the earliest pension date,

the relevant reference date for any valuation period other than the initial period, and the valuation period to which that date relates, shall, if the scheme or the arrangements so require, be determined in the case of all those arrangements on the assumption that the pension date is in each case the same as in the case of the arrangements with the earliest pension date.

(5B) In determining in accordance with subsection (5A) above the relevant reference date and the valuation period to which it relates, in the case of any arrangements (“the relevant arrangements”), there shall be left out of account any arrangements in whose case the period of deferral ended—

- (a) before the actual pension date in the case of the relevant arrangements; or
- (b) before the date on which the relevant arrangements first become subject to such a requirement as is mentioned in subsection (5A) above.

(5C) But where, in the case of any arrangements,—

- (a) the relevant reference date for any valuation period falls to be determined, in accordance with the assumption in subsection (5A) above, by reference to the pension date for any other arrangements, and
- (b) the period of deferral in the case of those other arrangements comes to an end,

the same pension date shall continue to be assumed under that subsection for that and any subsequent valuation period, notwithstanding the coming to an end of the period of deferral in the case of those other arrangements (and references in subsection (5A) to the arrangements with the earliest pension date shall be construed accordingly).

(5D) Where, in the case of any personal pension arrangements, in consequence of subsection (5A) above the relevant reference date for any valuation period (“the later date”) falls less than three years after the relevant reference date for the previous valuation period (“the earlier date”)—

- (a) the valuation period beginning with the earlier date shall end with the day before the later date; and
- (b) [<sup>F216</sup>subsections (4) and (4A)] above shall apply in relation to any portion of the period which remains after the completion of any successive periods of twelve months as if it were a period of twelve months.]

*Status: Point in time view as at 31/12/2004.*

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- (6) The right to income withdrawals must not be capable of assignment or surrender <sup>[F217]</sup>, except for the purpose of giving effect to a pension sharing order or provision].]

#### Textual Amendments

- F207** S. 634A inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 4**
- F208** S. 634A(1A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(2)(6)** (with Sch. 13 Pt. 2)
- F209** Words in s. 634A(4) substituted (1.10.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 10(2)(a)(5)** (with Sch. 13 Pt. 2)
- F210** S. 634(4)(a)(b) substituted for words in s. 634(4) (with effect in accordance with Sch. 13 para. 10(6)(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para 10(2)(b)** (with Sch. 13 Pt. 2)
- F211** Words in s. 634A(4)(b) renumbered as s. 634A(4)(b)(i) (6.4.2001) by virtue of Finance Act 2000 (c. 17), **Sch. 13 para. 11(3)(a)(6)** (with Sch. 13 Pt. 2)
- F212** Words in s. 634A(4)(b) added (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(3)(b)(6)** (with Sch. 13 Pt. 2)
- F213** S. 634A(4A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(4)(6)** (with Sch. 13 Pt. 2)
- F214** S. 634A(5) substituted (1.10.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 10(3)(5)** (with Sch. 13 Pt. 2)
- F215** S. 634A(5A)-(5D) inserted (with effect in accordance with Sch. 13 para. 10(6)(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 10(4)** (with Sch. 13 Pt. 2)
- F216** Words in s. 634A(5D)(b) substituted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(5)(6)** (with Sch. 13 Pt. 2)
- F217** Words in s. 634A(6) inserted (with application in accordance with Sch. 10 para 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 12(2)**; S.I. 2000/1093, **art. 2**

#### 635 Lump sum to member.

- <sup>M83</sup>(1) The lump sum must be payable only if the member so elects on or before <sup>[F218]</sup>his pension date under the arrangements in question].
- (2) The lump sum must be payable <sup>[F219]</sup>on the date which is his pension date under the arrangements in question].
- <sup>[F220]</sup>(3) The lump sum must not exceed one quarter of the difference between—
- (a) the total value, at the time when the lump sum is paid, of the benefits provided for by <sup>[F221]</sup>the arrangements in question], and
  - (b) the value, at that time, of such of the member's rights <sup>[F222]</sup>under those arrangements] as are protected rights for the purposes of the <sup>[F223]</sup>Pension Schemes Act 1993] or the <sup>[F224]</sup>Pension Schemes (Northern Ireland) Act 1993].]
- (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* <sup>F225</sup>.
- (5) The right to payment of the lump sum must not be capable of assignment or surrender <sup>[F226]</sup>, except for the purpose of giving effect to a pension sharing order or provision].

#### Textual Amendments

- F218** Words in s. 635(1) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 5(2)**

*Status: Point in time view as at 31/12/2004.*

*Changes to legislation: Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F219** Words in s. 635(2) substituted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 5(3)
- F220** 1989 s.77 and Sch.7 para.2(2) in relation to the approval of a scheme on or after 27 July 1989 but if the scheme came into existence before 27 July 1989 para.2(2) shall not have effect as regards arrangements made by a member in accordance with the scheme before that date. Previously “(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.”.
- F221** Words in s. 635(3)(a) substituted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 5(4)(a)
- F222** Words in s. 635(3)(b) substituted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 5(4)(b)
- F223** Words in s. 635(3)(b) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), Sch. 8 para. 20(2) (with ss. 6(8), 164); S.I. 1994/86, art. 2
- F224** Words in s. 635(3)(b) substituted (7.2.1994) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), ss. 184, 186(2), Sch. 7 para. 22(1); S.R. 1994/17, art. 2
- F225** Words repealed by 1989 ss.77, 187 and Schs.7 para. 2(3) and 17 Part IV in relation to approvals on or after 27 July 1989.
- F226** Words in s. 635(5) inserted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), Sch. 10 para. 12(3); S.I. 2000/1093, art. 2

#### Marginal Citations

- M83** Source-1987 (No.2) s.23

### 636 Annuity after death of member.

<sup>M84</sup>(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) 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 [<sup>F227</sup>been purchased] on the day before his death.

[<sup>F228</sup>(3A) The references in subsection (3) above—

- (a) to the annual amount or highest annual amount of an annuity of which the member was in receipt before his death, and
- (b) to the highest annual amount of an annuity that would have been payable if it had been purchased on the day before the member’s death,

shall each be construed in a case where payments of that annuity were or would have been affected by the making of any pension sharing order or provision as if the only payments of that annuity to be taken into account were those that have been or would have been so affected.]

(4) Subject to subsections (5) to (9) below, the annuity must be payable for the life of the annuitant.

*Status: Point in time view as at 31/12/2004.*

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- (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 634(5) 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
  - (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 18;
  - (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, [<sup>F229</sup>except that—
- (a) an annuity may be assigned or surrendered for the purpose of giving effect to a pension sharing order or provision; and
  - (b) 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.

#### Textual Amendments

**F227** Words in s. 636(3) substituted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 6](#)

**F228** [S. 636\(3A\)](#) inserted (with application in accordance with [Sch. 10 para. 18\(8\)\(9\)](#) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 10 para. 13\(1\)](#); S.I. 2000/1093, [art. 2](#)

**F229** Words in s. 636(10) substituted (with application in accordance with [Sch. 10 para. 18\(8\)\(9\)](#) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 10 para. 13\(2\)](#); S.I. 2000/1093, [art. 2](#)

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#### Marginal Citations

M84 Source-1987 (No.2) s.24

### [<sup>F230</sup>636] **Income withdrawals after death of member.**

- (1) Where a person entitled to such an annuity as is mentioned in section 636 elects to defer the purchase of the annuity, income withdrawals may be made by him during the period of deferral, subject as follows.

[ The Board shall not refuse to approve a personal pension scheme by reason only that  
<sup>F231</sup>(1A) it makes provision for arrangements under the scheme which enable a person who makes such an election as is mentioned in subsection (1) above to apply different parts of the personal pension fund at different times in the purchase of different annuities satisfying the conditions in section 636 (whether commencing on the same day or on different days).]

- (2) No such deferral may be made, and accordingly income withdrawals may not be made, if the person concerned elects in accordance with section 636(5)(a) to defer the purchase of an annuity.

- (3) Income withdrawals must not be made after the person concerned if he had purchased such an annuity as is mentioned in section 636 would have ceased to be entitled to payments under it.

- (4) Income withdrawals must not in any event be made after the member would have attained the age of 75 or, if earlier, after the person concerned attains the age of 75.

- (5) The aggregate amount of income withdrawals by a person in each successive period of twelve months beginning with the date of the member's death must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him—

- <sup>F232</sup>(a) in the case of the first period of three years, on the relevant reference date; and
- (b) in the case of any succeeding period of three years,
  - <sup>F233</sup>(i) on a particular day in the period of sixty days ending with the relevant reference date<sup>F234</sup>, or
  - (ii) immediately after the last qualifying annuitisation,whichever is the later]].

[ For the purposes of subsection (5) above—

- <sup>F235</sup>(5A) (a) “annuitisation” means the application of part of the personal pension fund in the purchase of an annuity satisfying the conditions in section 636; and
- (b) an annuitisation is a “qualifying annuitisation”, in relation to any such period of twelve months as is mentioned in subsection (5) above, if it has taken place—
  - (i) in an earlier such period, but
  - (ii) since the relevant reference date.]

- (6) For the purposes of this section the relevant reference date for the first three years is the date of the member's death, and for each succeeding period of three years is the first day of that period.

- (7) The right to income withdrawals must not be capable of assignment or surrender [<sup>F236</sup>, except for the purpose of giving effect to a pension sharing order or provision].]

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#### Textual Amendments

- F230** S. 636A inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 7**
- F231** S. 636A(1A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(2)(7)** (with Sch. 13 Pt. 2)
- F232** S. 636A(5)(a)(b) substituted for words in s. 636A(5) (1.10.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(3)(6)** (with Sch. 13 Pt. 2)
- F233** Words in s. 636A(5)(b) renumbered as s. 636A(5)(b)(i) (6.4.2001) by virtue of Finance Act 2000 (c. 17), **Sch. 13 para. 12(4)(a)(7)** (with Sch. 13 Pt. 2)
- F234** Words in s. 636A(5)(b) added (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(4)(b)(7)** (with Sch. 13 Pt. 2)
- F235** S. 636A(5A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(5)(7)** (with Sch. 13 Pt. 2)
- F236** Words in s. 636A(7) inserted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 14**; S.I. 2000/1093, **art. 2**

#### [<sup>F237</sup> 637 Death benefit.

The lump sum—

- (a) must be payable on the death of the member before he attains the age of 75, and
- (b) must be payable by an authorised insurance company.]

#### Textual Amendments

- F237** Ss. 637, 637A substituted for s. 637 (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 8**

#### [<sup>F238</sup> [<sup>F239</sup> 637A Return of contributions on or after death of member.

- (1) The lump sum payable under the arrangements in question (or, where two or more lump sums are so payable, those lump sums taken together) must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for—

- (a) any income withdrawals, and
- (b) any purchases of annuities such as are mentioned in section 636.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum (or lump sums) may represent the sale or redemption price of the units.

