



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

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

- C1** Pt. 4 modified (N.I.) (1.4.2006) by [The Firemens Pension Scheme Order \(Northern Ireland\) 2006 \(S.R. 2006/210\)](#), arts. 1(2), **103**
- C2** Pt. 4 modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **9**, **10**
- C3** Pt. 4 modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **12**
- C4** Pt. 4 modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **13(5)**
- C5** Pt. 4 modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **26**
- C6** Pt. 4 modified (31.12.2007) by [Police and Justice Act 2006 \(c. 48\)](#), s. 53(1), **Sch. 3 para. 7**; S.I. 2007/3203, art. 3(b)
- C7** Pt. 4 modified (1.7.2008) (N.I.) (with effect in accordance with reg. 1 of the amending Rule) by [The Health and Social Care \(Pension Scheme\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/256\)](#), regs. 1, **124(1)** (with regs. 134, 258)
- C8** Pt. 4 modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), **reg. 5A** (as inserted (6.4.2006) by S.I. 2008/2990, arts. 1(1), **3**)
- C9** Pt. 4 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 18**
- C10** Pt. 4 modified (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 18 para. 14(3)**
- C11** Pt. 4 applied (with modifications) (with application in accordance with Sch. 22 para. 1 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 22 para. 1(2)**
- C12** Pt. 4 modified (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), Sch. 6 para. 1(2)(**3**)
- C13** Pt. 4: power to amend conferred (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), s. **4(3)**
- C14** Pt. 4 modified (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **Sch. 4 para. 1**
- C15** Pt. 4 modified (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **Sch. 4 para. 9(2)**

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## CHAPTER 1

### INTRODUCTION

#### *Introductory*

#### **149 Overview of Part 4**

- (1) This Part contains tax provision about pension schemes and other similar schemes.
- (2) This Chapter defines some basic concepts.
- (3) As for the rest of this Part—
  - Chapter 2 is about the registration and de-registration of pension schemes,
  - Chapter 3 is about the payments that may be made by registered pension schemes and related matters,
  - Chapter 4 deals with tax reliefs and exemptions in connection with registered pension schemes,
  - Chapter 5 imposes tax charges in connection with registered pension schemes,
  - Chapter 6 is about some schemes that are not registered pension schemes,
  - Chapter 7 makes provision about compliance, and
  - Chapter 8 contains interpretation and other supplementary provisions.

#### *Main concepts*

#### **150 Meaning of “pension scheme”**

- (1) In this Part “pension scheme” means a scheme or other arrangements, comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of persons—
  - (a) on retirement,
  - (b) on death,
  - (c) on having reached a particular age,
  - (d) on the onset of serious ill-health or incapacity, or
  - (e) in similar circumstances.
- (2) A pension scheme is a registered pension scheme for the purposes of this Part at any time if it is at that time registered under Chapter 2.
- (3) In this Part “public service pension scheme” means a pension scheme—
  - (a) established by or under any enactment,
  - (b) approved by a relevant governmental or Parliamentary person or body, or
  - (c) specified in an order made by the Treasury.
- (4) In subsection (3) “a relevant governmental or Parliamentary person or body” means—
  - (a) a Minister of the Crown or a government department,
  - (b) the Scottish Parliament, the Scottish Parliamentary Corporate Body or a member of the Scottish Executive,
  - (c) the National Assembly for Wales<sup>F1</sup>, the National Assembly for Wales Commission or the Welsh Ministers], or

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- (d) the Northern Ireland Assembly, the Northern Ireland Assembly Commission, a Northern Ireland Minister, the head of a Northern Ireland department or a Northern Ireland department.
- (5) In this Part “occupational pension scheme” means a pension scheme established by an employer or employers and having or capable of having effect so as to provide benefits to or in respect of any or all of the employees of—
- (a) that employer or those employers, or
  - (b) any other employer,
- (whether or not it also has or is capable of having effect so as to provide benefits to or in respect of other persons).
- (6) In this Part “sponsoring employer”, in relation to an occupational pension scheme, means the employer, or any of the employers, to or in respect of any or all of whose employees the pension scheme has, or is capable of having, effect so as to provide benefits.
- (7) In this Part “overseas pension scheme” means a pension scheme (other than a registered pension scheme) which—
- (a) is established in a country or territory outside the United Kingdom, and
  - (b) satisfies any requirements prescribed for the purposes of this subsection by regulations made by the Board of Inland Revenue.
- (8) In this Part “recognised overseas pension scheme” means an overseas pension scheme [<sup>F2</sup>which satisfies any requirements prescribed for the purposes of this subsection by regulations made by the Commissioners for Her Majesty's Revenue and Customs.]

#### Textual Amendments

- F1** Words in s. 150(4)(c) inserted (25.5.2007) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 1(2), **Sch. 1 para. 108**
- F2** Words in s. 150(8) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **s. 53(1)**

## 151 Meaning of “member”

- (1) In this Part “member” in relation to a pension scheme, means any active member, pensioner member, deferred member or pension credit member of the pension scheme.
- (2) For the purposes of this Part a person is an active member of a pension scheme if there are presently arrangements made under the pension scheme for the accrual of benefits to or in respect of the person.
- (3) For the purposes of this Part a person is a pensioner member of a pension scheme if the person is entitled to the present payment of benefits under the pension scheme and is not an active member.
- (4) A person is a deferred member of a pension scheme if the person has accrued rights under the pension scheme and is neither an active member nor a pensioner member.
- (5) A person is a pension credit member of a pension scheme if the person has rights under the pension scheme which are attributable (directly or indirectly) to pension credits<sup>F3</sup>; and, if a person dies having become entitled to pension credits but without having rights attributable to them, the person is to be treated as having acquired, immediately

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before death, the rights by virtue of which the liability in respect of the pension credits is subsequently discharged].

#### Textual Amendments

**F3** Words in s. 151(5) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 2](#)

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

**C16** S. 151 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 5

## 152 Meaning of “arrangement”

- (1) In this Part “arrangement”, in relation to a member of a pension scheme, means an arrangement relating to the member under the pension scheme.
- (2) For the purposes of this Part an arrangement is a “money purchase arrangement” at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits or other money purchase benefits.
- (3) For the purposes of this Part a money purchase arrangement is a “cash balance arrangement” at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits.
- (4) In this Part “money purchase benefits”, in relation to a member of a pension scheme, means benefits the rate or amount of which is calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made under the pension scheme by the member or any other person in respect of the member or any other factor).
- (5) In this Part “cash balance benefits” means benefits the rate or amount of which is calculated by reference to an amount available for the provision of benefits to or in respect of the member calculated otherwise than wholly by reference to payments made under the arrangement by the member or by any other person in respect of the member (or transfers or other credits).
- (6) For the purposes of this Part an arrangement is a “defined benefits arrangement” at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are defined benefits.
- (7) In this Part “defined benefits”, in relation to a member of a pension scheme, means benefits which are not money purchase benefits (but which are calculated by reference to earnings or service of the member or any other factor other than an amount available for their provision).
- (8) For the purposes of this Part an arrangement is a “hybrid arrangement” at any time if, at that time, all of the benefits that may be provided to or in respect of the member under the arrangement are, depending on the circumstances, to be of one of any two or three of the following varieties—
  - (a) cash balance benefits,
  - (b) other money purchase benefits, and
  - (c) defined benefits.

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- (9) Where not all of the benefits that may be provided under an arrangement to or in respect of the member are of the same one of those varieties of benefits, the arrangement is to be treated for the purposes of this Part as being two or three separate arrangements one of which relates to each of the two or three varieties of benefits that may be so provided.

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

**C17** S. 152 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 6

## CHAPTER 2

### REGISTRATION OF PENSION SCHEMES

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

**C18** Pt. 4 Ch. 2 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 7

### *Registration*

#### **153 Registration of pension schemes**

- (1) An application may be made to the Inland Revenue for a pension scheme to be registered.
- (2) The application—
  - (a) must contain any information which is reasonably required by the Inland Revenue in any form specified by the Board of Inland Revenue, and
  - (b) must be accompanied by a declaration that the application is made by the scheme administrator (see section 270) and any other declarations by the scheme administrator which are reasonably required by the Inland Revenue.
- (3) The declarations which the Inland Revenue may require to accompany an application for the registration of a pension scheme include, in particular, a declaration that the instruments or agreements by which it is constituted do not entitle any person to unauthorised payments (see section 160(5)).
- (4) [<sup>F4</sup>Following] receipt of an application for a pension scheme to be registered the Inland Revenue must decide whether or not to register the pension scheme.
- (5) The Inland Revenue's decision must be to register the pension scheme unless it appears that—
  - [<sup>F5</sup>(a) any information falling within subsection (5A) is inaccurate in a material respect,
  - (b) any document falling within subsection (5B) contains a material inaccuracy,
  - (c) any declaration accompanying the application is false,

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- (d) the scheme administrator has failed to comply with an information notice under section 153A given in connection with the application (including any declaration accompanying it),
- (e) the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under section 153B carried out in connection with the application (including any declaration accompanying it) where the inspection has been approved by the tribunal,
- (f) the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums), or
- (g) the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—
  - (i) the scheme administrator, or
  - (ii) one of the persons who are the scheme administrator.]

[<sup>F6</sup>(5A) The information falling within this subsection is any information—

- (a) contained in the application, or
- (b) otherwise provided to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5B) The documents falling within this subsection are any documents produced to an officer of Revenue and Customs by the scheme administrator (whether under section 153A or otherwise) in connection with the application (including any declaration accompanying it).

(5C) The reference in subsection (5)(d) to the scheme administrator having failed to comply with an information notice under section 153A includes a case where the scheme administrator has concealed, destroyed or otherwise disposed of, or has arranged for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3).]

(6) The Inland Revenue must notify the scheme administrator of the decision on the application.

(7) Unless the Inland Revenue's decision is not to register the pension scheme, the notification must state the day on and after which the pension scheme will be a registered pension scheme.

(8) An annuity contract [<sup>F7</sup>made with an insurance company]—

- (a) by means of which benefits under a registered pension scheme have been secured, but
- (b) which does not provide for the immediate payment of benefits,

is to be treated as having become a registered pension scheme on the day on which it is made.

[<sup>F8</sup>(8A) Where an order has been made under section 19(4) or 21(2)(a) of the Pensions Act 2004 or Article 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (restitution by order of court or Pensions Regulator) that property or money be transferred, or a sum be paid, towards an annuity contract made with an insurance company, the annuity contract is to be treated as having become a registered pension scheme on the day on which it is made.]

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- (9) Schedule 36 contains (in Part 1) provisions treating certain pension schemes in existence immediately before 6th April 2006 as registered pension schemes (and related provisions).

#### Textual Amendments

- F4** Word in s. 153(4) substituted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 2\(2\)](#), 5(1)
- F5** S. 153(5)(a)-(g) substituted for s. 153(5)(a) (with effect in accordance with Sch. 7 para. 5 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 2\(3\)](#), 5(1)
- F6** S. 153(5A)-(5C) inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 2\(4\)](#), 5(1)
- F7** Words in s. 153(8) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 2](#), 64(1)
- F8** S. 153(8A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 3](#), 64(1)

#### [<sup>F9</sup>153A Power to require information or documents in relation to applications for registration

- (1) This section applies where an application for a pension scheme to be registered is made.
- (2) An officer of Revenue and Customs may by notice (an “information notice”) require the scheme administrator or any other person—
- (a) to provide the officer with any information, or
  - (b) to produce a document to the officer,
- if the officer reasonably requires the information or document in connection with the application (including any declaration accompanying it).
- (3) Paragraphs 6(2), 7, 8, 15, 16, 18 to 20, 23 to 27, 42 and 43 of Schedule 36 to the Finance Act 2008 (information notices etc) apply in relation to information notices under this section as they apply in relation to information notices under that Schedule.
- (4) Where an information notice under this section is given to a person other than the scheme administrator, an officer of Revenue and Customs must give a copy of the notice to the scheme administrator.
- (5) A person, other than the scheme administrator, who is given an information notice under this section may appeal against the notice or any requirement in the notice.
- (6) Paragraph 32 of Schedule 36 to the Finance Act 2008 (procedures for appeals against information notices) applies for the purposes of an appeal under subsection (5) as it applies for the purposes of an appeal under Part 5 of that Schedule.

#### Textual Amendments

- F9** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3](#), 5(1)

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### **153B Power to inspect documents in relation to applications for registration**

- (1) This section applies where an application for a pension scheme to be registered is made.
- (2) An officer of Revenue and Customs may—
  - (a) enter any business premises of the scheme administrator or any other person, and
  - (b) inspect documents that are on the premises,
 if the officer reasonably requires to inspect the documents in connection with the application (including any declaration accompanying it).
- (3) In subsection (2)(a) “business premises” has the meaning given by paragraph 10(3) of Schedule 36 to the Finance Act 2008 (power to inspect business premises etc).
- (4) Paragraphs 10(2), 12, 15 and 16 of Schedule 36 to the Finance Act 2008 apply in relation to the power of inspection conferred by this section as they apply in relation to the power of inspection conferred by paragraph 10 of that Schedule.
- (5) An officer of Revenue and Customs may not inspect a document under this section if or to the extent that, by virtue of a provision of Part 4 of Schedule 36 to the Finance Act 2008 (restrictions on powers) applied by section 153A(3), an information notice under section 153A given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.
- (6) An officer of Revenue and Customs may ask the tribunal to approve an inspection under this section.
- (7) Paragraph 13(1A), (2) and (3) of Schedule 36 to the Finance Act 2008 (approval of tribunal for inspections) applies in relation to an application under subsection (6) as it applies in relation to an application under paragraph 13 of that Schedule in relation to an inspection under paragraph 10 of that Schedule.

#### **Textual Amendments**

- F9** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

### **153C Penalties for failure to comply with information notices etc**

- (1) This section applies where a person other than the scheme administrator—
  - (a) fails to comply with an information notice under section 153A, or
  - (b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under section 153B that has been approved by the tribunal.
- (2) The reference in subsection (1)(a) to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 153A(3).
- (3) Paragraphs 39(2), 40 and 44 to 49 of Schedule 36 to the Finance Act 2008 (penalties for failure to comply with information notice etc) apply in relation to the failure or obstruction as they apply in relation to a failure or obstruction mentioned in paragraph 39(1) of that Schedule.



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#### **Textual Amendments**

**F9** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

### **153D Penalties for inaccurate information in applications**

- (1) This section applies where—
  - (a) an application under section 153 contains information which is inaccurate,
  - (b) the inaccuracy is material, and
  - (c) condition A, B or C is met.
- (2) Condition A is that the inaccuracy is careless or deliberate.
- (3) An inaccuracy is careless if it is due to a failure by the scheme administrator to take reasonable care.
- (4) Condition B is that the scheme administrator knows of the inaccuracy at the time the application is made but does not inform an officer of Revenue and Customs at that time.
- (5) Condition C is that the scheme administrator—
  - (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform an officer of Revenue and Customs.
- (6) The scheme administrator is liable to a penalty not exceeding the maximum penalty for which the scheme administrator could have been liable under paragraph 40A of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) had that paragraph applied in relation to the inaccuracy.
- (7) Where the information contains more than one material inaccuracy, a penalty is payable for each inaccuracy.
- (8) Paragraphs 46 to 49 of Schedule 36 to the Finance Act 2008 (assessment of penalties etc) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 40A of that Schedule.

#### **Textual Amendments**

**F9** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

### **153E Penalties for inaccurate information or documents provided under information notice**

- (1) This section applies where—
  - (a) in complying with an information notice under section 153A, a person provides inaccurate information or produces a document that contains an inaccuracy, and
  - (b) the inaccuracy is material.

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- (2) Paragraphs 40A and 46 to 49 of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) apply in relation to the inaccuracy as they apply in relation to an inaccuracy connected with an information notice under that Schedule.

#### Textual Amendments

- F9** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

### 153F Penalties for false declarations

- (1) This section applies where—
- (a) a declaration accompanying an application under section 153 is false, and
  - (b) at least one of conditions A to C in section 153D is met (reading references to an inaccuracy as references to a falsehood and references to the scheme administrator as references to the person who made the declaration).
- (2) The person who made the declaration is liable to a penalty not exceeding the maximum penalty for which the person could have been liable under paragraph 40A of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) had that paragraph applied in relation to the falsehood.
- (3) Where the declaration contains more than one falsehood, a penalty is payable in relation to each falsehood.
- (4) Paragraphs 46 to 49 of Schedule 36 to the Finance Act 2008 (assessment of penalties etc) apply in relation to a penalty under this section as they apply in relation to a penalty under paragraph 40A of that Schedule.]

#### Textual Amendments

- F9** Ss. 153A-153F inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#)

### 154 Persons by whom registered pension scheme may be established

- [<sup>F10</sup>(1) An application to register a pension scheme may be made only if the pension scheme—
- (a) is an occupational pension scheme, or
  - (b) has been established by a person with permission under FISMA 2000 to establish in the United Kingdom a personal pension scheme or a stakeholder pension scheme.]

(2) But subsection (1) does not apply to a public service pension scheme.

[<sup>F11</sup>(2A) Subsection (1) is to be construed in accordance with section 22 of FISMA 2000, any relevant order under that section and Schedule 2 to that Act.]

<sup>F12</sup>(3) .....

(4) The Treasury may by order amend this section <sup>F13</sup>....

*Status: Point in time view as at 15/09/2016.*

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**Textual Amendments**

- F10** S. 154(1) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(2\)](#), [24\(1\)](#)
- F11** S. 154(2A) inserted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(3\)](#), [24\(1\)](#)
- F12** S. 154(3) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(4\)](#), [24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)
- F13** Words in s. 154(4) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 2\(5\)](#), [24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)

**<sup>F14</sup>155 Persons by whom scheme may be established: supplementary**

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**Textual Amendments**

- F14** S. 155 repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 324\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)

**156 Appeal against decision not to register**

- (1) This section applies where, on an application for a pension scheme to be registered, the Inland Revenue’s decision is not to register the pension scheme.
- (2) The scheme administrator may appeal against the decision.
- <sup>F15</sup>(3) .....
- <sup>F15</sup>(4) .....
- (5) An appeal under this section against a decision must be brought within the period of 30 days beginning with the day on which the scheme administrator was notified of the decision.
- (6) [<sup>F16</sup>On an appeal under this section that is notified to the tribunal, the tribunal] must consider whether the pension scheme ought to have been registered by the Inland Revenue.
- (7) If [<sup>F17</sup>the tribunal decides] that the pension scheme ought not to have been registered by the Inland Revenue, [<sup>F18</sup>the tribunal must] dismiss the appeal.
- (8) If [<sup>F19</sup>the tribunal decides] that the pension scheme ought to have been registered by the Inland Revenue, the pension scheme is to be treated as having been registered on such date as the [<sup>F20</sup>tribunal determines] (but subject to any further appeal <sup>F21</sup>...).

**Textual Amendments**

- F15** S. 156(3)(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), [art. 1\(2\)](#), [Sch. 1 para. 423\(2\)](#)
- F16** Words in s. 156(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), [art. 1\(2\)](#), [Sch. 1 para. 423\(3\)](#)

*Status: Point in time view as at 15/09/2016.*

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- F17** Words in s. 156(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 423(4)(a)**
- F18** Words in s. 156(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 423(4)(b)**
- F19** Words in s. 156(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 423(5)(a)**
- F20** Words in s. 156(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 423(5)(b)**
- F21** Words in s. 156(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 423(5)(c)**

## [<sup>F22</sup>156A Cases where application for registration not decided within 6 months

- (1) This section applies where—
  - (a) an application for a pension scheme to be registered is made, but
  - (b) the scheme administrator is not notified under section 153(6) within the period of 6 months after the day on which the application is made.
- (2) The scheme administrator may appeal to the tribunal as if, at the end of that period of 6 months, the scheme administrator had been notified under section 153(6) of a decision not to register the scheme; and section 156(5) to (8) applies accordingly.]

### Textual Amendments

- F22** S. 156A inserted (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 paras. 4, 5(1)**

## *De-registration*

### 157 De-registration

- (1) The Inland Revenue may withdraw the registration of a pension scheme.
- (2) If the Inland Revenue withdraws the registration of a pension scheme the Inland Revenue must notify the scheme administrator.
- (3) If there is no-one who is the scheme administrator, the Inland Revenue must instead notify any person or persons—
  - (a) who has or have responsibility for the discharge of any obligation relating to the pension scheme under section 271(4) (continuation of liability where no scheme administrator), section 272 (trustees etc.) or section 273 (members), and
  - (b) whom it is reasonably practicable for the Inland Revenue to identify.
- (4) The notification must state the date on and after which the pension scheme will not be a registered pension scheme.

### 158 Grounds for de-registration

- (1) The registration of a pension scheme may be withdrawn under section 157 only if it appears to the Inland Revenue—

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- [<sup>F23</sup>(za) that the pension scheme has not been established, or is not being maintained, wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums),]
  - [<sup>F24</sup>(zb) that the person who is, or any of the persons who are, the scheme administrator is not a fit and proper person to be, as the case may be—
    - (i) the scheme administrator, or
    - (ii) one of the persons who are the scheme administrator,]
  - (a) that the amount of the scheme chargeable payments (see section 241) made by the pension scheme during any period of 12 months exceeds the de-registration threshold,
  - (b) that the scheme administrator fails to pay a substantial amount of tax (or interest on tax) due from the scheme administrator by virtue of this Part,
  - (c) that the scheme administrator fails to provide information required to be provided to the Inland Revenue by virtue of this Part [<sup>F25</sup>or Part 1 of Schedule 36 to the Finance Act 2008] and the failure is significant,
  - (d) that any information contained in the application to register the pension scheme or otherwise provided to the Inland Revenue is [<sup>F26</sup>inaccurate] in a material particular,
  - [<sup>F27</sup>(da) that the scheme administrator fails to produce any document required to be produced to an officer of Revenue and Customs by virtue of this Part or Part 1 of Schedule 36 to the Finance Act 2008,
  - (db) that any document produced to an officer of Revenue and Customs by the scheme administrator contains a material inaccuracy in relation to which at least one of conditions A to C in subsections (7) to (10) is met,]
  - [<sup>F28</sup>(e) that any declaration accompanying the application to register the pension scheme, or otherwise made to an officer of Revenue and Customs in connection with the pension scheme, is false in a material particular,
  - (ea) that the scheme administrator has deliberately obstructed an officer of Revenue and Customs in the course of an inspection under [<sup>F29</sup>section 159B or] Part 2 of Schedule 36 to the Finance Act 2008 that has been approved by the tribunal, or]
  - (f) that there is no scheme administrator.
- (2) The amount of the scheme chargeable payments made by a pension scheme during any period of 12 months exceeds the de-registration threshold if the scheme chargeable payments percentage is 25% or more.
- (3) The scheme chargeable payments percentage is—
- (a) if only one scheme chargeable payment is made during the period of 12 months, the percentage of the pension fund used up on the occasion of that scheme chargeable payment, and
  - (b) if two or more scheme chargeable payments are made during the period of 12 months, the aggregate of the percentages of the pension fund used up on the occasion of each of those scheme chargeable payments.
- (4) The percentage of the pension fund used up on the occasion of a scheme chargeable payment is—

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$$\frac{\text{SCP}}{\text{AA}} \times 100$$

where—

SCP is the amount of the scheme chargeable payment, and

AA is an amount equal to the aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme at the time when the scheme chargeable payment is made.

- (5) A failure by a scheme administrator to provide information required to be provided to the Inland Revenue by or under this Part [<sup>F30</sup>or Part 1 of Schedule 36 to the Finance Act 2008] is significant if—
- (a) the amount of information which the scheme administrator fails to provide is substantial, or
  - (b) the failure to provide the information is likely to result in serious prejudice to the assessment or collection of tax.
- [<sup>F31</sup>(6) Subsections (7) to (10) apply for the purposes of subsection (1)(db).
- (7) Condition A is that the inaccuracy is careless or deliberate.
- (8) An inaccuracy is careless if it is due to a failure by the scheme administrator to take reasonable care.
- (9) Condition B is that the scheme administrator knows of the inaccuracy at the time the document is produced to an officer of Revenue and Customs but does not inform such an officer at that time.
- (10) Condition C is that the scheme administrator—
- (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform an officer of Revenue and Customs.]

#### Textual Amendments

- F23** S. 158(1)(za) inserted (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 6\(2\)\(a\)](#), 8(2)
- F24** S. 158(1)(zb) inserted (1.9.2014) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 6\(3\)\(a\)](#), 8(3)
- F25** Words in s. 158(1)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Pension Schemes \(Miscellaneous Amendments\) Order 2013 \(S.I. 2013/1114\)](#), [arts. 1\(1\)](#), [2\(2\)](#)
- F26** Word in s. 158(1)(d) substituted (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 6\(2\)\(b\)](#), 8(2)
- F27** S. 158(1)(da)(db) inserted (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 6\(2\)\(c\)](#), 8(2)
- F28** S. 158(1)(e)(ea) substituted for s. 158(1)(e) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 6\(2\)\(d\)](#), 8(2)
- F29** Words in s. 158(1)(ea) inserted (1.9.2014) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 6\(3\)\(b\)](#), 8(3)
- F30** Words in s. 158(5) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Pension Schemes \(Miscellaneous Amendments\) Order 2013 \(S.I. 2013/1114\)](#), [arts. 1\(1\)](#), [2\(3\)](#)

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**F31** S. 158(6)-(10) inserted (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by Finance Act 2014 (c. 26), **Sch. 7 paras. 6(4), 8(2)**

## **159 Appeal against decision to de-register**

- (1) This section applies where the Inland Revenue decides to withdraw the registration of a pension scheme under section 157.
- (2) The scheme administrator, or any person notified under that section of the withdrawal of registration, may appeal against the decision.
- <sup>F32</sup>(3) .....
- <sup>F32</sup>(4) .....
- (5) An appeal under this section against a decision must be brought within the period of 30 days beginning with the day on which the appellant was notified of the decision.
- (6) [<sup>F33</sup>On an appeal that is notified to the tribunal, the tribunal] must consider whether the registration of the pension scheme ought to have been withdrawn.
- (7) If [<sup>F34</sup>the tribunal decides] that the registration of the pension scheme ought to have been withdrawn, [<sup>F35</sup>the tribunal must] dismiss the appeal.
- (8) If [<sup>F36</sup>the tribunal decides] that the registration of the pension scheme ought not to have been withdrawn, the pension scheme is to be treated as having remained a registered pension scheme (but subject to any further appeal <sup>F37</sup>...).

### **Textual Amendments**

- F32** S. 159(3)(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 424(2)**
- F33** Words in s. 159(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 424(3)**
- F34** Words in s. 159(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 424(4)(a)**
- F35** Words in s. 159(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 424(4)(b)**
- F36** Words in s. 159(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 424(5)(a)**
- F37** Words in s. 159(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 424(5)(b)**

### **[<sup>F38</sup>159A Power to require information or documents for purpose of considering if scheme administrator is fit and proper**

- (1) An officer of Revenue and Customs may by notice (an “information notice”) require the scheme administrator of a registered pension scheme or any other person—
  - (a) to provide the officer with any information, or
  - (b) to produce a document to the officer,if the officer reasonably requires the information or document for the purpose of considering whether the person who is, or any of the persons who are, the scheme

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administrator is a fit and proper person to be the scheme administrator or one of those persons (as the case may be).

- (2) Paragraphs 6(2), 7, 8, 15, 16, 18 to 20, 23 to 27, 42 and 43 of Schedule 36 to the Finance Act 2008 (information notices etc) apply in relation to information notices under this section as they apply in relation to information notices under that Schedule.
- (3) Where an information notice under this section is given to a person other than the scheme administrator, an officer of Revenue and Customs must give a copy of the notice to the scheme administrator.
- (4) A person who is given an information notice under this section may appeal against the notice or any requirement in the notice.
- (5) Paragraph 32 of Schedule 36 to the Finance Act 2008 (procedures for appeals against information notices) applies for the purposes of an appeal under subsection (4) as it applies for the purposes of an appeal under Part 5 of that Schedule.

#### Textual Amendments

**F38** Ss. 159A-159D inserted (1.9.2014) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#)

### **159B Power to inspect documents for purpose of considering if scheme administrator is fit and proper**

- (1) An officer of Revenue and Customs may—
  - (a) enter any business premises of the scheme administrator of a registered pension scheme or of any other person, and
  - (b) inspect documents that are on the premises,
 if the officer reasonably requires to inspect the documents for the purpose of considering whether the person who is, or any of the persons who are, the scheme administrator is a fit and proper person to be the scheme administrator or one of those persons (as the case may be).
- (2) In subsection (1)(a) “business premises” has the meaning given by paragraph 10(3) of Schedule 36 to the Finance Act 2008 (power to inspect business premises etc).
- (3) Paragraphs 10(2), 12, 15 and 16 of Schedule 36 to the Finance Act 2008 apply in relation to the power of inspection conferred by this section as they apply in relation to the power of inspection conferred by paragraph 10 of that Schedule.
- (4) An officer of Revenue and Customs may not inspect a document under this section if or to the extent that, by virtue of a provision of Part 4 of Schedule 36 to the Finance Act 2008 (restrictions on powers) applied by section 159A(2), an information notice under section 159A given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.
- (5) An officer of Revenue and Customs may ask the tribunal to approve an inspection under this section.
- (6) Paragraph 13(1A), (2) and (3) of Schedule 36 to the Finance Act 2008 (approval of tribunal for inspections) applies in relation to an application under subsection (5) as it



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applies in relation to an application under paragraph 13 of that Schedule in relation to an inspection under paragraph 10 of that Schedule.

#### Textual Amendments

**F38** Ss. 159A-159D inserted (1.9.2014) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#)

### 159C Penalties for failure to comply with information notices etc

- (1) This section applies where a person—
  - (a) fails to comply with an information notice under section 159A, or
  - (b) deliberately obstructs an officer of Revenue and Customs in the course of an inspection under section 159B that has been approved by the tribunal.
- (2) The reference in subsection (1)(a) to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43 of Schedule 36 to the Finance Act 2008 as applied by section 159A(2).
- (3) Paragraphs 39(2), 40 and 44 to 49 of Schedule 36 to the Finance Act 2008 (penalties for failure to comply with information notice etc) apply in relation to the failure or obstruction as they apply in relation to a failure or obstruction mentioned in paragraph 39(1) of that Schedule.

#### Textual Amendments

**F38** Ss. 159A-159D inserted (1.9.2014) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#)

### 159D Penalties for inaccurate information or documents provided under information notice

- (1) This section applies where—
  - (a) in complying with an information notice under section 159A, a person provides inaccurate information or produces a document that contains an inaccuracy, and
  - (b) the inaccuracy is material.
- (2) Paragraphs 40A and 46 to 49 of Schedule 36 to the Finance Act 2008 (penalties for inaccurate information and documents) apply in relation to the inaccuracy as they apply in relation to an inaccuracy connected with an information notice under that Schedule.]