- (2) A lump sum must be payable only if, in the case of the arrangements in question,—
  - (a) no such annuity as is mentioned in section 634 has been purchased by the member;
  - (b) no such annuity as is mentioned in section 636 has been purchased in respect of the relevant interest; and
  - (c) no election in accordance with subsection (5)(a) of section 636 has been made in respect of the relevant interest.
- (3) Where the member's death occurs after the date which is his pension date in relation to the arrangements in question, a lump sum must not be payable more than two years

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after the death unless, in the case of that lump sum, the person entitled to such an annuity as is mentioned in section 636 in respect of the relevant interest—

- (a) has elected in accordance with section 636A to defer the purchase of an annuity; and
  - (b) has died during the period of deferral.
- (4) In this section “the relevant interest” means the interest, under the arrangements in question, of the person to whom or at whose direction the payment in question is made, except where there are two or more such interests, in which case it means that one of them in respect of which the payment is made.
- (5) Where, under the arrangements in question, there is a succession of interests, any reference in subsection (2) or (3) above to the relevant interest includes a reference to any interest (other than that of the member) in relation to which the relevant interest is a successive interest.]]

#### Textual Amendments

**F238** S. 637A substituted (with effect in accordance with s. 172(3) of the amending Act) by Finance Act 1996 (c. 8), s. 172(2)

**F239** Ss. 637, 637A substituted for s. 637 (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 8

### 638 Other restrictions on approval.

- (1) <sup>M85</sup>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.
- (2) 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.
- (3) <sup>M86</sup>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 that member, does not exceed [<sup>F240</sup>the earnings threshold for that year or, if greater,] the permitted maximum for that year; and
  - (b) any excess is repaid to the member of the extent of his contributions and otherwise to his employer.
- (4) In subsection (3) above “the permitted maximum” for a year of assessment means an amount equal to <sup>F241</sup> . . . —
- (a) <sup>F242</sup> the relevant percentage of the member’s net relevant earnings for the year;
  - (b) <sup>F242</sup> . . . . .
- and references in subsection (3) to contributions by the member do not include references to contributions treated by virtue of section 649(3) as paid by him.
- (5) In subsection (4) above “the relevant percentage” means 17.5 per cent. or, in a case where section 640(2) applies, the relevant percentage there specified.

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- (6)<sup>M87</sup> 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 [<sup>F243</sup>Board] under [<sup>F244</sup>section 43 of the Pension Schemes Act 1993] or <sup>F245</sup> . . . under [<sup>F246</sup>section 39 of the Pension Schemes (Northern Ireland) Act 1993].
- [<sup>F247</sup>(7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service as director of a company, if his [<sup>F248</sup>general earnings] as such are within section 644(5).
- [ The Board shall not approve a personal pension scheme unless it prohibits, except in <sup>F249</sup>(7A) such cases as may be prescribed by regulations made by the Board—
- (a) the acceptance of further contributions, and
  - (b) the making of transfer payments,
- after the date which is the member's pension date in relation to the arrangements in question.]
- [ Subsection (7A) above shall have effect subject to and in accordance with <sup>F250</sup>(7B) section 638ZA.]
- (8) A personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service in an office or employment to which section 645 applies may be approved by the Board only if—
- (a) the scheme does not permit the acceptance of contributions from the individual or from the person who is his employer in relation to that office or employment; or
  - (b) at the time when the minimum contributions are paid the individual is not serving in an office or employment to which section 645 applies.]
- [<sup>F251</sup>(9) The Board may only approve a personal pension scheme if it prohibits the acceptance of contributions in any form other than—
- (a) the payment of monetary sums; or
  - (b) the transfer, subject to the conditions in subsection (12) below, of eligible shares in a company;
- and any reference in this Chapter to the payment of contributions includes a reference to the making of contributions in accordance with paragraph (b) above.
- (10) For the purposes of this Chapter, the amount of a contribution made by way of a transfer of shares shall be the aggregate market value of the shares at the date of the transfer.
- (11) For the purposes of subsection (9)(b) above, "eligible shares" means shares—
- (a) which the member has exercised the right to acquire, or
  - (b) which have been appropriated to the member,
- in accordance with the provisions of [<sup>F252</sup>an SAYE option scheme], an approved profit-sharing scheme or [<sup>F253</sup>a share incentive plan].
- (12) The conditions mentioned in subsection (9)(b) above are—



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- (a) in relation to shares which the member has exercised his right to acquire in accordance with the provisions of [<sup>F254</sup>an SAYE option scheme], that the transfer of the shares as contributions under the personal pension scheme takes place before the expiry of the period of 90 days following the exercise of that right;
- (b) in relation to shares appropriated to the member in accordance with the provisions of an approved profit-sharing scheme or [<sup>F255</sup>a share incentive plan], that the transfer of the shares as contributions under the personal pension scheme takes place before the expiry of the period of 90 days following the date when the member directed the trustees of the approved profit-sharing scheme or [<sup>F256</sup>share incentive plan] to transfer the ownership of the shares to him or, if earlier, the release date in relation to the shares.

(13) In this section—

“approved profit-sharing scheme” has the same meaning as in section 186;  
<sup>F257</sup> .....

“market value” shall be construed in accordance with section 272 of the  
<sup>M88</sup>Taxation of Chargeable Gains Act 1992;

[<sup>F258</sup>“SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of ITEPA 2003 (approved SAYE option schemes)), and

“share incentive plan” has the same meaning as in the SIP code (see section 488 of that Act (approved share incentive plans)).]

#### Textual Amendments

- F240** Words in s. 638(3)(a) inserted (with effect in accordance with Sch. 13 para. 13(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 13(2)** (with Sch. 13 Pt. 2)
- F241** Words in s. 638(4) repealed (with effect in accordance with Sch. 13 para 13(7), Sch. 40 Pt. 2(4) Note 2 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 13 para. 13(3)(a), **Sch. 40 Pt. 2(4)**
- F242** S. 638(4)(b) and preceding word repealed (with effect in accordance with Sch. 13 para 13(7), Sch. 40 Pt. 2(4) Note 2 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 13 para. 13(3)(b)(c), **Sch. 40 Pt. 2(4)**
- F243** Word in s. 638(6)(c) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a)(3), **Sch. 1 para. 3** (with Sch. 8); S.I. 1999/527, art. 2(b), **Sch. 2**
- F244** Words in s. 638(6)(c) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(3)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F245** Words in s. 638(6)(c) repealed (1.4.1999) by The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), art. 1(3), Sch. 1 para. 3, **Sch. 9 Pt. 1** (with Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2**
- F246** Words in s. 638(6)(c) substituted (7.2.1994) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), ss. 184, 186(2), **Sch. 7 para. 22(2)**; S.R. 1994/17, **art. 2**
- F247** S. 638(7)(8) substituted for s. 638(7) by Finance Act 1988 (c. 39), **s. 55(2)(4)**
- F248** Words in s. 638(7) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 90(2)** (with Sch. 7)
- F249** S. 638(7A) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 9**
- F250** S. 638(7B) inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 13(4)** (with Sch. 13 Pt. 2)
- F251** S. 638(9)-(13) inserted (with effect in accordance with Sch. 13 para. 13(8) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 13(5)** (with Sch. 13 Pt. 2)
- F252** Words in s. 638(11) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 90(3)(a)** (with Sch. 7)

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- F253** Words in s. 638(11) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 90(3)(b)** (with Sch. 7)
- F254** Words in s. 638(12)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 90(4)(a)** (with Sch. 7)
- F255** Words in s. 638(12)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 90(4)(b)(i)** (with Sch. 7)
- F256** Words in s. 638(12)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 90(4)(b)(ii)** (with Sch. 7)
- F257** Words in s. 638(13) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 90(5)(a), Sch. 8 Pt. 1** (with Sch. 7)
- F258** Words in s. 638(13) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 90(5)(b)** (with Sch. 7)

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

- C33** *For regulations see Part III Vol.5 (under “Personal pension schemes”).*

**Marginal Citations**

- M85** Source-1987 (No.2) s.27  
**M86** Source-1987 (No.2) s.29  
**M87** Source-1987 (No.2) s.30  
**M88** 1992 c. 12.

**[<sup>F259</sup>638ZA] Personal pension arrangements with more than one pension date etc.**

- (1) This section applies where a personal pension scheme makes provision for a personal pension arrangement under the scheme to make provision—
- (a) for the payment of more than one annuity satisfying the conditions in section 634 or 636 (a “qualifying annuity”) and for different such annuities to commence, or be capable of commencing, on different days;
  - (b) for elections such as are mentioned in section 634A(1) or 636A(1) (“elections for deferral”) to be capable of being made at different times in relation to different portions of the personal pension fund; and
  - (c) for a qualifying lump sum to be payable in connection with—
    - (i) each qualifying annuity (other than one purchased pursuant to section 634A, 636 or 636A); and
    - (ii) each election for deferral such as is mentioned in section 634A(1).
- (2) The Board shall not refuse to approve a personal pension scheme by reason only that it makes such provision as is mentioned in subsection (1) above if they are satisfied that it makes provision in conformity with the provisions of this section.
- (3) In this section—
- “income withdrawal fund” means a portion of the personal pension fund which is specified or described in an election for deferral as the portion of that fund to which the election relates;
- “qualifying lump sum” means a lump sum satisfying the conditions of section 635 (as that section has effect by virtue of and in accordance with this section);

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- “the relevant date”, in relation to any qualifying annuity or election for deferral, means the date determined in accordance with the arrangement on which—
- (a) the qualifying annuity commences; or
  - (b) the member makes the election for deferral.
- (4) In the application of section 635 in relation to a qualifying lump sum, for the condition in subsection (3) there shall be substituted the conditions in subsections (5) and (6) below (as read with subsection (7) below).
- (5) The first condition is that the lump sum must not exceed one-third of—
- (a) the difference between—
    - (i) the value of the portion of the personal pension fund applied in the provision of the qualifying annuity in connection with which the lump sum is paid, determined as at the date on which that portion is so applied, and
    - (ii) the value, determined as at that date, of so much of that portion as represents protected rights, or
  - (b) the value, as at the relevant date, of the income withdrawal fund which relates to the election for deferral in connection with it is paid,
- as the case may be.
- (6) The second condition is that the lump sum must not represent any of the value, at the time when the lump sum is paid, of any protected rights.
- (7) In subsections (5) and (6) above, “protected rights” means any of the member’s rights under the personal pension arrangement which are protected rights for the purposes of the <sup>M89</sup>Pension Schemes Act 1993 or the <sup>M90</sup>Pension Schemes (Northern Ireland) Act 1993.
- (8) Where a qualifying annuity commences, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been a separate personal pension arrangement and—
- (a) the annuity, and any qualifying lump sum payable in connection with it, were benefits provided for by that separate arrangement (instead of by the personal pension arrangement by which it was actually provided (in this subsection referred to as “the relevant arrangement”));
  - (b) the portion of the personal pension fund applied in the provision of the annuity, together with the amount of any qualifying lump sum payable in connection with the annuity, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);
  - (c) any election for the annuity, or for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement); and
  - (d) except in the case of an annuity satisfying the conditions in section 636, the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that annuity, the pension date in relation to the relevant arrangement).
- (9) Where, in the case of any personal pension arrangement (in this subsection referred to as “the relevant arrangement”), an election for deferral is made, this Chapter and the

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personal pension scheme concerned shall have effect, as from the relevant date, as if there had been, and continued to be, a separate personal pension arrangement and—

- (a) the income withdrawal fund which relates to the election, together with the amount of any qualifying lump sum payable in connection with the election, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);
- (b) the election for deferral, and any election for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement);
- (c) the election for deferral had been made in respect of the whole of the income withdrawal fund which relates to the election; and
- (d) except in the case of an election such as is mentioned in section 636A(1), the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that election, the pension date in relation to the relevant arrangement).]

#### Textual Amendments

**F259** S. 638ZA inserted (6.4.2001) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 14](#) (with [Sch 13 Pt. 2](#))

#### Marginal Citations

**M89** 1993 c. 48.

**M90** 1993 c. 49.

### [<sup>F260</sup> **638A** Power to prescribe restrictions on approval.

- (1) The Board—
  - (a) may by regulations restrict their discretion to approve a personal pension scheme; and
  - (b) shall not approve any such scheme if to do so would be inconsistent with any regulations under this section.
- (2) The restrictions that may be imposed by regulations under this section may be imposed by reference to any one or more of the following, that is to say—
  - (a) the benefits for which the scheme provides;
  - (b) the investments held for the purposes of the scheme;
  - (c) the manner in which the scheme is administered;
  - (d) any other circumstances whatever.
- (3) The following provisions of this section apply where—
  - (a) any regulations are made under this section imposing a restriction (“the new restriction”) on the Board’s discretion to approve a personal pension scheme;
  - (b) the new restriction did not exist immediately before the making of the regulations; and
  - (c) that restriction is one imposed by reference to circumstances other than the benefits for which the scheme provides.
- (4) Subject to subsections (5) and (6) below, a personal pension scheme which is an approved scheme immediately before the day on which the regulations imposing the

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- new restriction come into force shall cease to be approved at the end of the period of 36 months beginning with that day if, at the end of that period, the scheme—
- (a) contains a provision of a prohibited description, or
  - (b) does not contain every provision which is a provision of a required description.
- (5) The Board may by regulations provide that subsection (4) above is not to apply in the case of the inclusion of such provisions of a prohibited description, or in the case of the omission of such provisions of a required description, as may be specified in the regulations.
- (6) For the purposes of subsection (4) above—
- (a) a provision contained in a scheme shall not be treated as being of a prohibited description to the extent that it authorises the retention of an investment held immediately before the day of the making of the new regulations; and
  - (b) so much of any provision contained in a scheme as authorises the retention of an investment held immediately before that day shall be disregarded in determining if any provision of the scheme is of a required description.
- (7) In this section—
- (a) references to a provision of a prohibited description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which, if contained in a personal pension scheme, would prevent the Board from approving it; and
  - (b) references to a provision of a required description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which must be contained in a personal pension scheme before the Board may approve it.]

#### Textual Amendments

**F260** S. 638A inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 94\(1\)](#)

### *Tax reliefs*

#### **639 Member's contributions.**

[<sup>F261</sup>(1) An individual who pays a contribution under approved personal pension arrangements made by him shall be entitled to relief under this section in respect of the contribution.

(1A) Subsection (1) above is subject to the other provisions of this Chapter.

(1B) The total amount of contributions in respect of which relief may be given to an individual under this section for any year of assessment must not exceed—

- (a) the permitted maximum for the year, as defined in section 638(4), or
- (b) the earnings threshold for the year,

whichever is the greater.

(2) Any relief under this section shall be given in accordance with—

- (a) subsections (3) and (4) below, and
- (b) where applicable, subsection (5A) below.

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- (2A) Relief in accordance with subsections (3) and (4) below shall be subject to such conditions as the Board may prescribe in regulations.]
- [<sup>F262</sup>(3) An individual who is entitled to relief under this section in respect of a contribution shall be entitled, on making the payment, to deduct and retain out of it a sum equal to income tax on the contribution at the basic rate for the year of assessment in which the payment is made.]
- [<sup>F263</sup>(4) Where a sum is deducted under subsection (3) above from a contribution—
- (a) the scheme administrator shall allow the deduction on receipt of the residue;
  - (b) the individual paying the contribution shall be acquitted and discharged of so much money as is represented by the deduction as if the sum had been actually paid; and
  - (c) the sum deducted shall be treated as income tax paid by the scheme administrator.]

[<sup>F264</sup>(4A) Where payment of a contribution under approved personal pension arrangements is received—

    - (a) the scheme administrator shall be entitled to recover from the Board, in accordance with regulations, an amount which by virtue of subsection (4)(c) above is treated as income tax paid by him; and
    - (b) any amount so recovered shall be treated for the purposes of the Tax Acts in like manner as the payment of the contribution to which it relates.]

(5) Regulations under this section may make provision for carrying subsections [<sup>F265</sup>(3) to (4A)] above into effect and, without prejudice to the generality of that, may provide—

      - (a) for the manner in which claims for the recovery of a sum under subsection [<sup>F266</sup>(4A)(a)] may be made;
      - (b) for the giving of such information, in such form, as may be prescribed by or under the regulations;
      - (c) for the inspection by persons authorised by the Board of books, documents and other records.

[<sup>F267</sup>(5A) Where—

      - (a) an individual is entitled to relief under this section in respect of contributions paid in any year of assessment, and
      - (b) apart from this subsection, income tax at the higher rate is chargeable in respect of any part of his total income for the year,

the basic rate limit for that year shall in his case be increased by the addition of the amount of the contributions in respect of which he is entitled to relief under this section.

(5B) Relief in accordance with subsection (5A) above shall be given only on a claim made for the purpose.]

(6) <sup>M91</sup>Where relief under this section 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 this section for that or any subsequent year as are appropriate.

(7) <sup>M92</sup>Where relief [<sup>F268</sup>is given under this section] 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

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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.

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

#### Textual Amendments

- F261** S. 639(1)-(1B)(2)(2A) substituted for s. 639(1)(2) (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(2) (with Sch. 13 Pt. 2)
- F262** S. 639(3) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(3) (with Sch. 13 Pt. 2)
- F263** S. 639(4) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(4) (with Sch. 13 Pt. 2)
- F264** S. 639(4A) inserted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(5) (with Sch. 13 Pt. 2)
- F265** Words in s. 639(5) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(6)(a) (with Sch. 13 Pt. 2)
- F266** Words in s. 639(5) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(6)(b) (with Sch. 13 Pt. 2)
- F267** S. 639(5A)(5B) inserted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(7) (with Sch. 13 Pt. 2)
- F268** Words in s. 639(7) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(8) (with Sch. 13 Pt. 2)

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

- C34** For regulations see Part III Vol.5 (under “Personal pension schemes”).

#### Marginal Citations

- M91** Source-1987 (No.2) s.48  
**M92** Source-1987 (No.2) s.49

#### 640 Maximum amount of deductions.

- <sup>M93</sup>(1) The maximum amount [<sup>F269</sup>of contributions in respect of which relief may be given] in any year of assessment by virtue of section 639(1) shall be—
- [<sup>F270</sup>(a) an amount equal to the earnings threshold for that year; or  
(b) if greater,] 17.5 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 17.5 per cent. of the relevant percentage specified in the second column.

[ <sup>F271</sup>	20 per cent.
36 to 45	
46 to 50	25 per cent.

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51 to 55	30 per cent.
56 to 60	35 per cent.
61 or more	40 per cent.]

- (3) [<sup>F272</sup>Without prejudice to subsection (1) above, where any contributions are paid in a year of assessment by an individual to secure benefits satisfying the conditions in section 637, the maximum amount of those contributions in respect of which relief may be given by virtue of section 639(1)] [<sup>F273</sup>shall be an amount equal to 10 per cent. of the aggregate amount of the relevant pension contributions made in that year by the individual and an employer of his].
- [<sup>F274</sup>(3A) In subsection (3) above “relevant pension contribution” means a contribution paid towards securing benefits falling within paragraph (a), (b) or (c) of section 633(1) under arrangements made under a personal pension scheme on or after 6th April 2001.]
- (4) Where personal pension arrangements are made by an employee whose employer makes contributions under the arrangements, the maximum amount [<sup>F275</sup>of contributions in respect of which relief may be given by virtue of section 639(1)] 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 649(3) as paid by the individual in respect of whom they are paid shall be disregarded for the purposes of this section.

#### Textual Amendments

- F269** Words in s. 640(1) substituted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(2)(a) (with Sch. 13 Pt. 2)
- F270** Words in s. 640(1) inserted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(2)(b) (with Sch. 13 Pt. 2)
- F271** 1989 s.77 and Sch.7 para.3 for 1989-90 and subsequent years. Previously “51 to 55—20 per cent., 56 to 60—22.5 per cent., 61 or more—27.5 per cent.”.
- F272** Words in s. 640(3) substituted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(4) (with Sch. 13 Pt. 2)
- F273** Words in s. 640(3) substituted (with effect in accordance with Sch. 13 para. 16(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(5) (with Sch. 13 Pt. 2)
- F274** S. 640(3A) inserted (with effect in accordance with Sch. 13 para. 16(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(6) (with Sch. 13 Pt. 2)
- F275** Words in s. 640(4) substituted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(7) (with Sch. 13 Pt. 2)

#### Marginal Citations

- M93** Source-1987 (No.2) s.32

#### [<sup>F276</sup>640E] Earnings cap.

- (1) In arriving at an individual’s net relevant earnings for a year of assessment [<sup>F277</sup>for the purposes of section 638 or 640 above], any excess of what would be his net relevant earnings for the year (apart from this subsection) over the allowable maximum for the year shall be disregarded.



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- (2) In subsection (1) above “the allowable maximum” means, as regards a particular year of assessment, the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the year of assessment 1989-90 the figure is £60,000.
- (4) For the year of assessment 1990-91 and any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [<sup>F278</sup>to (5A)].]