#### Textual Amendments

**F38** Ss. 159A-159D inserted (1.9.2014) (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#)

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## CHAPTER 3

### PAYMENTS BY REGISTERED PENSION SCHEMES

#### *Introductory*

#### **160 Payments by registered pension schemes**

- (1) The only payments which a registered pension scheme is authorised to make to or in respect of a [<sup>F39</sup>person who is or has been a] member of the pension scheme are those specified in section 164.
- (2) In this Part “unauthorised member payment” means—
  - (a) a payment by a registered pension scheme to or in respect of a [<sup>F40</sup>person who is or has been a] member of the pension scheme which is not authorised by section 164, and
  - (b) anything which is to be treated as an unauthorised payment to or in respect of a [<sup>F41</sup>person who is or has been a] member of the pension scheme under [<sup>F42</sup>this Part].
- (3) The only payments which a registered pension scheme that is an occupational pension scheme is authorised to make to or in respect of a [<sup>F43</sup>person who is or has been a] sponsoring employer are those specified in section 175.
- (4) In this Part “unauthorised employer payment” means—
  - (a) a payment by a registered pension scheme that is an occupational pension scheme, to or in respect of a [<sup>F44</sup>person who is or has been a] sponsoring employer, which is not authorised by section 175, and
  - (b) anything which is to be treated as an unauthorised payment to a [<sup>F45</sup>person who is or has been a] sponsoring employer under section 181.
- [<sup>F46</sup>(4A) If an unauthorised member payment or unauthorised employer payment made to or in respect of a person would have been greater but for a reduction made in respect of the whole, or any proportion, of the amount which the scheme administrator considers may be the amount of the liability to the scheme sanction charge in respect of it, it is to be regarded for the purposes of this Part as increased by the amount of the reduction.
- (4B) But if the amount, or that proportion of the amount, of that liability is in fact less than the amount of the reduction, a subsequent payment of an amount not exceeding the difference between that amount and the amount of the reduction made—
  - (a) to or in respect of the same person, and
  - (b) before the end of the period of two years beginning with the date on which the unauthorised member payment or unauthorised employer payment was made,
is not to be regarded for the purposes of this Part as an unauthorised member payment or unauthorised employer payment.]
- (5) In this Part “unauthorised payment” means—
  - (a) an unauthorised member payment, or
  - (b) an unauthorised employer payment.
- (6) As well as section 157 (de-registration), the following provisions—
  - (a) section 208 (unauthorised payments charge),
  - (b) section 209 (unauthorised payments surcharge),

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- (c) section 239 (scheme sanction charge), and
  - (d) section 242 (de-registration charge),
- specify consequences of making unauthorised payments.
- (7) Sections 182 to 185 contain provision about amounts that a registered pension scheme is not authorised to borrow.
- [<sup>F47</sup>(7A) Sections 185A to 185I contain provision about the receipt of income and gains from taxable property.]
- (8) As well as section 157, sections 239 and 242 specify consequences of unauthorised borrowing [<sup>F48</sup>and the receipt of income and gains from taxable property].
- (9) Schedule 36 contains (in Parts 3 and 4) transitional provision about unauthorised payments.

#### Textual Amendments

- F39** Words in s. 160(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(2)**
- F40** Words in s. 160(2)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(3)(a)**
- F41** Words in s. 160(2)(b) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(3)(a)**
- F42** Words in s. 160(2)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(3)(b)**
- F43** Words in s. 160(3) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(4)**
- F44** Words in s. 160(4)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(4)**
- F45** Words in s. 160(4)(b) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 3(4)**
- F46** S. 160(4A)(4B) inserted (19.7.2007) (with effect in accordance with Sch. 20 para. 24(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 20 para. 5**
- F47** S. 160(7A) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), **Sch. 21 para. 3(2)**
- F48** Words in s. 160(8) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), **Sch. 21 para. 3(3)**

#### Commencement Information

- II** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 161 Meaning of “payment” etc

- (1) This section applies for the interpretation of this Chapter.
- (2) “Payment” includes a transfer of assets and any other transfer of money’s worth.
- (3) Subsection (4) applies to a payment made or benefit provided under or in connection with an investment (including an insurance contract or annuity) acquired using sums or assets held for the purposes of a registered pension scheme.

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- (4) The payment or benefit is to be treated as made or provided from sums or assets held for the purposes of the pension scheme, even if the pension scheme has been wound up since the investment was acquired.
- (5) A payment made by a registered pension scheme to [<sup>F49</sup>or in respect of] a person who—
- (a) is connected with a [<sup>F50</sup>person who is or has been a] member or sponsoring employer (or was connected with [<sup>F51</sup>such a person at the date of the person's] death), and
  - (b) is not a [<sup>F50</sup>person who is or has been a] member or sponsoring employer,
- is to be treated as made in respect of the [<sup>F50</sup>person who is or has been a] member or sponsoring employer.
- (6) Any asset held by a person connected with a [<sup>F52</sup>person who is or has been a] member or sponsoring employer (or who was connected with [<sup>F53</sup>such a person at the date of the person's] death) is to be treated as held for the benefit of the [<sup>F52</sup>person who is or has been a] member or sponsoring employer.
- (7) Any increase in the value of an asset held by, or reduction in the liability of, a person connected with a [<sup>F54</sup>person who is or has been a] member or sponsoring employer (or who was connected with [<sup>F55</sup>such a person at the date of the person's] death) is to be treated as an increase or reduction for the benefit of the [<sup>F54</sup>person who is or has been a] member or sponsoring employer.
- [<sup>F56</sup>(8) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

- F49** Words in s. 161(5) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\), Sch. 10 paras. 5, 64\(1\)](#)
- F50** Words in s. 161(5) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 4\(2\)\(a\)](#)
- F51** Words in s. 161(5) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 4\(2\)\(b\)](#)
- F52** Words in s. 161(6) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 4\(3\)\(a\)](#)
- F53** Words in s. 161(6) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 4\(3\)\(b\)](#)
- F54** Words in s. 161(7) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 4\(3\)\(a\)](#)
- F55** Words in s. 161(7) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 4\(3\)\(b\)](#)
- F56** S. 161(8) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 467 \(with Sch. 2\)](#)

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

- C19** S. 161 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\), arts. 1\(1\), 2\(1\)-\(3\)](#)
- C20** S. 161(4) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\), arts. 1\(1\), 2\(4\)\(5\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Commencement Information

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 162 Meaning of “loan”

- (1) This section applies for the interpretation of this Chapter.
- (2) “Loan” does not include the purchase of or subscription to debentures, debenture stock, loan stock, bonds, certificates of deposit or other instruments creating or acknowledging indebtedness which are—
- listed or dealt in on a recognised stock exchange (within the meaning of <sup>F57</sup>section 1005 of ITA 2007]), or
  - offered to the public.
- (3) A guarantee of a loan made to or in respect of a <sup>F58</sup>person who is or has been a] member or sponsoring employer of a registered pension scheme <sup>F59</sup>, or to or in respect of a person who is connected with a <sup>F58</sup>person who is or has been a] member or sponsoring employer of a registered pension scheme but is not <sup>F60</sup>such a person], is to be treated as a loan to or in respect of the <sup>F58</sup>person who is or has been a] member or sponsoring employer of an amount equal to the amount guaranteed.
- (4) If a <sup>F61</sup>person who is or has been a] member or sponsoring employer of a registered pension scheme <sup>F62</sup> or a person who is connected with a <sup>F61</sup>person who is or has been a] member or sponsoring employer of a registered pension scheme but is not <sup>F63</sup>such a person]]—
- is liable to pay a debt, the right to payment of which constitutes an asset held for the purposes of the pension scheme, but
  - is not required to pay it by the relevant date,
- the debt is to be treated as a loan made by the pension scheme to the <sup>F61</sup>person who is or has been a] member or sponsoring employer on that date.
- (5) The relevant date is the date by which a person at arm’s length from the pension scheme might be expected to be required to pay the debt.
- <sup>F64</sup>(6) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

### Textual Amendments

- F57** Words in s. 162(2)(a) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 468(2)** (with [Sch. 2](#))
- F58** Words in s. 162(3) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 5(a)**
- F59** Words in s. 162(3) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 6(2)**, 64(1)
- F60** Words in s. 162(3) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 5(b)**
- F61** Words in s. 162(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 5(a)**
- F62** Words in s. 162(4) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 6(3)**, 64(1)
- F63** Words in s. 162(4) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 5(b)**

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F64** S. 162(6) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 468\(3\)](#) (with [Sch. 2](#))

**Commencement Information**

**I3** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**163 Meaning of “borrowing” etc**

- (1) This section applies for the interpretation of this Chapter.
- (2) Borrowing is borrowing by a registered pension scheme if the amount borrowed is to be repaid from sums or assets held for the purposes of the pension scheme.
- (3) A liability is a liability of a registered pension scheme if the liability is to be met from sums or assets held for the purposes of the pension scheme.
- (4) Borrowing by a registered pension scheme is in respect of an arrangement if it is properly attributable to the arrangement in accordance with the provisions of the pension scheme and any just and reasonable apportionment.

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

**C21** S. 163(2) applied (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), s. [68\(5\)\(6\)](#)

**Commencement Information**

**I4** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Authorised member payments*

**164 Authorised member payments**

<sup>F65</sup>(1) The only payments a registered pension scheme is authorised to make to or in respect of a <sup>F66</sup>person who is or has been a] member of the pension scheme are—

- (a) pensions permitted by the pension rules or the pension death benefit rules <sup>F67</sup>to be paid to or in respect of a member] (see sections 165 and 167),
- (b) lump sums permitted by the lump sum rule or the lump sum death benefit rule <sup>F68</sup>to be paid to or in respect of a member] (see sections 166 and 168),
- (c) recognised transfers (see section 169),
- (d) scheme administration member payments (see section 171),
- (e) payments pursuant to a pension sharing order or provision, and
- (f) payments of a description prescribed by regulations made by the Board of Inland Revenue.

<sup>F69</sup>(2) Regulations under subsection (1)(f) may—

- (a) provide that for the purposes of Part 9 of ITEPA 2003 all or part of a prescribed payment is to be treated as pension under a registered pension scheme, or as a lump sum of a prescribed description,

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) provide that all or part of a prescribed payment is subject to the short service refund lump sum charge<sup>F70</sup>... or the special lump sum death benefits charge,
- (c) provide that a prescribed event in relation to a prescribed payment is to be treated for the purposes of the lifetime allowance charge as a benefit crystallisation event, and make provision as to the amount crystallised by that event,

<sup>F71</sup>(d) .....

and “prescribed” means prescribed in regulations under subsection (1)(f).]

[<sup>F72</sup>(3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

- (a) having the effect that the making of a prescribed authorised payment does not (directly or indirectly) result in an individual first flexibly accessing pension rights for the purposes of sections 227B to 227F,
- (b) having the effect that the making of a prescribed authorised payment is not a relevant withdrawal for the purposes of section 579CA of ITEPA 2003, and
- (c) having the effect that the making of a prescribed payment by a pension scheme that is not a registered pension scheme, where the payment would be an authorised payment if the scheme were a registered pension scheme, is not a relevant withdrawal for the purposes of section 576A of ITEPA 2003.

(4) In subsection (3)—

“authorised payment” means a payment specified in subsection (1), and  
“prescribed” means prescribed in regulations under subsection (3).]

#### Textual Amendments

- F65** S. 164(1): s. 164 renumbered as s. 164(1) (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 1\(2\)\(a\)](#)
- F66** Words in s. 164 inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 6\(a\)](#)
- F67** Words in s. 164(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 6\(b\)](#)
- F68** Words in s. 164(b) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 6\(c\)](#)
- F69** S. 164(2) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 1\(2\)\(b\)](#)
- F70** Words in s. 164(2)(b) omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 5 para. 3\(1\)\(a\)](#)
- F71** S. 164(2)(d) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [s. 75\(2\)\(a\)](#)
- F72** S. 164(3)(4) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 85](#)

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

- C22** S. 164 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 8

#### Commencement Information

- I5** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**165 Pension rules**

- (1) These are the rules relating to the payment of pensions by a registered pension scheme to a member of the pension scheme (“the pension rules”).

*Pension rule 1*

No payment of pension may be made before the day on which the member reaches normal minimum pension age, unless the ill-health condition was met immediately before the member became entitled to a pension under the pension scheme.

*Pension rule 2*

If the member dies before the end of the period of ten years beginning with the day on which the member became entitled to a scheme pension [<sup>F73</sup>or an annuity], [<sup>F74</sup>and if in the case of an annuity that day was before 6 April 2015.] payment of the scheme pension [<sup>F75</sup>or annuity] may continue to be made (to any person) until the end of that period.

[<sup>F76</sup>If the member becomes entitled to an annuity on or after 6 April 2015 and the annuity is payable until the later of the member's death and the end of a term certain, payment of the annuity may continue to be made (to any person) until the end of that term.]

[<sup>F77</sup>Except as provided by the preceding provisions of this rule, no] payment of the member’s pension may be made after the member’s death.

*Pension rule 3*

No payment of pension other than a scheme pension may be made in respect of a defined benefits arrangement.

*Pension rule 4*

[<sup>F78</sup>No payment of pension] other than—

- (a) a scheme pension,
- (b) a lifetime annuity, or
- (c) [<sup>F79</sup>drawdown pension]

may be made in respect of a money purchase arrangement; but a scheme pension may only be paid if the member had an opportunity to select a lifetime annuity instead.

[<sup>F80</sup>*Pension rule 5*

The total amount of drawdown pension paid in each drawdown pension year [<sup>F81</sup>from, or under a short-term annuity purchased using sums or assets out of, the member's drawdown pension fund] in respect of a money purchase arrangement must not exceed [<sup>F82</sup>150%] of the basis amount for the drawdown pension .]

<sup>F83</sup> .....

<sup>F83</sup> .....

- (2) In this Part “pension”, in relation to a registered pension scheme, includes—
- (a) an annuity, and
  - (b) income withdrawal.
- (3) For the purposes of this Part, a person becomes entitled to a pension under a registered pension scheme—



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (a) in the case of income withdrawal under the pension scheme, whenever sums or assets held for the purposes of an arrangement under the pension scheme are designated as available for the payment of [<sup>F84</sup>drawdown pension], and
- (b) in any other case, when the person first acquires an actual (rather than a prospective) right to receive the pension

[<sup>F85</sup>and, for this purpose, the abatement of a scheme pension under a public service pension scheme is not to be taken to affect the right to receive it].

<sup>F86</sup>(3A) .....

<sup>F86</sup>(3B) .....

- (4) Part 1 of Schedule 28 gives the meaning of expressions used in the pension rules.

#### Textual Amendments

- F73** Words in s. 165(1) substituted (with effect as specified in Sch. 19 para. 29(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 2(2)(a)**
- F74** Words in s. 165(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 41(a)**
- F75** Words in s. 165(1) substituted (with effect as specified in Sch. 19 para. 29(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 2(2)(b)**
- F76** Words in s. 165(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 41(b)**
- F77** Words in s. 165(1) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 41(c)**
- F78** Words in s. 165(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(a)(i)**
- F79** Words in s. 165(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(a)(ii)**
- F80** Words in s. 165(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(b)**
- F81** Words in s. 165(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 1**
- F82** Word in s. 165(1) substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **s. 41(1)**
- F83** Words in s. 165(1) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(c)**; and omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(a)(4)**
- F84** Words in s. 165(3)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 64**
- F85** Words in s. 165(3) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 7, 64(1)**
- F86** S. 165(3A)(3B) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(b)(4)**

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

- C23** S. 165 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **6**
- C24** S. 165 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), **Sch. 3 para. 2(1)(2)(a)** (with [Sch. 2 para. 2\(1\)](#))
- C25** S. 165 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 90(2)(a)**
- C26** S. 165 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 91(2)(a)**

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- C27** S. 165 modified by The Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (S.I. 2006/207), reg. 6 (as substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by S.I. 2012/1795, regs. 1(1), 3)
- C28** S. 165(1) modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), 3, 4(1)(2)

#### Commencement Information

- I6** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 166 Lump sum rule

- (1) This is the rule relating to the payment of lump sums by a registered pension scheme to a member of the pension scheme (“the lump sum rule”).