#### Textual Amendments

**F276** S. 640A inserted (with effect in accordance with Sch. 7 para. 4(2) of the amending Act) by Finance Act 1989 (c. 26), Sch. 7 para. 4(1)

**F277** Words in s. 640A(1) substituted (with effect in accordance with s. 174(4) of the amending Act) by Finance Act 2003 (c. 14), s. 174(1)

**F278** Words in s. 640A(4) substituted (27.7.1993 with effect for 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

### 641 Carry-back of contributions.

<sup>F279</sup> .....

#### Textual Amendments

**F279** S. 641 repealed (with effect in accordance with Sch. 13 para. 17 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 40 Pt. 2(4), Note 3 (with Sch. 13 Pt. 2)

### [<sup>F280</sup>641] Election for contributions to be treated as paid in previous year.

- (1) [<sup>F281</sup>An individual who under approved personal pension arrangements made by him pays a contribution] on or before the 31st January in any year of assessment may, at or before the time when he pays the contribution, irrevocably elect that the contribution, or part of it, shall be treated as paid in the preceding year of assessment.
- (2) 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.]

#### Textual Amendments

**F280** S. 641A inserted (with effect in accordance with Sch. 13 para. 18(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 18(1) (with Sch. 13 Pt. 2)

**F281** Words in s. 641A(1) substituted (with effect in accordance with s. 174(4) of the amending Act) by Finance Act 2003 (c. 14), s. 174(3)

### 642 Carry-forward of relief.

<sup>F282</sup> .....

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#### Textual Amendments

**F282** S. 642 repealed (with effect in accordance with Sch. 13 para. 19 of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 40](#) Pt, 2(4), Note 4 (with Sch. 13 Pt. 2)

### 643 Employer’s contributions and personal pension income etc.

- (1) <sup>F283</sup> .....
- (2) <sup>M94</sup> 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.
- (3) <sup>M95</sup> An annuity payable under approved personal pension arrangements shall be treated as earned income of the annuitant.
- (4) Subsection (3) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the arrangements.
- [<sup>F284</sup>(5) Income withdrawals under approved personal pension arrangements <sup>F285</sup> . . . shall be treated as earned income of the recipient.]

#### Textual Amendments

**F283** S. 643(1) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 91\(2\)](#), [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F284** S. 643(5) inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 11](#)

**F285** Words in s. 643(5) repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 91\(3\)](#), [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

#### Marginal Citations

**M94** Source-1987 (No.2) s.39(1)

**M95** Source-1987 (No.2) s.41(1), (2)

### 644 Meaning of “relevant earnings”.

- <sup>M96</sup>(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 [<sup>F286</sup>(6F)] below, income is within this subsection if it is—
  - (a) [<sup>F287</sup>general earnings] from an office or employment held by the individual;
  - (b) income from any property which is attached to or forms part of the [<sup>F288</sup>earnings from] 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 529.
- (3) Where section 645 applies to an office or employment held by the individual, neither [<sup>F289</sup>general earnings] from the office or employment nor income from any

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property which is attached to it or forms part of its [<sup>F289</sup>general earnings] 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 [<sup>F290</sup>ITEPA 2003] 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 [<sup>F291</sup>Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.)].
- (5) [<sup>F292</sup>general earnings] 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;
- and section 840 shall apply for the purposes of this subsection.
- (6) For the purposes of subsection (5) above—
- “director” includes any person occupying the position of director by whatever name called; and
- [<sup>F293</sup>“investment income” means income which if the company were an individual, would not be earned income.]

- [<sup>F294</sup>(6A) [<sup>F295</sup>general earnings] of an individual as an employee of a company are not income within subsection (2) above if—
- (a) he is a controlling director of the company at any time in the year of assessment in question or has been a controlling director of the company at any time in the ten years immediately preceding that year of assessment, and
  - (b) any of subsections (6B) to (6E) below applies in his case.
- (6B) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme, and
  - (b) the benefits are payable in respect of past service with the company.
- (6C) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme.
  - (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme, and
  - (c) the transfer payment is in respect of past service with the company.
- (6D) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme,
  - (b) the benefits are payable in respect of past service with another company,
  - (c) the [<sup>F296</sup>general earnings] are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and

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- (d) the other company carried on the trade or business at anytime during the period of service in respect of which the benefits are payable.

(6E) This subsection applies in the case of the individual if—

- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme,
- (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme,
- (c) the transfer payment is in respect of past service with another company,
- (d) the [<sup>F297</sup>general earnings] are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and
- (e) the other company carried on the trade or business at any time during the period of service in respect of which the transfer payment was made.

[ Where—

- <sup>F298</sup>(6EA) (a) there is a time at which a person would be in receipt of any benefits under a scheme but for any debit to which any of his rights under that scheme became subject by virtue of any pension sharing order or provision, and
- (b) the benefits he would be in receipt of are benefits payable in respect of past service with a company,

that person shall be deemed for the purposes of subsections (6A) to (6E) above to be in receipt at that time of benefits under that scheme and the benefits which he is deemed to be in receipt of shall be deemed to be benefits in respect of past service with that company.]

(6F) For the purposes of subsections (6A) to [<sup>F299</sup>(6EA)] above—

- (a) a person is a controlling director of a company if he is a director (as defined by section 612(1)), and he is within paragraph (b) of section 417(5), in relation to the company;
- (b) “relevant superannuation scheme” has the same meaning as in section 645(1);
- (c) references to benefits payable in respect of past service with a company include references to benefits payable partly in respect of past service with the company [<sup>F300</sup>but do not include references to benefits which (within the meaning of section 590) are provided for him as an ex-spouse]; and
- (d) references to a transfer payment in respect of past service with a company include references to a transfer payment partly in respect of past service with the company [<sup>F301</sup>but do not include references to any transfer payment made for the purpose of giving effect to a pension sharing order or provision.]]

(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*<sup>F302</sup>.

#### Textual Amendments

**F286** 1989 s.77 and Sch.7 para.5(2) from 6 April 1989. Previously “(5)”.

**F287** Words in s. 644(2)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(2\)](#) (with [Sch. 7](#))

**F288** Words in s. 644(2)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(3\)](#) (with [Sch. 7](#))

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- F289** Words in s. 644(3) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(4)** (with Sch. 7)
- F290** Words in s. 644(4)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(5)** (with Sch. 7)
- F291** Words in s. 644(4)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(6)** (with Sch. 7)
- F292** Words in s. 644(5) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(7)(a)** (with Sch. 7)
- F293** 1989 s.107 and Sch. 12 para.16 in relation to accounting periods beginning after 31 March 1989. Previously  
“ “investment income” shall be construed in accordance with paragraph 7 of Schedule 19.”.
- F294** 1989 s.77 and Sch.7 para.5(3) from 6 April 1989.
- F295** Words in s. 644(6A) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(7)(b)** (with Sch. 7)
- F296** Words in s. 644(6D)(c) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(7)(c)** (with Sch. 7)
- F297** Words in s. 644(6E)(d) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 92(7)(d)** (with Sch. 7)
- F298** S. 644(6EA) inserted (27.7.1999) by **Finance Act 1999 (c. 16), Sch. 10 para. 15(1)**
- F299** Words in s. 644(6F) substituted (27.7.1999) by **Finance Act 1999 (c. 16), Sch. 10 para. 15(2)(a)**
- F300** Words in s. 644(6F)(c) inserted (27.7.1999) by **Finance Act 1999 (c. 16), Sch. 10 para. 15(2)(b)**
- F301** Words in s. 644(6F)(d) inserted (27.7.1999) by **Finance Act 1999 (c. 16), Sch. 10 para. 15(2)(c)**
- F302** Repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.

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

- C35** S. 644 modified (6.4.2003 with effect in accordance with s. 723(1) of the modifying Act) by **Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 56(8)** (with s. 48(2))
- C36** S. 644(2)(c) extended (with effect in accordance with s. 44 of the extending Act) by **Finance Act 1998 (c. 36), Sch. 6 paras. 1, 2**
- C37** S. 644(2)(c) extended (with effect in accordance with Sch. 22 paras. 16-18 of the extending Act) by **Finance Act 2002 (c. 23), Sch. 22 para. 4**

#### Marginal Citations

- M96** Source-1987 (No.2) s.35

## 645 Earnings from pensionable employment.

- <sup>M97</sup>(1) This section applies to an office or employment held by an individual if—
- service in it is service to which a relevant superannuation scheme relates; and
  - the individual is a participant in the scheme; and
  - [<sup>F303</sup>subsection (4) below does not apply] 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—
- 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 612; <sup>F304</sup> . . .
  - which is established by a person other than the individual [<sup>F303</sup>; <sup>F305</sup> . . .

*Status: Point in time view as at 31/12/2004.*

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- (c) which is of a description mentioned in [F306 section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme)] [F307]; and
- (d) which is not an approved converted scheme].
- (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.
- [F308(4A) Where the [F309 earnings] from an office or employment held by an individual are [F310 earnings and amounts treated as earnings to which subsection (4B) applies], this section shall have effect with the substitution of the following for paragraph (c) of subsection (3) above—
- “(c) which corresponds to a scheme of a description mentioned in [F311 section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme)].”.]
- [F312(4B) This subsection applies to earnings and amounts treated as earnings for a year of assessment if—
- (a) the employee or office-holder is not domiciled in the United Kingdom in that year, and
  - (b) the employment is with a foreign employer.
- (4C) If there is a dispute as to whether the employee or office-holder is not domiciled in the United Kingdom, sections 42 and 43 of ITEPA 2003 (Board to determine dispute as to domicile) apply to the dispute as they apply to a dispute mentioned in section 42(1) of that Act.
- (4D) In this section—
- “earnings and amounts treated as earnings” means earnings and amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of ITEPA 2003);
- “foreign employer” has the meaning given by section 721 of ITEPA 2003.]
- (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*<sup>F313</sup>.

#### Textual Amendments

- F303** 1989 s.77 and Sch.7 para.6(2), (3) from 6 April 1989. Previously “neither subsection (4) nor subsection (5) below applies” in subs.(1).
- F304** Repealed by 1989 ss.77 and 187, Schs.7 para.6(3) and 17 Part IV from 6 April 1989.
- F305** Word preceding s. 645(3)(c) repealed (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 20(2), Sch. 40 Pt. 2(4) (with Sch. 13 Pt. 2)
- F306** Words in s. 645(3)(c) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 93(2)** (with Sch. 7)
- F307** S. 645(3)(d) and preceding word inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 20(2)** (with Sch. 13 Pt. 2)
- F308** 1989 s.77 and Sch.7 para.6(4) from 6 April 1989.
- F309** Words in s. 645(4A) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), **Sch. 6 para. 93(3)(a)** (with Sch. 7)

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- F310** Words in s. 645(4A) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 93(3)(b) (with Sch. 7)
- F311** Words in s. 645(4A) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 93(3)(c) (with Sch. 7)
- F312** S. 645(4B)-(4D) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 93(4) (with Sch. 7)
- F313** Repealed by 1989 ss.77 and 187, Schs.7 para.6(5) and 17 Part IV from 6 April 1989.

#### Marginal Citations

**M97** Source-1987 (No.2) s.36

### 646 Meaning of “net relevant earnings”.

- <sup>M98</sup>(1) Subject to subsections (3) to (7) below [<sup>F314</sup>and section 646(A)], 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 74(m), (p) or (q) could be made in computing the profits or gains of the individual;
  - [<sup>F315</sup>(b) deductions made by virtue of section 232, 336, 343, 344 or 351 of ITEPA 2003 (mileage allowance, expenses, professional membership fees, annual subscriptions, ministers of religion);
  - (ba) travelling or subsistence expenses deducted by virtue of Part 5 of that Act;
  - (bb) deductions made by virtue of section 332(3) of this Act;
  - (c) deductions in respect of relief under Schedule 9 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*<sup>F316</sup>.
- (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 [<sup>F317</sup>under [<sup>F318</sup>the Capital Allowances Act (including enactments which under this Act are to be treated as contained in that Act)]; 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 to the Finance Act 1981; or
  - (c) capital allowances falling to be made to the partnership,
- as would be made in computing the tax payable in respect of that income.

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- (5) Where, in a year of assessment for which [<sup>F319</sup>the basic rate limit is increased in accordance with section 639(5A) in the case] 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*<sup>F320</sup>; 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 [<sup>F321</sup>in accordance with section 639(5A)] for that year), and then, so far as it cannot be so made, from those of the next year, and so on.
- (7) <sup>F322</sup> .....

#### Textual Amendments

- F314** 1989 s.77 and Sch.7 para.7 for the year 1989-90 and subsequent years.
- F315** S. 646(2)(b)-(bb) substituted for s. 646(2)(b) (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 94](#) (with [Sch. 7](#))
- F316** Words repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.
- F317** 1990(C) s.164 and Sch.1 para.8(29). Previously  
 “under the 1968 Act (including the enactments which under this Act or the 1970 Act are to be treated as contained in Part I of the 1968 Act)”.
- F318** Words in s. 646(3) substituted (with effect in accordance with s. 579 of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), [Sch. 2 para. 54](#)
- F319** Words in s. 646(5) substituted (with effect in accordance with [Sch. 13 para. 21\(5\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 21\(2\)](#) (with [Sch. 13 Pt. 2](#))
- F320** Words repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.
- F321** Words in s. 646(6) substituted (with effect in accordance with [Sch. 13 para. 21\(5\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 21\(3\)](#) (with [Sch. 13 Pt. 2](#))
- F322** S. 646(7) repealed (with effect in accordance with [Sch. 13 para. 21\(5\)](#), [Sch. 40 Pt. 2\(4\)](#) Note 5 of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 21\(4\)](#), [Sch. 40 Pt. 2\(4\)](#)

#### Marginal Citations

- M98** Source-1987 (No.2) s.37

#### [<sup>F323</sup>646E] Earnings from associated employments.

- (1) This section applies where in the year of assessment in question—
- (a) an individual holds two or more offices or employments which are associated in that year,
  - (b) one or more of them is an office or employment to which section 645 applies (“pensionable job”), and
  - (c) one or more of them is an office or employment to which that section does not apply (“non-pensionable job”).



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- (2) Where the [<sup>F324</sup>general earnings] for that year from the pensionable job (or jobs) are equal to or exceed the allowable maximum for that year, section 646(1) shall have effect in the case of the individual as if the references to relevant earnings were references to relevant earnings not attributable to the non-pensionable job (or jobs).
- (3) Where the allowable maximum for that year exceeds the [<sup>F325</sup>general earnings] for that year from the pensionable job (or jobs), the individual's net relevant earnings, so far as attributable to the non-pensionable job (or jobs), shall not be greater than the amount of the excess.
- (4) For the purposes of this section two or more offices or employments held by an individual in a year of assessment are associated in that year if the employers in question are associated at any time during it.
- (5) For the purposes of subsection (4) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (6) In subsection (5) above the reference to control, in relation to a body corporate, shall be construed—
  - (a) where the body corporate is a close company, in accordance with section 416, and
  - (b) where it is not, in accordance with section 840.
- (7) In this section “the allowable maximum” has the same meaning as in section 640A(1).]

#### Textual Amendments

**F323** S. 646A inserted (with effect in accordance with Sch. 7 para. 8(2) of the amending Act) by Finance Act 1989 (c. 26), Sch. 7 para. 8(1)

**F324** Words in s. 646A(2) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 95(2) (with Sch. 7)

**F325** Words in s. 646A(3) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 95(3) (with Sch. 7)

#### [<sup>F326</sup>646B] Presumption of same level of relevant earnings etc for 5 years.

- (1) This section applies where an individual (the “relevant member”) who is or becomes a member of a personal pension scheme provides to the scheme administrator the requisite evidence of the relevant amounts for any year of assessment (the “basis year”).
- (2) For the purposes of this section, the “relevant amounts” for any year of assessment are the amounts which need to be known in order to calculate the relevant member's net relevant earnings for that year.
- (3) The basis year need not be a year of assessment in which the relevant member is a member of the personal pension scheme concerned.
- (4) Where this section applies, it shall be presumed for the purposes of this Chapter in the case of the relevant member and the personal pension scheme concerned that, for each of the five years of assessment following the basis year, the relevant amounts (and, accordingly, the relevant member's net relevant earnings) are the same as for the basis year.

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- (5) Subsection (4) above is subject to—
  - (a) subsections (6) to (9) below; and
  - (b) such conditions or exceptions as may be prescribed.
- (6) For the purposes of this section, the requisite evidence provided for a later basis year (the “later basis year”) supersedes the requisite evidence provided for an earlier basis year (the “earlier basis year”).
- (7) Subsection (6) above has effect subject to, and in accordance with, subsections (8) and (9) below.
- (8) If—
  - (a) the actual net relevant earnings for the later basis year, exceed
  - (b) the actual net relevant earnings for the earlier basis year,
 the supersession effected by subsection (6) above has effect as respects the later basis year and subsequent years of assessment (and subsection (4) above applies accordingly).
- (9) Where the condition in subsection (8) above is not satisfied, the supersession effected by subsection (6) above has effect only as respects years of assessment later than the last of the five years of assessment following the earlier basis year (and subsection (4) above applies accordingly).
- (10) It is immaterial for the purposes of this section whether the requisite evidence for a later year of assessment is provided before or after, or at the same time as, the requisite evidence for an earlier year of assessment.
- (11) This section is subject to section 646D.]

#### **Textual Amendments**

**F326** Ss. 646B, 646C inserted (with effect in accordance with Sch. 13 para. 22(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 22(1) (with Sch. 13 Pt. 2)

#### **[<sup>F326</sup> 646C Provisions supplementary to section 646B.**

- (1) In this section and section 646B, “requisite evidence” means evidence—
  - (a) of such a description as may be prescribed;
  - (b) in such form as may be prescribed; and
  - (c) satisfying such conditions as may be prescribed.
- (2) Regulations may make further provision in connection with requisite evidence.
- (3) The provision that may be made by regulations under subsection (2) above includes provision for or in connection with the provision, use, retention, production or inspection of, or of copies of,—
  - (a) requisite evidence;
  - (b) books, documents or other records relating to any requisite evidence; or
  - (c) extracts from requisite evidence or from such books, documents or other records.

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- (4) Any power to make regulations under this section or section 646B includes power to make different provision for different cases or different purposes.
- (5) In this section and section 646B—
  - “prescribed” means specified in or determined in accordance with regulations;
  - “regulations” means regulations made by the Board.]

#### Textual Amendments

**F326** Ss. 646B, 646C inserted (with effect in accordance with Sch. 13 para. 22(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 22(1) (with Sch. 13 Pt. 2)

#### [<sup>F327</sup> 646D] Higher level contributions after cessation of actual relevant earnings: modification of section 646B.

- (1) This section applies where a member of a personal pension scheme—
  - (a) has no actual relevant earnings in a year of assessment (the “break year”); but
  - (b) had actual relevant earnings in the preceding year of assessment (the “cessation year”); and
  - (c) was entitled to make higher level contributions under arrangements under the scheme in any one or more of the six years of assessment preceding the break year (the “reference years”).
- (2) In the application of the presumption in subsection (4) of section 646B for any qualifying post-cessation year, in a case where this section applies, the basis year may be any one of the reference years for which the member provides or has provided the requisite evidence—
  - (a) notwithstanding anything in subsections (6) to (9) of that section; and
  - (b) whether or not the qualifying post-cessation year is included among the five years of assessment following the basis year.
- (3) If the member provides or has provided the requisite evidence for two or more of the reference years, he may by notice in writing to the scheme administrator nominate that one of those years which is to be the basis year by virtue of subsection (2) above.
- (4) In this section “post-cessation year”, in the case of the member concerned, means any of the five years of assessment following the cessation year.
- (5) For the purposes of this section any post-cessation year is a “qualifying” post-cessation year unless—
  - (a) it is a year for which the member has any actual relevant earnings;
  - (b) it is a year throughout which the member holds an office or employment to which section 645 applies; or
  - (c) it immediately follows a post-cessation year which is not a qualifying post-cessation year.
- (6) Subsection (5) above is without prejudice to the further application of this section in relation to the member if the conditions in subsection (1) above are again fulfilled.
- (7) In this section—
  - “the basis year” shall be construed in accordance with section 646B;

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“the requisite evidence” has the same meaning as in that section.]

#### Textual Amendments

**F327** S. 646D inserted (with effect in accordance with Sch. 13 para. 23(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 23(1) (with Sch. 13 Pt. 2)

#### *Charge to tax*

### 647 Unauthorised payments.

F328 .....

#### Textual Amendments

**F328** Ss. 647-648A repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 96, Sch. 8 Pt. 1 (with Sch. 7)

### 648 Contributions under unapproved arrangements.

F329 .....

#### Textual Amendments

**F329** Ss. 647-648A repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 96, Sch. 8 Pt. 1 (with Sch. 7)

[F330F331 .....

#### Textual Amendments

**F330** S. 648A and preceding cross-heading inserted (with application in accordance with s. 109(2) of the amending Act) by Finance Act 1994 (c. 9), s. 109(1)

**F331** Cross-heading preceding s. 648A omitted (1.5.1995) by virtue of Finance Act 1995 (c. 4), Sch. 11 para. 12

### 648A Annuities: charge under Schedule E.

F332 .....