### *Lump sum rule*

No lump sum may be paid other than—

- (a) a pension commencement lump sum,
  - (b) a serious ill-health lump sum,
  - <sup>[F87]</sup>(ba) an uncrystallised funds pension lump sum,
  - (c) a short service refund lump sum,
  - (d) a refund of excess contributions lump sum,
  - (e) a trivial commutation lump sum,
  - (f) a winding-up lump sum, <sup>F88</sup> ...
  - (g) a lifetime allowance excess lump sum<sup>[F89]</sup>, or
  - (h) a transitional 2013/14 lump sum.]
- (2) For the purposes of this Part, a person becomes entitled to a lump sum under a registered pension scheme—
- <sup>[F90]</sup>(za) in the case of a pension commencement lump sum to which paragraph 1B of Schedule 29 applies (certain sums paid before 6 April 2015), immediately before the person becomes entitled to the actual pension (see paragraph 1B(2)(h) of that Schedule),]
    - (a) in the case <sup>[F91]</sup>of any other] pension commencement lump sum, immediately before the person becomes entitled to the pension in connection with which it is paid <sup>[F92]</sup>(or, if the person dies before becoming entitled to the pension in connection with which it was anticipated it would be paid, immediately before death)],
  - <sup>[F93]</sup>(aa) in the case of an uncrystallised funds pension lump sum, immediately before it is paid,] and
    - (b) in any other case, when the person acquires an actual (rather than a prospective) right to receive the lump sum.
- (3) Part 1 of Schedule 29 gives the meaning of expressions used in the lump sum rule.
- (4) Schedule 36 contains (in Part 3) transitional provisions about lump sums.
- <sup>[F94]</sup>(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend Part 1 of Schedule 29, or Part 3 of Schedule 36, in connection with cases involving a lump sum within subsection (6).

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (6) A lump sum is within this subsection if—
- (a) the sum is paid on or after 19 September 2013 and before 6 April 2015, or
  - (b) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the pension in connection with which the sum is paid, and on or after 19 March 2014 the contract is cancelled.
- (7) The provision that may be made under subsection (5) includes provision altering the effect of amendments made by the Finance Act 2014.]

#### Textual Amendments

- F87** S. 166(1)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 54](#)
- F88** Word in s. 166(1) omitted (19.3.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 5\(1\)](#), 15
- F89** S. 166(1)(h) and preceding word inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 5\(1\)](#), 15
- F90** S. 166(2)(za) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 2\(2\)\(a\)](#), 15
- F91** Words in s. 166(2)(a) substituted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 2\(2\)\(b\)](#), 15
- F92** Words in s. 166(2)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 9](#), 24(3)
- F93** S. 166(2)(aa) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 55](#)
- F94** S. 166(5)-(7) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 13](#), 15

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

- C29** S. 166 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 11
- C30** S. 166(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [25\(1\)-\(3\)](#)
- C31** S. 166(2) modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [art. 23B](#) (as inserted (1.6.2009) by [S.I. 2009/1172](#), arts. 1, 3)
- C32** S. 166(2)(a) modified by [S.I. 2006/572](#), art. 23ZE(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), 3)
- C33** S. 166(2)(a) modified by [S.I. 2006/572](#), art. 23ZC(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), 3)

#### Commencement Information

- I7** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 167 Pension death benefit rules

- (1) These are the rules relating to the payment of pension death benefits by a registered pension scheme in respect of a member of the pension scheme (“the pension death benefit rules”).

### *Pension death benefit rule 1*

No payment of pension death benefit may be made otherwise than to a dependant<sup>F95</sup>, or nominee or successor,] of the member.

### *Pension death benefit rule 2*

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

No payment of pension death benefit other than a dependants' scheme pension may be made in respect of a defined benefits arrangement.

*Pension death benefit rule 3*

[<sup>F96</sup>No payment of pension death benefit] other than—

- (a) a dependants' scheme pension,
- (b) a dependants' annuity, or
- (c) [<sup>F97</sup>dependants' drawdown pension,]

may be made to [<sup>F98</sup>a dependant] in respect of a money purchase arrangement; but a dependants' scheme pension may only be paid if the member or dependant had an opportunity to select a dependants' annuity instead.

*[<sup>F99</sup>Pension death benefit rule 3A*

No payment of pension death benefit, other than [<sup>F100</sup>a nominees' annuity in respect of a money purchase arrangement or] nominees' drawdown pension in respect of a money purchase arrangement, may be made to a nominee of the member.]

*[<sup>F99</sup>Pension death benefit rule 3B*

No payment of pension death benefit, other than [<sup>F101</sup>a successors' annuity in respect of a money purchase arrangement or] successors' drawdown pension in respect of a money purchase arrangement, may be made to a successor of the member.]

*[<sup>F102</sup>Pension death benefit rule 4*

The total amount of dependants' drawdown pension paid to a dependant in each drawdown pension year [<sup>F103</sup>from, or under a dependants' short-term annuity purchased using sums or assets out of, the dependant's drawdown pension fund] in respect of a money purchase arrangement must not exceed [<sup>F104</sup>150%] of the basis amount for the drawdown pension year.

<sup>F105</sup> ...]  
<sup>F106</sup> .....  
<sup>F106</sup> .....

[<sup>F107</sup>(1A) For the purposes of this Part, a person becomes entitled to dependants' income withdrawal, nominees' income withdrawal or successors' income withdrawal under a registered pension scheme whenever sums or assets held for the purposes of an arrangement under the pension scheme are designated as available for the payment of (as the case may be) dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.]

(2) [<sup>F108</sup>In this part “pension] death benefit” means a pension payable on the death of the member (other than a member’s pension payable after the member’s death under pension rule 2: see section 165)[<sup>F109</sup>, or a pension payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member].

<sup>F110</sup>(2A) .....

<sup>F110</sup>(2B) .....

(3) Part 2 of Schedule 28 gives the meaning of expressions used in the pension death benefit rules.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Textual Amendments

- F95** Words in s. 167 inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(2\)](#)
- F96** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(a\)\(i\)](#)
- F97** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(a\)\(ii\)](#)
- F98** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(a\)\(iii\)](#)
- F99** Words in s. 167 inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(3\)](#)
- F100** Words in s. 167(1) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 2\(2\)](#)
- F101** Words in s. 167(1) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 2\(3\)](#)
- F102** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(b\)](#)
- F103** Words in s. 167(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 6](#)
- F104** Word in s. 167(1) substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 41\(2\)](#)
- F105** Words in s. 167(1) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(c\)\(4\)](#)
- F106** Words in s. 167(1) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(c\)](#)
- F107** S. 167(1A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(4\)](#)
- F108** Words in s. 167(2) substituted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 22\(1\), 24\(3\)](#)
- F109** Words in s. 167(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(5\)](#)
- F110** S. 167(2A)(2B) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(d\)\(4\)](#)

### Modifications etc. (not altering text)

- C34** S. 167 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), 7
- C35** S. 167 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 2\(1\)\(2\)\(c\)](#) (with [Sch. 2 para. 2\(1\)](#))
- C36** S. 167 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 99\(2\)\(a\)](#)
- C37** S. 167 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 98\(2\)\(a\)](#)
- C38** S. 167 modified by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), reg. 7 (as substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2012/1795](#), regs. 1(1), 4)
- C39** S. 167(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), 3, 4(3)(4)

### Commencement Information

- I8** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 2004, Part 4. (See end of Document for details)*

## 168 Lump sum death benefit rule

- (1) This is the rule relating to the payment of lump sum death benefits by a registered pension scheme in respect of a member of the pension scheme (“the lump sum death benefit rule”).

### *Lump sum death benefit rule*

No lump sum death benefit may be paid other than—

- (a) a defined benefits lump sum death benefit,
- (b) a pension protection lump sum death benefit,
- (c) an uncrystallised funds lump sum death benefit,
- (d) an annuity protection lump sum death benefit,
- [<sup>F111</sup>(e) a drawdown pension fund lump sum death benefit,]
- [<sup>F112</sup>(ea) a flexi-access drawdown fund lump sum death benefit,]
- (f) a charity lump sum death benefit,
- <sup>F113</sup>(g) .....
- (h) a trivial commutation lump sum death benefit, or
- (i) a winding-up lump sum death benefit.

- (2) In this Part “lump sum death benefit” means a lump sum payable on the death of the member [<sup>F114</sup>, or a lump sum payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member.]
- (3) Part 2 of Schedule 29 gives the meaning of expressions used in the lump sum death benefit rule.
- (4) Schedule 36 contains (in Part 3) transitional provision about lump sum death benefits.

### **Textual Amendments**

- F111** S. 168(1)(e) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 65**
- F112** S. 168(1)(ea) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 7**
- F113** S. 168(1)(g) repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 5**, **Sch. 27 Pt. 3(1)**
- F114** Words in s. 168(2) inserted (15.7.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), **s. 22(9)(13)**

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

- C40** S. 168 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 14
- C41** S. 168(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), 6, 8(1)(2)

### **Commencement Information**

- I9** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 169 Recognised transfers

- (1) A “recognised transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme so as to become held for the purposes of, or to represent rights under—
- (a) another registered pension scheme, or
  - (b) a qualifying recognised overseas pension scheme,
- in connection with a member of that pension scheme.

[<sup>F115</sup>(1A) A transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme to an insurance company is to be treated as a recognised transfer if the sums or assets had been applied by the pension scheme towards the provision of a scheme pension or a dependants' scheme pension (but subject to regulations under subsections (1B) and (1C)).

- (1B) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a scheme pension to which a member of a registered pension scheme has become entitled (“the original scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a scheme pension (a “new scheme pension”), and
  - (b) if they are so applied, the new scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original scheme pension.

- (1C) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a dependants' scheme pension to which a dependant of a member of a registered pension scheme has become entitled in respect of the member (“the original dependants' scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a dependants' scheme pension (a “new dependants' scheme pension”), and
  - (b) if they are so applied, the new dependants' scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' scheme pension.

- (1D) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent—

- (a) a [<sup>F116</sup>member's drawdown pension fund or dependant's drawdown pension fund], <sup>F117</sup> ... [<sup>F118</sup>or
- (aa) a member's flexi-access drawdown fund or dependant's flexi-access drawdown fund,]<sup>F119</sup>or
- (ab) a nominee's flexi-access drawdown fund, or
- (ac) a successor's flexi-access drawdown fund,]
- <sup>F117</sup>(b) .....

under an arrangement (“the old arrangement”), the transfer is not a recognised transfer unless all of those sums and assets become held under an arrangement under which no other sums or assets are held (“the new arrangement”).

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- (1E) If regulations so provide they may make in relation to cases in which the sums and assets become so held provision as to the treatment for the purposes of any provision of this Part of—
- (a) the sums and assets transferred, and
  - (b) the new arrangement,
- including provision for treating the sums and assets transferred as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, sums and assets held under the old arrangement.]
- (2) For the purposes of this Part a recognised overseas pension scheme is a qualifying recognised overseas pension scheme if—
- (a) the scheme manager has given to the Inland Revenue notification that it is a recognised overseas pension scheme and has provided any such evidence that it is a recognised overseas pension scheme as the Inland Revenue may require,
  - (b) the scheme manager has undertaken to the Inland Revenue to inform the Inland Revenue if it ceases to be a recognised overseas pension scheme,
  - (c) the scheme manager has undertaken to the Inland Revenue to comply with [F120]any requirements imposed under subsection (4)], and
  - (d) the recognised overseas pension scheme is not excluded from being a qualifying recognised overseas pension scheme by subsection (5).
- (3) In this Part “scheme manager”, in relation to a pension scheme, means the person or persons administering, or responsible for the management of, the pension scheme.
- [F121(4) Regulations may require the scheme manager of a QROPS or former QROPS to—
- (a) give the Commissioners information of a prescribed description,
  - (b) give the Commissioners such evidence as they may require of a prescribed matter,
- [F122(ba) give information of a prescribed description to the scheme manager of a QROPS or former QROPS,
- (bb) give information of a prescribed description to the scheme administrator of a registered pension scheme,
  - (bc) give information of a prescribed description to a member, or former member, of the QROPS or former QROPS,] and
  - (c) give a prescribed authority, in prescribed circumstances, information of a prescribed description.
- (4A) Regulations under subsection (4) may make provision as to—
- (a) the way and form in which information or evidence is to be given, and
  - (b) the times or intervals at which information or evidence is to be given.
- (4B) The regulations may apply any provision of Part 7 of Schedule 36 to FA 2008 (penalties), with or without modifications, in relation to requirements imposed under the regulations on a former QROPS.]
- (5) A recognised overseas pension scheme is excluded from being a qualifying recognised overseas pension scheme by this subsection if [F123]the Commissioners have] decided that—
- (a) [F124]any of the following conditions is met in relation to the scheme—
    - (i) there has been a failure to comply with a relevant requirement and the failure is significant,



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- (ii) any information given pursuant to a relevant requirement is [<sup>F125</sup>inaccurate] in a material respect,
- (iii) any declaration given pursuant to a relevant requirement is false in a material respect,
- (iv) there is no scheme manager,] and
- (b) by reason of [<sup>F126</sup>that condition being met] it is not appropriate that transfers of sums or assets held for the purposes of, or representing accrued rights under, registered pension schemes so as to become held for the purposes of, or to represent rights under, the recognised overseas pension scheme should be recognised transfers,

and has notified the person or persons appearing to be the scheme manager of that decision (but subject to subsection (7) and section 170).

[<sup>F127</sup>(6) A failure to comply with a requirement is significant if—

- (a) it is a failure to give information or evidence that is (or may be) of significance, or
- (b) there are reasonable grounds for believing that the failure prejudices (or might prejudice) the assessment or collection of tax by the Commissioners.]

(7) The Inland Revenue—

- (a) may at any time after a recognised overseas pension scheme becomes excluded from being a qualifying recognised overseas pension scheme decide that the pension scheme is to cease to be so excluded, and
- (b) must notify the scheme manager of the decision.

[<sup>F128</sup>(8) In subsections (4) to (6) and this subsection—

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“prescribed” means prescribed by regulations;

“QROPS” means a qualifying recognised overseas pension scheme, and “former QROPS” means a scheme that has at any time been a QROPS;

“regulations” means regulations made by the Commissioners;

“relevant requirement” means—

- (a) a requirement imposed by regulations under subsection (4), or
- (b) a requirement imposed by virtue of Part 1 of Schedule 36 to FA 2008 (powers to obtain information and documents).]