#### Textual Amendments

**F330** S. 648A and preceding cross-heading inserted (with application in accordance with s. 109(2) of the amending Act) by Finance Act 1994 (c. 9), s. 109(1)

**F332** Ss. 647-648A repealed (6.4.2003 with effect in accordance with s. 723(1) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 96, Sch. 8 Pt. 1 (with Sch. 7)

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[<sup>F333</sup> **648B** Return of contributions after pension date.]

- (1) Tax shall be charged under this section on any payment to a person under approved personal pension arrangements of such a lump sum as is mentioned in section 637A in a case where the member's death occurred after his pension date in relation to the arrangement in question.
- (2) Where a payment is chargeable to tax under this section, the scheme administrator shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 35 per cent.
- (3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.
- (4) The tax shall be charged on the amount paid or, if the rules of the scheme permit the scheme administrator to deduct the tax before payment, on the amount before deduction of tax; and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.]

**Textual Amendments**

**F330** S. 648A and preceding cross-heading inserted (with application in accordance with s. 109(2) of the amending Act) by Finance Act 1994 (c. 9), s. 109(1)

**F333** S. 648B inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 12

*Miscellaneous*

**649 Minimum contributions under Social Security Act 1986.**

- <sup>M99</sup>(1) Where under [<sup>F334</sup>section 43 of the Pension Schemes Act 1993] the [<sup>F335</sup>Board pay ] 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—
  - [<sup>F336</sup>“the employee's share' of minimum contributions is the amount that would be the minimum contributions if, for the reference in section 45(1) of the Pension Schemes Act 1993 to the appropriate age-related percentage, there were substituted a reference to the percentage mentioned in section 41(1A) (a) of that Act];
  - “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 [<sup>F337</sup>Board] for the purposes of approved personal pension arrangements shall be treated for the purposes of income tax—
  - (a) as the 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) <sup>F338</sup> .....

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- (b) <sup>F338</sup> .....
  - (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.
- [<sup>F339</sup>(5) The Board shall pay into the National Insurance Fund out of money provided by Parliament the amount of any increase attributable to this section in the sums paid out of that Fund under the Pension Schemes Act 1993.]
- (6) In relation to Northern Ireland, this section shall have effect as if—
    - (a) <sup>F340</sup> .....
    - (b) references to [<sup>F341</sup>section 43, section 45(1) and section 41(1)(a) of the Pension Schemes Act 1993] were references to [<sup>F342</sup>sections 39, 41(1) and 37(1)(a) of the Pension Schemes (Northern Ireland) Act 1993, respectively];
    - [<sup>F343</sup>(bb) references to sections 45(1) and 41(1A)(a) of the Pension Schemes Act 1993 were references to sections 41(1) and 37(1A)(a) of the Pension Schemes (Northern Ireland) Act 1993, respectively;] and
    - (c) references to the National Insurance Fund were references to the Northern Ireland National Insurance Fund.

#### Textual Amendments

- F334** Words in s. 649(1) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(3)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F335** Words in s. 649(1) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 4(2)** (with Sch. 8); S.I. 1999/527, art. 2(b), **Sch. 2**
- F336** S. 649(2): definition of "the employee's share" substituted (E.W.S.) (6.4.1997) by Pensions Act 1995 (c. 26), **Sch. 5 para. 12**; S.I. 1997/664, art. 2(3), **Sch. Pt. 2**
- F337** Word in s. 649(3) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 4(3)** (with Sch. 8); S.I. 1999/527, art. 2(b), **Sch. 2**
- F338** S. 649(4)(a)(b) repealed (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), Sch. 1 para. 4(4), **Sch. 10 Pt. 1** (with Sch. 8); S.I. 1999/527, art. 2(b), **Sch. 2**
- F339** S. 649(5) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 4(5)** (with Sch. 8); S.I. 1999/527, art. 2(b), **Sch. 2**
- F340** S. 649(6)(a) repealed (1.4.1999) by The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), art. 1(3), Sch. 1 para. 4, **Sch. 9 Pt. 1** (with Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2**
- F341** Words in s. 649(6)(b) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(5)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F342** Words in s. 649(6)(b) substituted (7.2.1994) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), ss. 184, 186(2), **Sch. 7 para. 22(3)**; S.R. 1994/17, **art. 2**
- F343** S. 649(6)(bb) inserted (N.I.) (6.4.1997) by The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213), art. 1(2), **Sch. 3 para. 8**; S.R. 1997/192, **art. 2(b)**

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

- C38** For regulations see Part III Vol.5 (under "Personal pension schemes").

*Status: Point in time view as at 31/12/2004.*

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#### Marginal Citations

M99 Source-1987 (No.2) s.42.

### 650 Withdrawal of approval.

- <sup>M100</sup>(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 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 notice given to the individual who made them and to the scheme administrator withdraw their approval in relation to the arrangements.
- (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 (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).
- [<sup>F344</sup>(6) The power of the Board under this section to withdraw their approval in relation to any arrangements made under a personal pension scheme shall be exercisable for the purposes of section 650A notwithstanding that the time from which the approval is withdrawn is a time from which, by virtue of section 631(4) or 638A(4), the whole scheme ceases to be an approved scheme.]

#### Textual Amendments

F344 S. 650(6) inserted (with effect in accordance with s. 95(4) of the amending Act) by Finance Act 1998 (c. 36), s. 95(2)

#### Marginal Citations

M100 Source-1987 (No.2) s.43

### [<sup>F345</sup>650A Charge on withdrawal of approval from arrangements.

- (1) Where any personal pension arrangements cease to be approved arrangements by virtue of the exercise by the Board of their power under section 650(2), tax shall be charged in accordance with this section.
- (2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value (taking that value at the relevant time) of the appropriate part of the assets held at that time for the purposes of the relevant scheme.

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- (3) In subsection (2) above—
- “the appropriate part”, in relation to the value of any assets, is so much of those assets as is properly attributable, in accordance with the provisions of the scheme and any just and reasonable apportionment, to the arrangements in question; and
- “the relevant time” means the time immediately before the date from which the Board’s approval is withdrawn.
- (4) Subject to subsection (5) below, the person liable for the tax charged under this section shall be the scheme administrator for the relevant scheme.
- (5) If, in any case where an amount of tax has been charged under this section and has not been paid—
- (a) there is at any time no person who, as the scheme administrator for the relevant scheme, may be assessed to that amount of tax, or is liable to pay it,
  - (b) the scheme administrator for that scheme cannot for the time being be traced,
  - (c) there has been such a failure by the scheme administrator for that scheme to meet a liability to pay that amount as the Board consider to be a failure of a serious nature, or
  - (d) it appears to the Board that a liability of the scheme administrator for that scheme to pay that amount of tax is a liability that he will be, or (were there an assessment) would be, unable to meet out of assets held in accordance with the scheme for the purposes of those arrangements,
- the Board shall be entitled to assess the unpaid tax on the person who made the arrangements in question as if the tax charged under this section, to the extent that it is unpaid, were assessable under this section on that person, instead of on the scheme administrator.
- (6) An assessment to tax made by virtue of subsection (5)(c) above shall not be out of time if it is made within three years after the date on which the tax which the scheme administrator has failed to pay first became due from him.
- (7) For the purposes of this section the value of an asset is, subject to subsection (8) below, its market value, construing “market value” in accordance with section 272 of the 1992 Act.
- (8) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (9) below, the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.
- (9) Those persons are—
- (a) the person who (whether or not before the making of the loan) made the arrangements in relation to which the Board’s approval has been withdrawn;
  - (b) any other person who has at any time (whether or not before the making of the loan) made contributions under those arrangements; and
  - (c) any person connected, at the time of the making of the loan or subsequently, with a person falling within paragraph (a) or (b) above.
- (10) In this section “the relevant scheme”, in relation to any personal pension arrangements, means the scheme in accordance with which those arrangements were made.
- (11) Section 839 shall apply for the purposes of this section.]



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#### Textual Amendments

**F345** S. 650A inserted (with effect in accordance with s. 95(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 95\(1\)](#)

## 651 Appeals.

<sup>M101</sup>(1) Where the Board—

- (a) refuse an application by notice under section 631 [<sup>F346</sup>or paragraph 3 of Schedule 23ZA]; or
- (b) withdraw an approval by notice under section 650;

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 notice stating the grounds for the appeal and given to the Board before the end of the period of 30 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.

#### Textual Amendments

**F346** Words in s. 651(1)(a) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 24\(2\)](#) (with [Sch. 13 Pt. 2](#))

#### Marginal Citations

**M101** Source-1987 (No.2) s.47

## [<sup>F347</sup>651A] Information powers.

(1) The Board may by regulations make any of the following provisions—

- (a) provision requiring prescribed persons to furnish to the Board, at prescribed times, information relating to any of the matters mentioned in subsection (2) below;
- (b) provision enabling the Board to serve a notice requiring prescribed persons to furnish to the Board, within a prescribed time, particulars relating to any of those matters;
- (c) provision enabling the Board to serve a notice requiring prescribed persons to produce to the Board, within a prescribed time, documents relating to any of those matters;
- (d) provision enabling the Board to serve a notice requiring prescribed persons to make available for inspection on behalf of the Board books, documents and other records, being books, documents and records which relate to any of those matters;

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- (e) provision requiring prescribed persons to preserve for a prescribed time books, documents and other records, being books, documents and records which relate to any of those matters.
- (2) The matters referred to in subsection (1) above are—
- (a) any personal pension scheme which is or has been approved; and
- (b) any personal pension arrangements which are or have been approved.
- (3) A person who fails to comply with regulations made under subsection (1)(e) above shall be liable to a penalty not exceeding £3,000.
- (4) Regulations under this section may make different provision for different descriptions of case.
- (5) In this section “prescribed” means prescribed by regulations made under this section.]

**Textual Amendments**

**F347** S. 651A inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 96\(1\)](#)

**652 Information about payments.**

F348 .....

**Textual Amendments**

**F348** S. 652 repealed (1.10.2000) by [Finance Act 1998 \(c. 36\), s. 96\(4\)](#), [Sch. 27 Pt. 3\(21\)](#), Note; [S.I. 2000/2319, art. 2](#)

**653 Information: penalties.**

<sup>M102</sup>A person who knowingly makes a false statement or false representation on making an application under section 631 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 [<sup>F349</sup>£3,000].

**Textual Amendments**

**F349** 1989 s.170(4)(b) *in relation to things done or omitted to be done on or after 27 July 1989. Previously “£500”.*

**Marginal Citations**

**M102** Source-1987 (No.2) s.51(1)

[<sup>F350</sup>**653A Notices to be given to scheme administrator.**

- (1) Where—
- (a) the Board, or any officer of the Board, is authorised or required by or in consequence of any provision of this Chapter to give a notice to the person who is the scheme administrator of a personal pension scheme, but

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- (b) there is for the time being no scheme administrator for that scheme or the person who is the scheme administrator for that scheme cannot be traced, that power or duty may be exercised or performed by giving that notice, instead, to the person specified in subsection (2) below.
- (2) That person is—
- (a) the person who established the scheme; or
- (b) any person by whom that person has been directly or indirectly succeeded in relation to the provision of benefits under the scheme.
- (3) The giving of a notice in accordance with this section shall have the same effect as the giving of that notice to the scheme administrator and, without prejudice to section 650A(5), shall not impose an additional obligation or liability on the person to whom the notice is actually given.]

#### Textual Amendments

**F350** S. 653A inserted (with effect in accordance with s. 97(2) of the amending Act) by Finance Act 1998 (c. 36), s. 97(1)

#### 654 Remuneration of Ministers and other officers.

- <sup>M103</sup>(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—
- “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 <sup>M104</sup>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

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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.

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

**C39** S. 654 applied (with modifications) (with effect in accordance with s. 52(2) of the affecting Act) by Finance Act 1999 (c. 16), **Sch. 5 para. 6**

**Marginal Citations**

**M103** Source-1987 (No.2) s.52

**M104** 1987 c. 45.

**655 Transitional provisions.**

- (1) <sup>M105</sup>Where approved personal pension arrangements are made by an individual who pays qualifying premiums within the meaning of section 620(1)—
  - (a) the amount [<sup>F351</sup>of contributions in respect of which relief may be given] by virtue of section 639(1) 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 619(1)(a); and
  - (b) the relief which, by virtue of section 625, may be given under section 619 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 641 that a contribution or part of a contribution shall be treated as paid in the year of assessment [<sup>F352</sup>1985-86, 1986-87 or 1987-88], the payment shall be treated as the payment of a qualifying premium for the purposes of Chapter III of this Part; and in such a case references in section 641 to an amount of unused relief shall be construed in accordance with section 625.
- (3) The references in section 642 to unused relief for any year are, for years of assessment before [<sup>F353</sup>1988-89], references to unused relief within the meaning of section 625.
- (4) <sup>M106</sup>The Board shall not grant any application under section 631 so as to approve a scheme with effect from a date earlier than [<sup>F353</sup>1st July] 1988.
- (5) 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* [<sup>F353</sup>February 1990] notwithstanding that the Board have not satisfied themselves that the schemes comply with the requirements of sections 632 to 638; and such regulations may, in particular, provide—

*Status: Point in time view as at 31/12/2004.*

**Changes to legislation:** *Income and Corporation Taxes Act 1988, PART XIV is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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 632 to 638, 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 632 to 638 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.

#### Textual Amendments

**F351** Words in s. 655(1)(a) substituted (with effect in accordance with Sch. 13 para. 25(3) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 25(2) (with Sch. 13 Pt. 2)

**F352** 1988(F) s.54 (*which also specifies changes to ss.20, 54, 55 and 56 of 1987 (No.2)*). *Deemed always to have had effect. Previously*  
“1984-85, 1985-86 or 1986-87”.

**F353** 1988(F) s.54 (*which also specifies changes to ss.20, 54, 55 and 56 of 1987 (No.2)*). *Deemed always to have had effect. Previously*  
“1987-88”, “4th January”  
*and*  
“August 1989”  
*respectively.*

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

**C40** *For regulations see S.I. 1987 No.1765 in Part III Vol.5.*

#### Marginal Citations

**M105** Source-1987 (No.2) s.55.

**M106** Source-1987 (No.2) s.56

## CHAPTER V

### PURCHASED LIFE ANNUITIES

#### 656 Purchased life annuities other than retirement annuities.

- (1) <sup>M107</sup>Subject to section 657, a purchased life annuity shall, for the purposes of the provisions of the Tax Acts relating to tax on annuities and other annual payments, be treated as containing a capital element and, to the extent of the capital element, as not being an annual payment or in the nature of an annual payment; but the capital element in such an annuity shall be taken into account in computing profits or gains or losses for other purposes of the Tax Acts in any circumstances in which a lump sum payment would be taken into account.

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- (2) <sup>M108</sup>Where, in the case of any purchased life annuity to which this section applies, the amount of any annuity payment (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives—
- (a) the capital element shall be determined by reference—
- (i) to the amount or value of the payments made or other consideration given for the grant of the annuity (“the purchase price”); and
  - (ii) to the expected term of the annuity, as at the date when the first annuity payment began to accrue, expressed in years (and any odd fraction of a year), and determined by reference to the prescribed tables of mortality;
- and in head (ii) above “term” means the period from the date when the first annuity payment begins to accrue to the date when the last payment becomes payable;
- (b) the capital element in any annuity payment made in respect of a period of 12 months shall be a fraction—

$$\frac{1}{E}$$

of the purchase price, where E is the expected term referred to in paragraph (a)(ii) above;

- (c) the capital element in any annuity payment made in respect of a period of less than, or more than, 12 months shall be the amount at (b) above reduced or, as the case may be, increased, in the same proportion as the length of that period bears to a period of 12 months;
- (d) subsection (3) below shall not apply but paragraphs (a) and (b) of subsection (4) below shall apply as they apply to that subsection.
- (3) Subject to subsection (2) above, in the case of any purchased life annuity to which this section applies—
- (a) <sup>M109</sup>the capital element shall be determined by reference to the amount or value of the payments made or other consideration given for the grant of the annuity; and
  - (b) the proportion which the capital element in any annuity payment bears to the total amount of that payment shall be constant for all payments on account of the annuity; and
  - (c) where neither the term of the annuity nor the amount of any annuity payment depends on any contingency other than the duration of a human life or lives, that proportion shall be the same proportion which the total amount or value of the consideration for the grant of the annuity bears to the actuarial value of the annuity payments as determined in accordance with subsection (4) below; and
  - (d) <sup>M110</sup>where either the term of the annuity or the amount of any annuity payment (but not both) depends on any contingency other than the duration of a human life or lives, that proportion shall be such as may be just, having regard to paragraph (c) above and to the contingencies affecting the annuity; and
  - (e) where both the term of the annuity and the amount of any annuity payment depend on any contingency other than the duration of a human life or lives, that proportion shall be such as may be just, having regard to subsection (2) above and to the contingencies affecting the annuity.

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- (4)<sup>M111</sup> For the purposes of subsection (3) above—
- (a) any entire consideration given for the grant of an annuity and for some other matter shall be apportioned as appears just (but so that a right to a return of premiums or other consideration for an annuity shall not be treated for this purpose as a distinct matter from the annuity);
  - (b) where it appears that the amount or value of the consideration purporting to be given for the grant of an annuity has affected, or has been affected by, the consideration given for some other matter, the aggregate amount or value of those considerations shall be treated as one entire consideration given for both and shall be apportioned under paragraph (a) above accordingly; and
  - (c) the actuarial value of any annuity payments shall be taken to be their value as at the date when the first of those payments begins to accrue, that value being determined by reference to the prescribed tables of mortality and without discounting any payment for the time to elapse between that date and the date it is to be made.
- (5) Where a person making a payment on account of any life annuity has been notified in the prescribed manner of any decision as to its being or not being a purchased life annuity to which this section applies or as to the amount of the capital element (if any), and has not been notified of any alteration of that decision, the notice shall be conclusive as to those matters for the purpose of determining the amount of income tax which he is entitled or required to deduct from the payment, or for which he is chargeable in respect of it.
- (6) Where a person making a payment on account of a purchased life annuity to which this section applies has not been notified in the prescribed manner of the amount of the capital element, the amount of income tax which he is entitled or required to deduct from the payment, or for which he is chargeable in respect of it, shall be the same as if the annuity were not a purchased life annuity to which this section applies.
- [<sup>F354</sup>(7) In using the prescribed tables of mortality to determine—
- (a) the expected term of an annuity for the purposes of subsection (2)(a) above, or
  - (b) the actuarial value of any annuity payments for the purposes of subsection (4)(c) above,
- the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his last birthday preceding that date.
- (8) In any case where it is not possible to determine the expected term of an annuity for the purposes of subsection (2)(a) above by reference to the prescribed tables of mortality, that term shall for those purposes be such period as may be certified by the Government Actuary or the Deputy Government Actuary.
- (9) In any case where it is not possible to determine the actuarial value of any annuity payments for the purposes of subsection (4)(c) above by reference to the prescribed tables of mortality, that value shall for those purposes be such amount as may be certified by the Government Actuary or the Deputy Government Actuary.]

#### Textual Amendments

**F354** S. 656(7)-(9) inserted (retrospectively) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 76(1)

*Status: Point in time view as at 31/12/2004.*

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### Marginal Citations

- M107** Source-1970 s.230(1)  
**M108** Source-1970 s.230(2A); 1970(F) Sch.4 8  
**M109** Source-1970 s.230(2)(a)-(c)  
**M110** Source-1970 s.230(2)(d), (2A); 1970(F) Sch.4 8  
**M111** Source-1970 s.230(3)-(5)

## 657 Purchased life annuities to which section 656 applies.

<sup>M112</sup>(1) For the purposes of section 656—

“life annuity” means an annuity payable for a term ending with (or at a time ascertainable only by reference to) the end of a human life, whether or not there is provision for the annuity to end during the life on the expiration of a fixed term or on the happening of any event or otherwise, or to continue after the end of the life in particular circumstances; and

“purchased life annuity” means a life annuity granted for consideration in money or money’s worth in the ordinary course of a business of granting annuities on human life.

(2) Section 656 does not apply—

- (a) to any annuity which would, apart from that section, be treated for the purposes of the provisions of the Tax Acts relating to tax on annuities and other annual payments as consisting to any extent in the payment or repayment of a capital sum;
- (b) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums satisfying the conditions for relief under section 266, 273 or 619 or to any annuity payable under a substituted contract within the meaning of section 622(3);
- (c) to any annuity purchased in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or settlement out of income of property disposed of by the will or settlement (whether with or without resort to capital);
- (d) to any annuity purchased under or for the purposes of any sponsored superannuation scheme (as defined in section 624) or any scheme approved under section 620 or in pursuance of any obligation imposed, or offer or invitation made, under or in connection with any such scheme or to any other annuity purchased by any person in recognition of another’s services (or past services) in any office or employment;
- <sup>F355</sup>(da) to any annuity purchased under or for the purposes of a scheme approved by virtue of section 591 or in pursuance of any obligation imposed, or offer or invitation made, under or in connection with any such scheme;
- (e) to any annuity payable under approved personal pension arrangements within the meaning of Chapter IV of this Part<sup>F356</sup>, or
- (f) to any annuity purchased, for purposes connected with giving effect to any pension sharing order or provision, for consideration which derives from—
  - (i) a retirement benefits scheme (within the meaning of Chapter I of this Part) of a description mentioned in <sup>F357</sup>section 387(2) of ITEPA 2003 (meaning of non-approved retirement benefits scheme);
  - (ii) sums satisfying the conditions for relief under section 619;



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- (iii) any such scheme or arrangements as are mentioned in paragraph (d) or (e) above; or
- (iv) the surrender, in whole or in part, of an annuity falling within paragraph (da) above or this paragraph, or of a contract for such an annuity.]