#### Textual Amendments

- F115** S. 169(1A)-(1E) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 36, 64\(1\)](#)
- F116** Words in s. 169(1D)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 66\(a\)](#)
- F117** S. 169(1D)(b) and preceding word omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 66\(b\)](#)
- F118** S. 169(1D)(aa) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 8](#)
- F119** S. 169(1D)(ab)(ac) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 4](#)
- F120** Words in s. 169(2)(c) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(3\)](#)
- F121** S. 169(4)-(4B) substituted for s. 169(4) (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(4\)](#)
- F122** S. 169(4)(ba)-(bc) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 92](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F123** Words in s. 169(5) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(5\)\(a\)](#)  
**F124** S. 169(5)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(5\)\(b\)](#)  
**F125** Word in s. 169(5)(a)(ii) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\), Sch. 7 para. 23\(a\)](#)  
**F126** Words in s. 169(5)(b) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(5\)\(c\)](#)  
**F127** S. 169(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(6\)](#)  
**F128** S. 169(8) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(7\)](#)

#### Commencement Information

- I10** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### 170 Appeal against decision to exclude recognised overseas pension scheme

- (1) This section applies where a recognised overseas pension scheme is excluded from being a qualifying recognised overseas pension scheme by a decision of the Inland Revenue under section 169(5).
- (2) The scheme manager may appeal against the decision.
- <sup>F129</sup>(3) .....
- <sup>F129</sup>(4) .....
- (5) An appeal under this section against a decision must be brought within the period of 30 days beginning with the day on which the notification of the decision was given.
- (6) [<sup>F130</sup>On an appeal that is notified to the tribunal, the tribunal] must consider whether the recognised overseas pension scheme ought to have been excluded from being a qualifying recognised overseas pension scheme.
- (7) If [<sup>F131</sup>the tribunal decides] that the recognised overseas pension scheme ought to have been excluded from being a qualifying recognised overseas pension scheme, [<sup>F132</sup>the tribunal must] dismiss the appeal.
- (8) If [<sup>F133</sup>the tribunal decides] that the recognised overseas pension scheme ought not to have been excluded from being a qualifying recognised overseas pension scheme, the recognised overseas pension scheme is to be treated as having remained a qualifying recognised overseas pension scheme (but subject to any further appeal <sup>F134</sup>...).

#### Textual Amendments

- F129** S. 170(3)(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 425\(2\)](#)
- F130** Words in s. 170(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 425\(3\)](#)
- F131** Words in s. 170(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 425\(4\)\(a\)](#)
- F132** Words in s. 170(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 425\(4\)\(b\)](#)
- F133** Words in s. 170(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 425\(5\)\(a\)](#)
- F134** Words in s. 170(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 425\(5\)\(b\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### **Commencement Information**

**I11** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### **171 Scheme administration member payments**

- (1) A “scheme administration member payment” is a payment by a registered pension scheme to or in respect of a [<sup>F135</sup>person who is or has been a] member of the pension scheme which is made for the purposes of the administration or management of the pension scheme.
- (2) But if a payment falling within subsection (1) exceeds the amount which might be expected to be paid to a person who was at arm’s length, the excess is not a scheme administration member payment.
- (3) Scheme administration member payments include in particular—
  - (a) the payment of wages, salaries or fees to persons engaged in administering the pension scheme, and
  - (b) payments made for the purchase of assets to be held for the purposes of the pension scheme.
- (4) A loan to or in respect of a [<sup>F136</sup>person who is or has been a] member of the pension scheme is not a scheme administration member payment.
- (5) Regulations made by the Board of Inland Revenue may provide that payments of a description specified in the regulations are, or are not, scheme administration member payments.

#### **Textual Amendments**

**F135** Words in s. 171(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 7](#)

**F136** Words in s. 171(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 7](#)

#### **Commencement Information**

**I12** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Unauthorised member payments*

### **172 Assignment**

- (1) Subsection (2) applies if a member of a registered pension scheme (or the member’s personal representatives) assigns or agrees to assign
  - [<sup>F137</sup>(a) any benefit, other than an excluded pension, to which the member (or any dependant[<sup>F138</sup>, nominee or successor] of the member) has an actual or prospective entitlement under the pension scheme, or
  - (b) any right in respect of any sums or assets held for the purposes of any arrangement under the pension scheme].

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- (2) Unless the assignment or agreement is pursuant to a pension sharing order or provision, the pension scheme is to be treated as making an unauthorised payment to the member (or to the member's personal representatives in respect of the member).
- (3) Subsection (4) applies if a person (or a person's personal representatives) assigns or agrees to assign
- [<sup>F139</sup>(a) any benefit, other than an excluded pension, to which the person has [<sup>F140</sup>a] prospective entitlement under the pension scheme in respect of a member of the pension scheme, or
- (b) any right in respect of any sums or assets held for the purposes of any arrangement relating to [<sup>F141</sup>a member of the pension scheme] under the pension scheme].
- (4) Unless the assignment or agreement is pursuant to a pension sharing order or provision, the pension scheme is to be treated as making an unauthorised payment to the person (or the person's personal representatives) in respect of the member.
- (5) The amount of the unauthorised payment is the greater of—
- (a) the consideration received in respect of the assignment or agreement, and
- (b) the consideration which might be expected to be received in respect of the assignment or agreement if the parties to the transaction were at arm's length [<sup>F142</sup> and any power to reduce the entitlement to the benefit or right did not exist].
- (6) Where a pension scheme is treated by this section as having made an unauthorised payment in relation to an assignment (or an agreement to assign), payments by the pension scheme of the benefit [<sup>F143</sup> or right] assigned (or agreed to be assigned) are not unauthorised payments.
- [<sup>F144</sup>(6A) References in this section to a benefit to which the member or a person has an entitlement under the pension scheme includes rights to payments under—
- (a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or
- (b) a lifetime annuity or dependants' annuity [<sup>F145</sup>, or nominees' annuity or successors' annuity,] purchased by the application of sums or assets held for the purposes of the pension scheme.]
- [<sup>F146</sup>(7) An excluded pension is so much of any pension which under pension rule 2 may continue to be paid after the member's death as may be so paid.]
- (8) “Assignment” includes assignation and related expressions are to be read accordingly.

#### **Textual Amendments**

**F137** S. 172(1)(a)(b) substituted for words (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(2\), 64\(1\)](#)

**F138** Words in s. 172(1)(a) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 5](#)

**F139** S. 172(3)(a)(b) substituted for words (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 37\(3\), 64\(1\)](#)

**F140** Word in s. 172(3)(a) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 2\(2\)\(a\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F141** Words in s. 172(3)(b) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 28 para. 2(2)(b)**
- F142** Words in s. 172(5)(b) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 37(4)**, 64(1)
- F143** Words in s. 172(6) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 37(5)**, 64(1)
- F144** S. 172(6A) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 28 para. 2(3)**
- F145** Words in s. 172(6A)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), **Sch. 4 para. 8**
- F146** S. 172(7) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 37(6)**, 64(1)

#### Commencement Information

- I13** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F147</sup>172A Surrender

- (1) Subsection (2) applies if a member of a registered pension scheme surrenders or agrees to surrender—
- (a) any benefit, other than an excluded pension, to which the member (or any dependant [<sup>F148</sup>, nominee or successor] of the member) has a prospective entitlement under an arrangement under the pension scheme,
  - [<sup>F149</sup>(aa) any rights to payments under a lifetime annuity or dependants' annuity [<sup>F150</sup>, or nominees' annuity or successors' annuity,] purchased by the application of sums or assets held for the purposes of the pension scheme,] or
  - (b) any right in respect of any sums or assets held for the purposes of any arrangement under the pension scheme.
- (2) The pension scheme is to be treated as making an unauthorised payment to the member.
- (3) Subsection (4) applies if a person surrenders or agrees to surrender—
- (a) any benefit, other than an excluded pension, to which the person has a prospective entitlement under an arrangement under the pension scheme [<sup>F151</sup> in respect of] a member of a pension scheme, or
  - (b) any right in respect of any sums or assets held for the purposes of any arrangement relating to a member of the pension scheme under the pension scheme.
- (4) The pension scheme is to be treated as making an unauthorised payment to the person in respect of the member.
- (5) Subsections (2) and (4) do not apply to—
- (a) a surrender pursuant to a pension sharing order or provision,
  - (b) a surrender (or agreement to surrender) by the member in return for the conferring on a dependant [<sup>F152</sup>, or nominee,] of an entitlement to benefits after the member's death,
  - [<sup>F153</sup>(ba) a surrender (or agreement to surrender) by a dependant, nominee or successor of the member (“the beneficiary”) in return for the conferring, on a successor of the member, of an entitlement to benefits after the beneficiary's death,]
  - (c) a transfer of (or agreement to transfer) benefits or rights so as to become benefits or rights under another arrangement under the pension scheme relating to the member [<sup>F154</sup>, dependant, nominee or successor],

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- [<sup>F155</sup>(ca) a surrender of (or agreement to surrender) rights to payments under an annuity in any case covered by regulations under paragraph 3(2B) or 17(3) of Schedule 28;]
- [<sup>F156</sup>(d) .....
- [<sup>F157</sup>(da) a surrender made as part of a retirement-benefit activities compliance exercise,
- (db) a surrender of a prospective entitlement to pension death benefits within section 167(1) or lump sum death benefits within section 168(1) (or both) made in order to comply with [<sup>F158</sup>Part 5 of the Equality Act 2010, so far as relating to age, or the] Employment Equality (Age) Regulations (Northern Ireland) 2006 (or any regulations amending or replacing [<sup>F159</sup>those Regulations])]
- (e) a surrender (or agreement to surrender) which constitutes an assignment (or agreement to assign) within section 172, or
- (f) any surrender (or agreement to surrender) of a description prescribed by regulations made by the Board of Inland Revenue.
- [ Subsection (5)(b) applies only if the entitlement is held (or is to be held) by the <sup>F160</sup>(5A) dependant [<sup>F161</sup>, or nominee,] under an arrangement under the pension scheme relating to the member or dependant [<sup>F162</sup>or nominee].]
- [ Subsection (5)(ba) applies only if the entitlement is held (or is to be held) by the <sup>F163</sup>(5B) successor under an arrangement under the pension scheme relating to the beneficiary or successor.]
- (6) Regulations under subsection (5)(f) may include provision having effect in relation to times before they are made.
- (7) Subsections (2) and (4) do not apply to the surrender of a benefit to which the member (or a dependant [<sup>F164</sup>or nominee or successor] of the member) has a prospective entitlement, or to which the person has a prospective entitlement in respect of a member, under an arrangement that is a defined benefits arrangement or cash balance arrangement unless—
- (a) in consequence of the surrender, the actual or prospective entitlement of another member (or dependant [<sup>F165</sup>, or nominee or successor,] of another member) of the pension scheme, or of another person in respect of another member, to benefits under the scheme is increased, and
- (b) the two members are or have been connected persons.
- (8) The amount of the unauthorised payment is the consideration that might be expected to be received if what is surrendered were assigned by a transaction between parties at arm's length and any power to reduce the entitlement to the benefit or right did not exist.
- (9) In this section “surrender”, in relation to any benefit or right of a member (or dependant of a member) of a pension scheme or other person, includes any schemes, arrangements or understandings of any kind (whether or not legally enforceable) the main purpose, or one of the main purposes, of which is to reduce the member's (or dependant's), or person's, entitlement to the benefit or right.
- [ References in this section to a benefit to which the member or a person has an <sup>F166</sup>(9A) entitlement under the pension scheme includes rights to payments under—

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- (a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or
  - (b) a lifetime annuity or dependants' annuity<sup>F167</sup>, or nominees' annuity or successors' annuity,] purchased by the application of sums or assets held for the purposes of the pension scheme.]
- (10) <sup>F168</sup>For the purposes of this section an] excluded pension is so much of any pension which under pension rule 2 may continue to be paid after the member's death as may be so paid.
- [ For the purposes of this section a surrender relating to an arrangement under the <sup>F169</sup>(10A) pension scheme (“the old arrangement”) is made as part of a retirement-benefit activities compliance exercise if—
- (a) it is made in connection with the making of an arrangement under another pension scheme relating to the member (“the new arrangement”),
  - (b) the old arrangement and the new arrangement relate to the same employment,
  - (c) both the rights surrendered and the rights conferred under the new arrangement consist of or include a prospective entitlement to pension death benefits within section 167(1) or lump sum death benefits within section 168(1) (or both),
  - (d) the surrender and the making of the new arrangement constitute or form part of a transaction the purpose of which is to secure that the activities of the pension scheme are limited to retirement-benefit activities within the meaning of section 255 of the Pensions Act 2004 or Article 232 of the Pensions (Northern Ireland) Order 2005, and
  - (e) the rights surrendered and the rights conferred under the new arrangement are not significantly different.]
- <sup>F170</sup>(11) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

- F147** Ss. 172A-172D inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 38](#), 64(1)
- F148** Words in s. 172A(1)(a) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 6](#)
- F149** S. 172A(1)(aa) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 3\(2\)](#)
- F150** Words in s. 172A(1)(aa) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 9\(2\)](#)
- F151** Words in s. 172A(3)(a) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 3\(3\)](#)
- F152** Words in s. 172A(5)(b) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 7\(a\)](#)
- F153** S. 172A(5)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 7\(b\)](#)
- F154** Words in s. 172A(5)(c) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 7\(c\)](#)
- F155** S. 172A(5)(ca) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 3\(4\)](#)
- F156** S. 172A(5)(d) omitted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 10\(2\)](#)
- F157** S. 172A(5)(da)(db) inserted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 6\(2\)](#), 24(3)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F158** Words in s. 172A(5)(db) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 58(a) (as inserted (E.W.S.) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2))
- F159** Words in s. 172A(5)(db) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 58(b) (as inserted (E.W.S.) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2))
- F160** S. 172A(5A) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 para. 10(3)**
- F161** Words in s. 172A(5A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 2 para. 8(a)**
- F162** Words in s. 172A(5A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 2 para. 8(b)**
- F163** S. 172A(5B) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 2 para. 9**
- F164** Words in s. 172A(7) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 2 para. 10(a)**
- F165** Words in s. 172A(7)(a) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 2 para. 10(b)**
- F166** S. 172A(9A) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 28 para. 3(5)**
- F167** Words in s. 172A(9A)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), **Sch. 4 para. 9(3)**
- F168** Words in s. 172A(10) substituted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), **Sch. 20 paras. 6(3), 24(3)**
- F169** S. 172A(10A) inserted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), **Sch. 20 paras. 6(4), 24(3)**
- F170** S. 172A(11) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 469** (with Sch. 2)

## **172B Increase in rights of connected person on death**

- (1) This section applies if—
- (a) at any time after the death of a relevant member of a registered pension scheme, there is an increase in the pension rights of another member of the pension scheme which is attributable to the death, and
  - (b) the dead member and other member were connected persons immediately before the death.
- (2) A member of a registered pension scheme is a relevant member if, immediately before his death, any of his rights under the pension scheme are—
- (a) rights to benefit to which the member (or any dependant [<sup>F171</sup>or nominee or successor] of the member) has a prospective entitlement under an arrangement under the pension scheme,
  - <sup>F172</sup>(aa) [ rights to payments under a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme or under a lifetime annuity or dependants' annuity [<sup>F173</sup>, or nominees' annuity or successors' annuity,] purchased by the application of sums or assets held for the purposes of the pension scheme,] <sup>F174</sup>...
  - <sup>F175</sup>(ab) [ rights representing the nominee's flexi-access drawdown fund or successor's flexi-access drawdown fund in respect of an arrangement under the pension scheme,]



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- (b) rights representing the [<sup>F176</sup>member's drawdown pension fund or dependant's drawdown pension fund] in respect of an arrangement under the pension scheme<sup>F177</sup>, or
  - (c) rights representing the member's flexi-access drawdown fund or dependant's flexi-access drawdown fund in respect of an arrangement under the pension scheme.]
- (3) There is at any time an increase in the pension rights of the other member of the pension scheme which is attributable to the death if—
- (a) the consideration which might be expected to be received in respect of an assignment (or assignation) of the benefits to which he [<sup>F178</sup>has an actual or prospective entitlement] under the pension scheme at that time, exceeds
  - (b) the consideration which might be expected to be received in respect of such an assignment (or assignation) immediately before that time,
- in consequence of the death (ignoring for the purposes of paragraphs (a) and (b) any power to reduce the entitlement to the benefits).
- (4) The pension scheme is to be treated as making an unauthorised payment to the other member (or to the other member's personal representatives) of an amount equal to the excess (but subject to subsection [<sup>F179</sup>(5)]).
- (5) The amount which would (apart from this subsection) constitute the unauthorised payment is to be reduced by so much of the excess as arises—
- <sup>F180</sup>(a) .....
  - (b) from the other member becoming entitled to pension death benefits or lump sum death benefits in respect of the dead member, or
  - (c) in any manner prescribed by regulations made by the Board of Inland Revenue.
- (6) Regulations under subsection (5)(c) may include provision having effect in relation to times before they are made.
- (7) This section does not apply if—
- <sup>F181</sup>(a) .....
  - (b) the benefits to which each of [<sup>F182</sup>at least 20 members of the pension scheme][<sup>F183</sup>has an actual or prospective entitlement] under the pension scheme are increased at the same rate in consequence of the death.
- [ This section does not apply if—
- <sup>F184</sup>(7A) (a) the increase mentioned in subsection (1)(a) is an increase in the rate of a dependants' annuity<sup>F185</sup>, nominees' annuity, successors' annuity] or dependants' scheme pension or in rights representing a [<sup>F186</sup>nominee's flexi-access drawdown fund, successor's flexi-access drawdown fund,][<sup>F187</sup>dependant's drawdown pension fund][<sup>F188</sup>or dependant's flexi-access drawdown fund], and
- (b) the increase is attributable to rights of the dead member to payments under a dependants' annuity<sup>F185</sup>, nominees' annuity, successors' annuity] or dependants' scheme pension or rights representing a [<sup>F186</sup>nominee's flexi-access drawdown fund, successor's flexi-access drawdown fund,][<sup>F189</sup>dependant's drawdown pension fund][<sup>F188</sup>or dependant's flexi-access drawdown fund].