#### Textual Amendments

**F355** S. 657(2)(da) substituted for word at the end of s. 657(2)(d) (retrospectively) by [Finance Act 1999 \(c. 16\), s. 80](#)

**F356** S. 657(2)(f) and preceding word inserted (27.7.1999) by [Finance Act 1999 \(c. 16\), Sch. 10 para. 16](#)

**F357** Words in s. 657(2)(f)(i) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 97 \(with Sch. 7\)](#)

#### Marginal Citations

**M112** Source-1970 s.230(6), (7); 1978 s.26(4); 1987 (No.2), s.41(3)

## 658 Supplementary.

- <sup>M113</sup>(1) Any question whether an annuity is a purchased life annuity to which section 656 applies, or what is the capital element in such an annuity, shall be determined by the inspector; but a person aggrieved by the inspector's decision on any such question may appeal within the prescribed time to the Special Commissioners.
- (2) Save as otherwise provided in this Chapter, the procedure to be adopted in giving effect to this Chapter shall be such as may be prescribed.
  - (3) The Board may make regulations for prescribing anything which is to be prescribed under this Chapter, and the regulations may apply for the purposes of this Chapter or of the regulations any provision of the Income Tax Acts, with or without modifications.
  - (4) Regulations under subsection (3) above may in particular make provision as to the time limit for making any claim for relief from or repayment of tax under this Chapter and as to all or any of the following matters, that is to say—
    - (a) as to the information to be furnished in connection with the determination of any question whether an annuity is a purchased life annuity to which section 656 applies or what is the capital element in an annuity, and as to the persons who may be required to furnish any such information;
    - (b) as to the manner of giving effect to the decision on any such question, and (notwithstanding anything in section 348) as to the making of assessments for the purpose on the person entitled to the annuity; and
    - (c) as to the extent to which the decision on any such question is to be binding, and the circumstances in which it may be reviewed.
  - (5) If any person, for the purpose of obtaining for himself or for any other person any relief from or repayment of tax under this Chapter, knowingly makes any false statement or false representation, he shall be liable to a penalty not exceeding [<sup>F358</sup>£3,000].

#### Textual Amendments

**F358** 1989 s.170(4)(c) *in relation to things done or omitted to be done on or after 27 July 1989. Previously “£500”.*

*Status: Point in time view as at 31/12/2004.*

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

**C41** For regulations see Part III Vol.5 (under “Life annuities, purchased”).

**Marginal Citations**

**M113** Source-1970 s.231

## CHAPTER VI

### MISCELLANEOUS

**[<sup>F359</sup>658A] Charges and assessments on administrators.**

- (1) Tax charged under Chapter I or IV of this Part [<sup>F360</sup>or under section 394(2) of ITEPA 2003 (benefits from non-approved pension schemes)] on the administrator of a scheme—
  - (a) shall be treated as charged on every relevant person and be assessable by the Board in the name of the administrator of the scheme, but
  - (b) shall not be assessable on any relevant person who, at the time of the assessment, is no longer either the administrator of the scheme or included in the persons who are the administrator of the scheme.
- (2) For the purposes of subsection (1) above a person is a relevant person in relation to any charge to tax on the administrator of a scheme if he is a person who at the time when the charge is treated as arising or any subsequent time is, or is included in the persons who are, the administrator of the scheme.
- (3) Where tax charged under Chapter I of this Part on the administrator of a scheme is assessable by virtue of section 606 or 606A on a person who is not a relevant person for the purposes of subsection (1) above, the assessment shall be made by the Board.
- (4) In this section “administrator”, in relation to a scheme, means the person who is—
  - (a) the administrator of the scheme within the meaning given by section 611AA; or
  - (b) the scheme administrator, as defined in section 630.
- (5) This section is without prejudice to section 591D(4).]

**Textual Amendments**

**F359** S. 658A inserted (retrospectively) by Finance Act 1998 (c. 36), s. 98(1)

**F360** Words in s. 658A(1) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), Sch. 6 para. 98 (with Sch. 7)

**[<sup>F361</sup>659] Financial futures and traded options.**

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**Textual Amendments**

**F361** S. 659 repealed (with effect in accordance with s. 81(7)(8) of the repealing Act) by [Finance Act 1990](#) (c. 29), s. 81(4), [Sch. 19 Pt. 4](#), Note 9

[<sup>F362</sup>**659A** **Futures and options.**

- (1) For the purposes of sections 592(2), 608(2)(a), 613(4), 614(3) and (4), 620(6) and 643(2)—
  - (a) “investments” (or “investment”) includes futures contracts and options contracts, and
  - (b) income derived from transactions relating to such contracts shall be regarded as income derived from (or income from) such contracts,and paragraph 7(3)(a) of Schedule 22 to this Act shall be construed accordingly.
- (2) For the purposes of subsection (1) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.]

**Textual Amendments**

**F362** S. 659A inserted (with effect in accordance with s. 81(5) of the amending Act) by [Finance Act 1990](#) (c. 29), s. 81(2)

[<sup>F363</sup>**659B** **Definition of insurance company.**

- [<sup>F364</sup>(1) in sections 591(2)(g) and 599(7) “insurance company” means one of the following—
- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
  - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which—
    - (i) has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance; and
    - (ii) fulfils the requirement under subsection (5), (6) or (7) below.
- (1A) In subsection (1) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.]
- (2) In Chapter IV of this Part “authorised insurance company” means a company that is an insurance company within the meaning given by subsection (1) above.
  - (3) <sup>F365</sup> .....
  - (4) <sup>F365</sup> .....
  - (5) The requirement under this subsection is that—

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- (a) a person who falls within subsection (8) below is for the time being appointed by the company to be responsible for securing the discharge of the duties mentioned in subsection (9) below, and
  - (b) his identity and the fact of his appointment have been notified to the Board by the company.
- (6) The requirement under this subsection is that there are for the time being other arrangements with the Board for a person other than the company to secure the discharge of those duties.
- (7) The requirement under this subsection is that there are for the time being other arrangements with the Board designed to secure the discharge of those duties.
- (8) A person falls within this subsection if—
- (a) he is not an individual and has a business establishment in the United Kingdom, or
  - (b) he is an individual and is resident in the United Kingdom.
- (9) The duties are the following duties that fall to be discharged by the company—
- [<sup>F366</sup>(a) any duty to pay under PAYE regulations tax charged under Part 9 of ITEPA 2003 (pension income) because section 580 of that Act applies (approved retirement benefits schemes: pensions and annuities);]
  - (b) any duty to pay tax charged under section 599(3) and (7);
  - (c) any duty imposed by regulations made under section 605 [<sup>F367</sup>of this Act or section 589 of ITEPA 2003];
  - [<sup>F368</sup>(d) any duty to pay under PAYE regulations tax charged under Part 9 of ITEPA 2003 (pension income) because section 595 of that Act applies (approved personal pension schemes: annuities).]
- (10) <sup>F365</sup>.....]

#### Textual Amendments

- F363** Ss. 659B, 659C inserted (with effect in accordance with s. 60 of the amending Act) by [Finance Act 1995 \(c. 4\), s. 59\(5\)](#)
- F364** S. 659B(1)(1A) substituted for s. 659B(1) (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 42\(2\)](#)
- F365** S. 659B(3)(4)(10) omitted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by virtue of [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 42\(3\)](#)
- F366** S. 659B(9)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 99\(2\)](#) (with Sch. 7)
- F367** Words in s. 659B(9)(c) inserted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 99\(3\)](#) (with Sch. 7)
- F368** S. 659B(9)(d) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), Sch. 6 para. 99\(4\)](#) (with Sch. 7)

#### [<sup>F363</sup> 659C] Effect of appointment or arrangements under section 659B.

- (1) This section shall have effect where—

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- (a) in accordance with section 659B(5) a person is for the time being appointed to be responsible for securing the discharge of duties, or
  - (b) in accordance with section 659B(6) there are for the time being arrangements for a person to secure the discharge of duties.
- (2) In such a case the person concerned—
- (a) shall be entitled to act on the company’s behalf for any of the purposes of the provisions relating to the duties;
  - (b) shall secure (where appropriate by acting on the company’s behalf) the company’s compliance with and discharge of the duties;
  - (c) shall be personally liable in respect of any failure of the company to comply with or discharge any such duty as if the duties imposed on the company were imposed jointly and severally on the company and the person concerned.]

#### Textual Amendments

**F363** Ss. 659B, 659C inserted (with effect in accordance with s. 60 of the amending Act) by Finance Act 1995 (c. 4), s. 59(5)

#### [<sup>F369</sup>659D] Interpretation of provisions about pension sharing.

- (1) In this Part “ex-spouse” means a party to a marriage that has been dissolved or annulled and, in relation to any person, means the other party to a marriage with that person that has been dissolved or annulled.
- (2) References in this Part to a pension sharing order or provision are references to any such order or provision as is mentioned in section [<sup>F370</sup>28(1)] of the Welfare Reform and Pensions Act 1999 (rights under pension sharing arrangements).]

#### Textual Amendments

**F369** S. 659D inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 17

**F370** Words in s. 659D(2) substituted (1.11.1999) by Welfare Reform and Pensions Act 1999 (c. 30), s. 89(4)(e), Sch. 12 para. 13

#### [<sup>F371</sup>659E] Treatment of income from property investment LLPs

- (1) The exemptions specified below do not apply to income derived from investments, deposits or other property held as a member of a property investment LLP.
- (2) The exemptions are those provided by—
  - section 592(2) (exempt approved schemes),
  - section 608(2)(a) (former approved superannuation funds),
  - section 613(4) (Parliamentary pension funds),
  - section 614(3) (certain colonial, &c. pension funds),
  - section 614(4) (the Overseas Service Pension Fund),
  - section 614(5) (other pension funds for overseas employees),
  - section 620(6) (retirement annuity trust schemes), and
  - section 643(2) (approved personal pension schemes).

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- (3) The income to which subsection (1) above applies includes relevant stock lending fees, in relation to any investments, to which any of the provisions listed in subsection (2) above would apply by virtue of section 129B.
- (4) Section 659A (treatment of futures and options) applies for the purposes of subsection (1) above.]

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**Textual Amendments**

**F371** S. 659E inserted (6.4.2001) by Finance Act 2001 (c. 9), s. 76(2), Sch. 25 para. 2

**Status:**

Point in time view as at 31/12/2004.

**Changes to legislation:**

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