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(7B) References in this section to a benefit to which the member or a person has an entitlement under the pension scheme includes rights to payments under—

- (a) a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme, or
- (b) a lifetime annuity or dependants' annuity<sup>F190</sup>, or nominees' annuity or successors' annuity,] purchased by the application of sums or assets held for the purposes of the pension scheme.]

(8) This section does not apply if the increase in the pension rights of the other member is brought about by an assignment (or agreement to assign) within section 172.

<sup>F191</sup>(8A) . . . . .

[<sup>F192</sup>(9) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

- F147** Ss. 172A-172D inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 38, 64\(1\)](#)
- F171** Words in s. 172B(2)(a) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 11\(a\)](#)
- F172** S. 172B(2)(aa) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 4\(2\)](#)
- F173** Words in s. 172B(2)(aa) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 10\(2\)](#)
- F174** Word in s. 172B(2)(aa) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 9\(a\)](#)
- F175** S. 172B(2)(ab) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 11\(b\)](#)
- F176** Words in s. 172B(2)(b) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 67\(2\)](#)
- F177** S. 172B(2)(c) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 9\(b\)](#)
- F178** Words in s. 172B(3)(a) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 4\(3\)](#)
- F179** Word in s. 172B(4) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 12\(3\)](#)
- F180** S. 172B(5)(a) repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 6](#), [Sch. 27 Pt. 3\(1\)](#)
- F181** S. 172B(7)(a) omitted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 4\(4\)\(a\)](#)
- F182** Words in s. 172B(7)(b) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 4\(4\)\(b\)](#)
- F183** Words in s. 172B(7)(b) substituted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 4\(3\)](#)
- F184** S. 172B(7A)(7B) inserted (21.7.2008) (with effect in accordance with Sch. 28 para. 15(3) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 28 para. 4\(5\)](#)
- F185** Words in s. 172B(7A) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 10\(3\)](#)
- F186** Words in s. 172B(7A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 12](#)
- F187** Words in s. 172B(7A)(a) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 67\(3\)\(a\)](#)
- F188** Words in s. 172B(7A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 10](#)
- F189** Words in s. 172B(7A)(b) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 67\(3\)\(b\)](#)
- F190** Words in s. 172B(7B)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 10\(4\)](#)

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**F191** S. 172B(8A) omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 67\(4\)](#)

**F192** S. 172B(9) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 470](#) (with [Sch. 2](#))

**F193 172B Increase in rights on death arising from alternatively secured pension fund etc**

.....

**Textual Amendments**

**F147** Ss. 172A-172D inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 38, 64\(1\)](#)

**F193** S. 172BA omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 68](#)

**172C Allocation of unallocated employer contributions**

- (1) This section applies if—
  - (a) contributions are paid under a registered pension scheme by an employer otherwise than in respect of any individual,
  - (b) in any tax year any of the contributions become held for the purposes of the provision of benefits to or in respect of a member of the pension scheme under any relevant arrangement or arrangements (“the allocated contributions”),
  - (c) the amount of the allocated contributions exceeds the permitted maximum, and
  - (d) the member and the employer, or the member and any person connected with the employer at any time during the tax year, are connected persons at any time during the tax year.
- (2) An arrangement is a relevant arrangement if it is—
  - (a) a money purchase arrangement that is not a cash balance arrangement, or
  - (b) a hybrid arrangement under which the benefits that may be provided to or in respect of the member are, or include, money purchase benefits other than cash balance benefits.
- (3) “The permitted maximum” is—
  - (a) the maximum amount of relief to which the member is entitled under section 188 (relief for contributions) in respect of relievable pension contributions paid during the tax year (see section 190), less
  - (b) the amount of any contributions paid by employers under any registered pension scheme in respect of the member in the tax year.
- (4) But if the member is also a member of one or more other registered pension schemes, the permitted maximum in relation to each of the registered pension schemes of which he is a member is—

PMN

where—

PM is the amount arrived at under subsection (3), and

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N is the number of registered pension schemes of which he is a member.

- (5) The pension scheme is to be treated as making an unauthorised payment to the member (or to the member's personal representatives).
- (6) The amount of the unauthorised payment is the amount by which the amount of the allocated contributions exceeds the permitted maximum.
- [<sup>F194</sup>(7) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

**F147** Ss. 172A-172D inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 38, 64\(1\)](#)

**F194** S. 172C(7) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 471](#) (with [Sch. 2](#))

### 172D Limit on increase in benefits

- (1) This section applies where, at any time during any pension input period in respect of a relevant arrangement relating to a member of an occupational pension scheme that is a registered pension scheme, the member and—
- (a) a sponsoring employer, or
  - (b) a person connected with a sponsoring employer.
- are connected persons.
- (2) If—
- (a) the pension input amount for the pension input period in respect of the relevant arrangement, exceeds
  - (b) the notional unconnected person input amount for the pension input period in respect of the relevant arrangement,
- the pension scheme is to be treated as making an unauthorised payment to the member (or to the member's personal representatives) of an amount equal to the excess.
- (3) A relevant arrangement is an arrangement under the pension scheme that is—
- (a) a defined benefits arrangement,
  - (b) a cash balance arrangement, or
  - (c) a hybrid arrangement under which the benefits that may be provided to or in respect of the member are, or include, defined benefits or cash balance benefits.
- (4) The pension input amount for a pension input period in respect of the relevant arrangement is to be determined in accordance with—
- (a) sections 230 to 232 if the relevant arrangement is a cash balance arrangement,
  - (b) sections 234 to [<sup>F195</sup>236A] if it is a defined benefits arrangement, and
  - (c) section 237 if it is a hybrid arrangement,
- treating references in those sections to the individual as to the member and treating section 237 as if the references to input amount B were omitted.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) The notional unconnected person input amount for the pension input period in respect of the relevant arrangement is what the pension input amount, as so determined, would have been if the member were connected with—
- (a) a sponsoring employer, or
  - (b) a person connected with a sponsoring employer,
- at no time during the pension input period.

[<sup>F196</sup>(6) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

**F147** Ss. 172A-172D inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 38, 64\(1\)](#)

**F195** Word in s. 172D(4)(b) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 2](#)

**F196** S. 172D(6) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 472](#) (with [Sch. 2](#))

## 173 Benefits

- (1) A registered pension scheme is to be treated as having made an unauthorised payment to a [<sup>F197</sup>person who is or has been a] member of the pension scheme if an asset held for the purposes of the pension scheme is used to provide a benefit (other than a payment) to—
- (a) the [<sup>F198</sup>person], or
  - (b) a member of the [<sup>F199</sup>person's] family or household.
- (2) If the benefit is received by reason of an employment which is not [<sup>F200</sup>lower-paid employment as a minister of religion], subsection (1) does not apply.
- (3) If the benefit is received by reason of [<sup>F201</sup>an employment which is lower-paid employment as a minister of religion], subsection (1) only applies if—
- (a) it is a benefit to which Chapter 6 or 10 of the benefits code (cars and vans, and benefits not dealt with elsewhere in benefits code) would apply if the employment were not [<sup>F202</sup>lower-paid employment as a minister of religion],
  - (b) the pension scheme is an occupational pension scheme, and
  - (c) the [<sup>F203</sup>person], or a member of the [<sup>F204</sup>person's] family or household, is a director of, and has a material interest in, a sponsoring employer.
- (4) A registered pension scheme is to be treated as having made an unauthorised payment in respect of a [<sup>F205</sup>person who is or has been a] member of the pension scheme if, after the [<sup>F206</sup>person's] death, an asset held for the purposes of the pension scheme is used to provide a benefit (other than a payment) to a person who, at the date of the [<sup>F206</sup>person's] death, was a member of the [<sup>F206</sup>person's] family or household.
- (5) The person who receives the benefit is to be treated as having received the unauthorised payment.
- (6) If the benefit is received by reason of an employment which is not [<sup>F207</sup>lower-paid employment as a minister of religion], subsections (4) and (5) do not apply.

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(7) If the benefit is received by reason of [<sup>F208</sup>an employment which is lower-paid employment as a minister of religion], subsections (4) and (5) only apply if—

- (a) paragraphs (a) and (b) of subsection (3) apply, and
- (b) at the date of the [<sup>F209</sup>person's] death the [<sup>F210</sup>person], or a member of the [<sup>F209</sup>person's] family or household, was a director of, and had a material interest in, a sponsoring employer.

[<sup>F211</sup>(7A) This section does not apply if—

- (a) the pension scheme is an investment-regulated pension scheme, and
- (b) the asset consists of taxable property.]

(8) The amount of an unauthorised payment treated as having been made by this section—

- (a) in relation to such benefits, and in such circumstances, as may be prescribed by regulations made by the Board of Inland Revenue, is an amount determined in accordance with the regulations, and
- (b) otherwise, is the amount which would be the cash equivalent of the benefit under the benefits code if the benefit were received by reason of an employment and the benefits code applied to it.

(9) For the purposes of subsection (8)—

- (a) references in the benefits code to the employee are to be treated as references to the [<sup>F212</sup>person who is or has been a] member, and
- (b) references in the benefits code to the employer are to be treated as references to the pension scheme.

(10) In this section—

“the benefits code” has the meaning given by section 63(1) of ITEPA 2003,  
 “director” has the meaning given by section 67 of that Act,  
 [<sup>F213</sup>“lower-paid employment as a minister of religion” has the meaning given by section 290D of that Act,] and  
 “material interest” has the meaning given by section 68 of that Act.

(11) Section 721 of ITEPA 2003 applies for the purposes of determining the members of a person’s family or household.

#### Textual Amendments

**F197** Words in s. 173(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 8\(2\)\(a\)](#)

**F198** Word in s. 173(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 8\(2\)\(b\)](#)

**F199** Word in s. 173(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 8\(2\)\(c\)](#)

**F200** Words in s. 173(2) substituted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 1 para. 25\(2\)](#)

**F201** Words in s. 173(3) substituted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 1 para. 25\(3\)\(a\)](#)

**F202** Words in s. 173(3)(a) substituted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 1 para. 25\(3\)\(b\)](#)

**F203** Word in s. 173(3) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 8\(3\)\(a\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F204** Word in s. 173(3) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 8\(3\)\(b\)](#)
- F205** Words in s. 173(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 8\(4\)\(a\)](#)
- F206** Word in s. 173(4) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 8\(4\)\(b\)](#)
- F207** Words in s. 173(6) substituted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 1 para. 25\(4\)](#)
- F208** Words in s. 173(7) substituted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 1 para. 25\(5\)](#)
- F209** Word in s. 173(7)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 8\(5\)\(a\)](#)
- F210** Word in s. 173(7)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 8\(5\)\(b\)](#)
- F211** S. 173(7A) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 158\(2\), Sch. 21 para. 4](#)
- F212** Words in s. 173(9)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 8\(6\)](#)
- F213** Words in s. 173(10) substituted (with effect in accordance with s. 13(4) of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 1 para. 25\(6\)](#)

#### Commencement Information

- I14** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 174 Value shifting

- (1) A registered pension scheme is to be treated as having made an unauthorised payment to a [<sup>F214</sup>person who is or has been a] member of the pension scheme if, in connection with any of the events mentioned in subsection (3) or a change in the value of a currency—
- (a) the value of an asset held for the purposes of the pension scheme is reduced or a liability of the pension scheme is increased, and
  - (b) the value of an asset held by or for the benefit of the [<sup>F215</sup>person] is increased, a liability of the [<sup>F215</sup>person] is reduced, or a liability of another person is reduced for the benefit of the [<sup>F215</sup>person].
- (2) But if the event or the change in the value of the currency occurs after the [<sup>F216</sup>person's] death—
- (a) the pension scheme is to be treated as having made an unauthorised payment in respect of the [<sup>F217</sup>person] (rather than to the [<sup>F217</sup>person]), and
  - (b) the person who holds the asset or is subject to the liability in relation to which subsection (1)(b) is satisfied is to be treated as having received the unauthorised payment.
- (3) The events are—
- (a) the creation, alteration, release or extinction of any power, right, option or liability relating to assets held for the purposes of the pension scheme (whether or not provided for in the terms on which the asset is acquired or held),
  - (b) the creation, alteration, release or extinction of any power, right or option relating to a liability of the pension scheme (whether or not provided for in the terms on which the liability is incurred),

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (c) the exercise of, or failure to exercise, any power, right or option in relation to assets held for the purposes of the pension scheme or a liability of the pension scheme, or
  - (d) the exercise of, or failure to exercise, any power, right or option which constitutes an asset held for the purposes of the pension scheme, in a way which differs from that which might be expected if the parties to the transaction were at arm's length.
- (4) The amount of the unauthorised payment is the amount by which the reduction in value of the asset held for the purposes of the pension scheme, or the increase in the liability of the pension scheme, exceeds that which might be expected if the parties to the transaction were at arm's length.
- (5) Regulations made by the Board of Inland Revenue may make provision as to how the excess is to be calculated in relation to events of a description specified in the regulations (including provision as to the times at which the asset or liability is to be valued).

#### Textual Amendments

- F214** Words in s. 174(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 9\(2\)\(a\)](#)
- F215** Word in s. 174(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 9\(2\)\(b\)](#)
- F216** Word in s. 174(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 9\(3\)\(a\)](#)
- F217** Word in s. 174(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 9\(3\)\(b\)](#)

#### Commencement Information

- I15** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F218</sup>174A] Taxable property held by investment-regulated pension schemes

- (1) An investment-regulated pension scheme is to be treated as making an unauthorised payment to a member of the pension scheme if—
  - (a) the pension scheme acquires an interest in taxable property, and
  - (b) the interest is held by the pension scheme for the purposes of an arrangement under the pension scheme relating to the member.
- (2) An investment-regulated pension scheme is to be treated as making an unauthorised payment to a member of the pension scheme if—
  - (a) an interest in taxable property is held by the pension scheme for the purposes of an arrangement under the pension scheme relating to the member, and
  - (b) the property is improved.
- (3) An investment-regulated pension scheme is to be treated as making an unauthorised payment to a member of the pension scheme if—
  - (a) an interest in property which is not residential property is held by the pension scheme for the purposes of an arrangement under the pension scheme relating to the member, and



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) the property is converted or adapted to become residential property.
- (4) Schedule 29A makes provision supplementing this section; and in that Schedule—
- (a) Part 1 defines “investment-regulated pension scheme”,
  - (b) Part 2 defines “taxable property” (and “residential property”),
  - (c) Part 3 explains what it means to acquire, and to hold, an interest in taxable property, and
  - (d) Part 4 contains provision for calculating the amounts of unauthorised payments treated as made by this section and explains when the unauthorised payments are treated as made.]

#### Textual Amendments

**F218** S. 174A inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 5](#)

### *Authorised employer payments*

## **175 Authorised employer payments**

The only payments which a registered pension scheme that is an occupational pension scheme is authorised to make to or in respect of a [<sup>F219</sup>person who is or has been a] sponsoring employer are—

- (a) public service scheme payments (see section 176),
- (b) authorised surplus payments (see section 177),
- (c) compensation payments (see section 178),
- (d) authorised employer loans (see section 179),
- (e) scheme administration employer payments (see section 180), and
- (f) payments of a description prescribed by regulations made by the Board of Inland Revenue.

#### Textual Amendments

**F219** Words in s. 175 inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 10](#)

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

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [15](#)

#### Commencement Information

**I16** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## **176 Public service scheme payment**

A payment is a public service scheme payment if—

- (a) it is made by a public service pension scheme, and

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) it is not of a description prescribed by regulations made by the Board of Inland Revenue.

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

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 15

**Commencement Information**

**I17** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**177 Authorised surplus payment**

For the purposes of this Part a payment is an authorised surplus payment if it is of a description prescribed by regulations made by the Board of Inland Revenue.

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

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 15

**Commencement Information**

**I18** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**178 Compensation payments**

A payment is a compensation payment if it is made in respect of a member's liability to a sponsoring employer in respect of a criminal, fraudulent or negligent act or omission by the member.

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

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 15

**Commencement Information**

**I19** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**179 Authorised employer loan**

- (1) A loan made to or in respect of a <sup>F220</sup>person who is or has been a] sponsoring employer is an authorised employer loan if—
- (a) the amount loaned does not exceed an amount equal to 50% of the aggregate of the amount of the sums, and the market value of the assets, held for the purposes of the pension scheme immediately before the loan is made,
  - (b) the loan is secured by a charge which is of adequate value, and

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (c) the repayment terms comply with subsection (2).
- (2) The repayment terms comply with this subsection if—
- (a) the rate of interest payable on the loan is not less than the rate prescribed by regulations made by the Board of Inland Revenue,
  - (b) the loan repayment date is before the end of the period of five years beginning with the date on which the loan is made, or has been postponed to a date after the end of that period under subsection (3), and
  - (c) the amount payable in each period beginning with the date on which the loan is made, and ending with the last day of a loan year, is not less than the required amount.
- (3) If on a standard loan repayment date any amount (including interest) is owing, the loan repayment date may be postponed to a date before the end of the period of five years beginning with the standard loan repayment date.
- (4) The loan repayment date may be postponed under subsection (3) only once.
- (5) If the amount of a loan to or in respect of a [<sup>F221</sup>person who is or has been a] sponsoring employer is increased, the amount of the increase is to be treated as a loan made on the date of the increase.
- (6) Schedule 30 gives the meaning of expressions used in this section and explains how to calculate the amount of the unauthorised payment when a loan to or in respect of a [<sup>F222</sup>person who is or has been a] sponsoring employer does not comply with subsection (1).
- (7) In this section and that Schedule “charge” includes a right in security or an agreement to create a right in security; and any reference to assets subject to a charge or assets charged includes a reference to the property over which such a right is granted.
- (8) Schedule 36 contains (in Part 4) transitional provision about loans to sponsoring employers.

#### **Textual Amendments**

**F220** Words in s. 179(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 11](#)

**F221** Words in s. 179(5) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 11](#)

**F222** Words in s. 179(6) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 11](#)

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

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), regs. 1, 15](#)

#### **Commencement Information**

**I20** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 180 Scheme administration employer payments

- (1) A “scheme administration employer payment” is a payment made—
  - (a) by a registered pension scheme that is an occupational pension scheme, and
  - (b) to or in respect of a [<sup>F223</sup>person who is or has been a] sponsoring employer, for the purposes of the administration or management of the pension scheme.
- (2) But if a payment falling within subsection (1) exceeds the amount which might be expected to be paid to a person who was at arm’s length, the excess is not a scheme administration employer payment.
- (3) Scheme administration employer payments include in particular—
  - (a) the payment of wages, salaries or fees to persons engaged in administering the pension scheme, and
  - (b) payments made for the purchase of assets to be held for the purposes of the pension scheme.
- (4) A loan to or in respect of a [<sup>F224</sup>person who is or has been a] sponsoring employer is not a scheme administration employer payment.
- (5) Payments made to acquire shares in a sponsoring employer are not scheme administration employer payments if, when the payment is made—
  - (a) the market value of shares in the sponsoring employer held for the purposes of the pension scheme is equal to or greater than 5% of the aggregate of the amount of the sums, and the market value of the assets, held for the purposes of the pension scheme, or
  - (b) the total market value of shares in sponsoring employers held for the purposes of the pension scheme is equal to or greater than 20% of the aggregate of the amount of the sums, and the market value of the assets, held for the purposes of the pension scheme.
- (6) Regulations made by the Board of Inland Revenue may provide that payments of a description specified in the regulations are, or are not, scheme administration employer payments.

### Textual Amendments

**F223** Words in s. 180(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 12](#)

**F224** Words in s. 180(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 12](#)

### Modifications etc. (not altering text)

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [15](#)

**C43** S. 180 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Finance Act 2004, Section 180\(5\) \(Modification\) Regulations 2012 \(S.I. 2012/1258\)](#), regs. 1, [2](#)

### Commencement Information

**I21** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### *Unauthorised employer payments*

#### **181 Value shifting**

- (1) A registered pension scheme that is an occupational pension scheme is to be treated as having made an unauthorised payment to a [<sup>F225</sup>person who is or has been a] sponsoring employer if, in connection with any of the events mentioned in subsection (2) or a change in the value of a currency—
- (a) the value of an asset held for the purposes of the pension scheme is reduced or a liability of the pension scheme is increased, and
  - (b) the value of an asset held by or for the benefit of the [<sup>F226</sup>person] is increased, a liability of the [<sup>F226</sup>person] is reduced, or a liability of another person is reduced for the benefit of the [<sup>F226</sup>person].
- (2) The events are—
- (a) the creation, alteration, release or extinction of any power, right, option or liability relating to assets held for the purposes of the pension scheme (whether or not provided for in the terms on which the asset is acquired or held),
  - (b) the creation, alteration, release or extinction of any power, right or option relating to a liability of the pension scheme (whether or not provided for in the terms on which the liability is incurred),
  - (c) the exercise of, or failure to exercise, any power, right or option in relation to assets held for the purposes of the pension scheme or a liability of the pension scheme, or
  - (d) the exercise of, or failure to exercise, any power, right or option which constitutes an asset held for the purposes of the pension scheme,
- in a way which differs from that which might be expected if the parties to the transaction were at arm's length.
- (3) The amount of the unauthorised payment is the amount by which the reduction in value of the asset held for the purposes of the pension scheme, or the increase in the liability of the pension scheme, exceeds that which might be expected if the parties to the transaction were at arm's length.
- (4) Regulations made by the Board of Inland Revenue may make provision as to how the excess is to be calculated in relation to events of a description specified in the regulations (including provision as to the times at which the asset or liability is to be valued).

#### **Textual Amendments**

**F225** Words in s. 181(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 13\(a\)](#)

**F226** Word in s. 181(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 13\(b\)](#)

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

**C42** Ss. 175-181 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 15

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**Commencement Information**

**I22** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*[<sup>F227</sup>Alternatively secured pensions]*

**Textual Amendments**

**F227** S. 181A and cross-heading inserted (19.7.2007) (with effect in accordance with Sch. 19 para. 29(2) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 14](#)

<sup>F228</sup>**181A Minimum level of payment**

**Textual Amendments**

**F228** S. 181A omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 69](#)

*Borrowing*

**182 Unauthorised borrowing: money purchase arrangements**

- (1) A registered pension scheme is not authorised to borrow an amount in respect of a money purchase arrangement unless the arrangement borrowing condition is met.
- (2) The arrangement borrowing condition is met if—

$$\left( APB + PB \right) < \frac{VA}{2}$$

where—

APB is the aggregate of the amounts previously borrowed in respect of the arrangement (excluding any amounts which have been repaid),

PB is the amount proposed to be borrowed in respect of the arrangement, and

VA is the value of the arrangement.

- (3) The value of the arrangement is the aggregate of—
  - (a) the amount of such of the sums and the market value of such of the assets as represent the [<sup>F229</sup>member's drawdown pension fund] in respect of the arrangement (if any),
  - [<sup>F230</sup>(aa) the amount of such of the sums and the market value of such of the assets as represent the member's flexi-access drawdown fund in respect of the arrangement (if any),]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) the amount of such of the sums and the market value of such of the assets as represent [<sup>F231</sup>dependants' drawdown pension funds][<sup>F232</sup>or dependants' flexi-access drawdown funds] in respect of the arrangement (if any),
  - [<sup>F233</sup>(ba) the amount of such of the sums and the market value of such of the assets as represent nominees' flexi-access drawdown funds in respect of the arrangement (if any),
  - (bb) the amount of such of the sums and the market value of such of the assets as represent successors' flexi-access drawdown funds in respect of the arrangement (if any),]
  - (c) the aggregate of the value of each scheme pension or dependants' scheme pension payable in respect of the arrangement, and
  - (d) the value of the uncrystallised rights under the arrangement.
- (4) The value of a scheme pension or dependants' scheme pension payable in respect of the arrangement is—

## RVF × ARP

where—

RVF is the relevant valuation factor (see section 276), and

ARP is the annual rate at which the pension is payable.

- (5) Rights are uncrystallised if no-one has become entitled to the present payment of benefits in respect of the rights; and a person is to be treated as entitled to the present payment of benefits in respect of the sums and assets representing the person's [<sup>F234</sup>drawdown pension fund][<sup>F235</sup>or the person's flexi-access drawdown fund].
- (6) If the arrangement is a cash balance arrangement, the value of the uncrystallised rights under the arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits in respect of those rights if a person became entitled to benefits in respect of those rights.
- (7) If the arrangement is a money purchase arrangement other than a cash balance arrangement, the value of the uncrystallised rights under the arrangement is the aggregate of the amount of such of the sums, and the market value of such of the assets, held for the purposes of the arrangement as represent those rights.
- (8) If the arrangement is a hybrid arrangement under which either cash balance benefits or other money purchase benefits (but not defined benefits) may be provided, the value of the uncrystallised rights under the arrangement is the greater of—
  - (a) their value calculated under subsection (6) (on the assumption that cash balance benefits are provided), and
  - (b) their value calculated under subsection (7) (on the assumption that other money purchase benefits are provided).

### Textual Amendments

**F229** Words in s. 182(3)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 70\(2\)\(a\)](#)

**F230** S. 182(3)(aa) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 11\(a\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F231** Words in s. 182(3)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 70\(2\)\(b\)](#)
- F232** Words in s. 182(3)(b) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 11\(b\)](#)
- F233** S. 182(3)(ba)(bb) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 13](#)
- F234** Words in s. 182(5) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 70\(3\)](#)
- F235** Words in s. 182(5) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 12](#)

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

- C44** Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 16
- C45** S. 182 modified (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), [s. 68\(2\)\(6\)](#)
- C46** S. 182 restricted (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), [s. 68\(1\)\(6\)](#)

**Commencement Information**

- I23** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**183 Effect of unauthorised borrowing: money purchase arrangements**

- (1) Subsection (2) applies if a registered pension scheme borrows in respect of a money purchase arrangement an amount which it is not authorised to borrow under section 182.
- (2) The pension scheme is to be treated as having made a scheme chargeable payment—
- (a) if subsection (3) applies, of an amount calculated in accordance with subsection (4), and
  - (b) otherwise, of the amount borrowed.
- (3) This subsection applies if, immediately before the amount is borrowed—

$$APB < \frac{VA}{2}$$

- (4) If subsection (3) applies, the amount of the scheme chargeable payment is—

$$APB + AB - \frac{VA}{2}$$

- (5) In subsections (3) and (4)—
- APB is the aggregate of the amounts previously borrowed in respect of the arrangement (excluding any amounts which have been repaid),
  - AB is the amount borrowed, and
  - VA is the value of the arrangement, calculated in accordance with section 182(3), immediately before the amount is borrowed.



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

- C44** Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 16
- C47** S. 183 modified (retrospective to 6.4.2011) by [Finance Act 2011 \(c. 11\)](#), s. 68(2)(6)

**Commencement Information**

- I24** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**184 Unauthorised borrowing: other arrangements**

- (1) A registered pension scheme is not authorised to borrow an amount in respect of any arrangement which is not a money purchase arrangement unless the scheme borrowing condition is met.
- (2) The scheme borrowing condition is met if—

$$(APB + PB) < \frac{AARA}{2}$$

where—

APB is the aggregate of the amounts previously borrowed by the pension scheme in respect of arrangements which are not money purchase arrangements (excluding any amounts which have been repaid),

PB is the amount proposed to be borrowed by the pension scheme, and

AARA is the aggregate amount of the relevant sums and assets.

- (3) The aggregate amount of the relevant sums and assets is the aggregate of—
- (a) the amount of the sums held for the purposes of such of the arrangements under the pension scheme as are not money purchase arrangements, and
- (b) the market value of the assets held for the purposes of such of the arrangements under the pension scheme as are not money purchase arrangements.

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

- C44** Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 16

**Commencement Information**

- I25** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 185 Effect of unauthorised borrowing: other arrangements

- (1) Subsection (2) applies if a registered pension scheme borrows, in respect of an arrangement which is not a money purchase arrangement, an amount which it is not authorised to borrow under section 184.
- (2) The pension scheme is to be treated as having made a scheme chargeable payment—
  - (a) if subsection (3) applies, of an amount calculated in accordance with subsection (4), and
  - (b) otherwise, of the amount borrowed.
- (3) This subsection applies if, immediately before the amount is borrowed—

$$APB < \frac{AARA}{2}$$

- (4) If subsection (3) applies, the amount of the scheme chargeable payment is—

$$APB + AB - \frac{AARA}{2}$$

- (5) In subsections (3) and (4)—
 

APB is the aggregate of the amounts previously borrowed by the pension scheme in respect of arrangements which are not money purchase arrangements (excluding any amounts which have been repaid),

AB is the amount borrowed, and

AARA is the aggregate amount of the relevant sums and assets, calculated in accordance with section 184(3), immediately before the amount is borrowed.

### Modifications etc. (not altering text)

**C44** Ss. 182-185 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **16**

### Commencement Information

**I26** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*<sup>F236</sup>Income and gains from taxable property*

### Textual Amendments

**F236** Ss. 185A-185I and cross-heading inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), **Sch. 21 para. 6**

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 185A Income from taxable property

- (1) An investment-regulated pension scheme is to be treated as having made a scheme chargeable payment if the pension scheme holds an interest in taxable property in a tax year.
- (2) The amount of the scheme chargeable payment depends on whether a person who holds the interest in the property directly receives profits arising from the interest in the tax year.
- (3) If a person who holds the interest in the property directly receives such profits in the tax year, the amount of the scheme chargeable payment is the greater of—
  - (a) an amount equal to the amount of the annual profits from the interest in the property (see section 185B(1)), and
  - (b) the amount of the deemed profits from the interest in the property for the year (see sections 185B(2) and 185C).
- (4) If no person who holds the interest in the property directly receives such profits in the tax year, the amount of the scheme chargeable payment is the amount of the deemed profits from the interest in the property for the year (see sections 185B(2) and 185C).
- (5) But where section 185D applies, the amount of the scheme chargeable payment is the amount found under subsection (3) or (4) as apportioned to the pension scheme in accordance with that section.
- (6) Section 185E makes provision for credits against income tax charged under section 239 (scheme sanction charge) in respect of a scheme chargeable payment treated as made by virtue of this section.

### Modifications etc. (not altering text)

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

## 185B Annual profits and deemed profits

- (1) For the purposes of section 185A(3) the amount of the annual profits from the interest in the property is the total amount of profits received from the interest in the tax year—
  - (a) by each person who holds the interest directly, and
  - (b) at a time when the property is scheme-held taxable property.
- (2) For the purposes of section 185A(3) and (4) the amount of the deemed profits from the interest in the property for the tax year is—

$$DMV10 \times DTPDY$$

where—

DMV is the deemed market value of the interest in the property for the year (see section 185C),

DTP is the number of days in the year for which the property is scheme-held taxable property, and

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 2004, Part 4. (See end of Document for details)*

DY is the number of days in the year.

- (3) In this Part “scheme-held taxable property” means property—
- (a) which is taxable property, and
  - (b) an interest in which is held by the pension scheme.

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

**185C Deemed market value**

- (1) For the purposes of section 185B(2), where no person who holds the interest in the property directly during the tax year does so by virtue of a lease of residential property, the deemed market value of the interest for the year is—

$$(MV+UP)\times(1+RPI)$$

where—

MV is the opening market value (see subsection (2)),

UP is the total of any unauthorised payments treated as made by the pension scheme under section 174A in relation to the property in the tax year, other than any such payment treated as made by virtue of the property becoming scheme-held taxable property in the year, and

RPI is the figure expressed as a decimal which represents the percentage increase in the retail prices index between the first day in the tax year on which the property is scheme-held taxable property and the last such day (or, if there is no such increase, is nil).

- (2) In subsection (1) “the opening market value” means—
- (a) if the property is not scheme-held taxable property immediately before the beginning of the tax year, the market value of the interest in the property immediately after the time during the year when the property first becomes scheme-held taxable property, and
  - (b) otherwise, the deemed market value of the interest for the previous tax year.
- (3) For the purposes of section 185B(2), where a person who holds the interest in the property directly during the tax year does so by virtue of a lease of residential property, the deemed market value of the interest for the year is the relevant rental value of the property calculated in accordance with paragraph 34 of Schedule 29A on the following assumptions—
- (a) that the lease was granted when the property first became scheme-held taxable property;
  - (b) that the term of the lease is 50 years;
  - (c) that a fully commercial rent is payable for the first five years of that term;
  - (d) that afterwards the rent is reviewed on an upwards-only basis.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

**185D Apportionment to pension scheme**

- (1) This section applies where the pension scheme holds the interest in the property indirectly for the whole of the period in the tax year for which the property is scheme-held taxable property.
- (2) The amount that would otherwise be the amount of the scheme chargeable payment is to be apportioned to the pension scheme by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—
  - (a) by the pension scheme,
  - (b) in connection with the acquisition of the interest in the property, and
  - (c) at the end of the last day in the tax year on which the property is scheme-held taxable property.
- (3) But where—
  - (a) the amount found in relation to the pension scheme on the day mentioned in paragraph (c) of subsection (2), differs from
  - (b) the amount that would be found in relation to the pension scheme under that subsection on another day in the tax year on which the property is scheme-held taxable property,

the amount to be apportioned to the pension scheme under this section is the average of the amounts produced by applying subsection (2) in relation to the pension scheme on each day in the tax year on which the property is scheme-held taxable property.

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

**185E Credit for tax paid**

- (1) This section applies where—
  - (a) the pension scheme holds the interest in the property indirectly in the tax year,
  - (b) a person who holds the interest directly receives profits arising from the interest at a time in the tax year when the property is scheme-held taxable property,
  - (c) tax is payable on those profits by that person (assuming them to be the highest part of the person's income for the tax year in which they are received), and
  - (d) that tax has been paid.
- (2) The amount determined under subsection (3) is to be allowed as a credit against any income tax charged under section 239 in respect of the scheme chargeable payment

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

treated as made by virtue of the pension scheme holding the interest in the property in the tax year.

- (3) That amount is a proportion of the tax payable and paid determined by reference to the proportion of the amount that would otherwise be the amount of the scheme chargeable payment that is apportioned to the pension scheme under section 185D.
- (4) Where—
- (a) by virtue of this section an amount is allowed as a credit against income tax charged under section 239, and
  - (b) the amount of tax payable and paid by reference to which the amount of the credit was calculated is subsequently varied,
- the amount of the credit is to be varied accordingly, and any necessary adjustments are to be made to give effect to the variation (whether by making assessments or otherwise).

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

**185F Gains from taxable property**

- (1) An investment-regulated pension scheme is to be treated as having made a scheme chargeable payment where—
- (a) in a tax year the pension scheme holds an interest in property which is taxable property or which has been taxable property at any time whilst the interest has been held by the pension scheme (a “taxable interest”),
  - (b) a gain is treated as accruing to the pension scheme in respect of the taxable interest in the tax year, and
  - (c) the total amount of gains treated as accruing to the pension scheme in respect of taxable interests in the tax year exceeds the total amount of losses treated as accruing to the pension scheme in respect of taxable interests in the tax year.
- (2) The amount of the scheme chargeable payment is an amount equal to the difference between—
- (a) the total amount of gains treated as accruing to the pension scheme in respect of taxable interests in the tax year, and
  - (b) the total amount of losses treated as accruing to the pension scheme in respect of taxable interests in the tax year,
- (but this is subject to section 185G(10)).
- (3) A gain or loss is treated as accruing to a pension scheme in respect of a taxable interest in a tax year if—
- (a) by virtue of section 185G a chargeable gain or allowable loss is treated for the purposes of this section as accruing in the tax year to the person who holds the taxable interest directly, or
  - (b) in the tax year the pension scheme or another vehicle ceases to hold all or part of an interest in a vehicle through which the pension scheme holds the taxable interest indirectly (see section 185H).

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

**185G Disposal by person holding directly**

- (1) For the purposes of this section the person (“the transferor”) who holds the taxable interest directly is to be treated as holding an asset (a “taxable asset”) consisting of the interest.
- (2) For the purpose of determining—
  - (a) whether the transferor disposes of the taxable asset,
  - (b) when such a disposal takes place, and
  - (c) whether a chargeable gain or allowable loss is treated for the purposes of section 185F as accruing to the transferor on a disposal of the taxable asset in a tax year and, if so, the amount of the chargeable gain or allowable loss,TCGA 1992 is to be treated as applying to the transferor and the taxable asset, but subject as follows.
- (3) TCGA 1992 is to be treated as applying as if—
  - (a) throughout the tax year the transferor were resident<sup>F237</sup>... and domiciled in the United Kingdom,
  - (b) no allowable losses accrued to the transferor in any previous tax year,
  - <sup>F238</sup>(c) .....
  - (d) notice under section 16(2A) (losses) of that Act were given by the transferor in relation to the year in respect of any loss treated as accruing to the transferor in the year from a disposal of the taxable asset,
  - (e) section 45(1) (wasting assets) of that Act did not apply to a disposal of the taxable asset,
  - (f) for the purposes of section 53 (indexation allowance) of that Act the transferor were not chargeable to corporation tax in respect of any chargeable gain accruing to the transferor from a disposal of the taxable asset,
  - (g) section 171(1) (transfers within a group) of that Act did not apply to a disposal of the taxable asset (so that no election could be made in relation to such a disposal under section 171A (notional transfers within a group) of that Act), and
  - (h) sections 222 to 224 (relief on disposal of private residence) of that Act did not apply to a gain on a disposal of the taxable asset by virtue of section 225 (private residence occupied under terms of settlement) of that Act.
- (4) Where the taxable asset became taxable property whilst held directly by the pension scheme, TCGA 1992 is to be treated as applying to a disposal of the asset as if—
  - (a) the asset had been acquired by the transferor at the time it became taxable property, and
  - (b) the amount deductible under section 38(1)(a) (consideration for acquisition of asset) of that Act in respect of the disposal were the amount of the unauthorised payment treated as made by the pension scheme at that time.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) Subsections (6) to (8) apply where the pension scheme holds the taxable asset indirectly.
- (6) TCGA 1992 is to be treated as applying to a disposal of the asset as if the amount deductible under section 38(1) of that Act in respect of the disposal were—
- (a) the total amount of unauthorised payments treated as made by the pension scheme in respect of the taxable asset up to the time of the disposal, less
  - (b) the amount found under paragraph (a) to the extent that it has already been taken into account in calculating the gains or losses accruing to the pension scheme in respect of the taxable asset by virtue of this section or section 185H.
- (7) The amount that would otherwise be the amount of the consideration for which the disposal is made (or treated as made) is to be scaled down by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—
- (a) by the pension scheme,
  - (b) in connection with the acquisition of the interest in the property which constitutes the taxable asset, and
  - (c) at the time of the disposal.
- (8) Subsection (6) is subject to section 42 of TCGA 1992 (part disposals); but in the application of that section in relation to the taxable asset the amount of the consideration for the disposal is to be taken to be that amount apart from subsection (7).
- (9) Where the taxable asset was not taxable property for the whole period beginning with—
- (a) the time when the pension scheme acquired the asset, or
  - (b) if later, the time when the asset first became taxable property,
- and ending with the disposal, the amount that would otherwise be the amount of any chargeable gain or allowable loss treated as accruing on a disposal of the asset is to be reduced by reference to the proportion of the period for which the asset was not taxable property.
- (10) Where—
- (a) the taxable asset is a wasting asset consisting of tangible moveable property, and
  - (b) by virtue of section 185F, a loss is treated as accruing to the pension scheme from a disposal of the asset in a tax year,
- the loss is only to be allowed as a deduction from any gains treated as accruing to the pension scheme by virtue of that section from other disposals in the year of taxable assets which are wasting assets consisting of tangible moveable property.

#### **Textual Amendments**

**F237** Words in s. 185G(3)(a) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 120](#)

**F238** S. 185G(3)(c) omitted (21.7.2008) (with effect in accordance with Sch. 2 para. 56(3) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 53](#)



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

**185H Disposal of interest in vehicle**

- (1) This section applies for the purposes of section 185F where the pension scheme or another vehicle ceases to hold all or part of an interest in a vehicle through which the pension scheme holds the taxable interest indirectly.
- (2) The pension scheme is to be treated as disposing of the interest in the vehicle through which the pension scheme holds the taxable interest indirectly.
- (3) The amount of the gain or loss treated as accruing to the pension scheme on the disposal of the interest in the vehicle is the difference between—
  - (a) the deemed consideration received for the disposal of the interest, and
  - (b) the deemed consideration given for the interest.
- (4) The deemed consideration received for the disposal of the interest in the vehicle is the difference between—
  - (a) the market value of the taxable interest at the time of the disposal, apportioned to the pension scheme in accordance with subsection (5) immediately before that time, and
  - (b) the market value of the taxable interest at the time of the disposal, apportioned to the pension scheme in accordance with subsection (5) immediately after that time.
- (5) An amount mentioned in subsection (4) is to be apportioned to the pension scheme by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—
  - (a) by the pension scheme,
  - (b) in connection with the acquisition of the taxable interest, and
  - (c) at the time at which the amount is to be apportioned to the pension scheme in accordance with that subsection.
- (6) The deemed consideration given for the interest in the vehicle is—
  - (a) the total amount of unauthorised payments treated as made by the pension scheme in respect of the taxable interest up to the time of the disposal, less
  - (b) the amount found under paragraph (a) to the extent that it has already been taken into account in calculating the gains or losses accruing to the pension scheme in respect of the taxable interest by virtue of section 185G or this section.

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## **185I Credit for tax paid**

- (1) This section applies where by virtue of section 185F a pension scheme is to be treated as making a scheme chargeable payment which is to any extent attributable—
- (a) to a chargeable gain treated by virtue of section 185G as accruing to another person on a disposal of a taxable asset, or
  - (b) to a gain treated by virtue of section 185H as accruing to the pension scheme as a result of another person disposing of an interest in a vehicle through which the pension scheme holds a taxable interest indirectly.
- (2) Where—
- (a) tax is payable in respect of the disposal by the person who makes the disposal, and
  - (b) that tax has been paid,
- the amount determined under subsection (3) or (4) (as appropriate) is to be allowed as a credit against any income tax charged under section 239 in respect of the scheme chargeable payment.
- (3) In a case within paragraph (a) of subsection (1), that amount is a proportion of the amount of tax paid and payable determined by reference to the proportion of the amount of consideration for the disposal that is apportioned under section 185G(7).
- (4) In a case within paragraph (b) of subsection (1), that amount is the amount of tax paid and payable apportioned to the pension scheme by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—
- (a) by the pension scheme,
  - (b) in connection with an acquisition of the taxable interest by the person disposing of the interest in the vehicle, and
  - (c) at the time of the disposal.
- (5) Where—
- (a) by virtue of this section an amount is allowed as a credit against income tax charged under section 239, and
  - (b) the amount of tax payable and paid by reference to which the amount of the credit was calculated is subsequently varied,
- the amount of the credit is to be varied accordingly, and any necessary adjustments are to be made to give effect to the variation (whether by making assessments or otherwise).]

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

**C48** Ss. 185A-185I restricted by S.I. 2006/207, reg. 4B (as inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\)\(Amendment\) Regulations 2006 \(S.I. 2006/1960\)](#), reg. 9)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## *F<sup>239</sup>Repayments of lump sums*

### **Textual Amendments**

**F239** S. 185J and cross-heading inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 3, 15](#)

### **185J Effect of repayment of certain pre-6 April 2015 lump sums**

- (1) For the purposes of this Part—
  - (a) a lump sum to which this section applies is treated as never having been paid, and
  - (b) the payment by which it is repaid is treated as not being a payment.
- (2) This section applies to a lump sum if—
  - (a) the sum is paid by a registered pension scheme to a member of the scheme in respect of a money purchase arrangement,
  - (b) the sum is paid to the member in connection with a pension under the scheme to which it is expected that the member will become entitled (“the expected pension”),
  - (c) the expected pension is income withdrawal, a lifetime annuity or a scheme pension,
  - (d) the sum is paid before the member becomes entitled to the expected pension,
  - (e) either—
    - (i) the sum is paid on or after 19 September 2013 but before 6 April 2015, or
    - (ii) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the expected pension, and on or after 19 March 2014 the contract is cancelled,
  - (f) before the member becomes entitled to the expected pension, the member repays the sum to the pension scheme that paid it, and
  - (g) the repayment is made before 6 October 2015.
- (3) For the purposes of subsection (2), if the circumstances are as described in subsection (2)(e)(ii), the member is treated as not having become entitled to the expected pension as a result of the cancelled contract having been entered into.]

## **CHAPTER 4**

### **REGISTERED PENSION SCHEMES: TAX RELIEFS AND EXEMPTIONS**

#### *Scheme investments*

### **186 Income**

- (1) No liability to income tax arises in respect of—
  - (a) income derived from investments or deposits held for the purposes of a registered pension scheme, or
  - (b) underwriting commissions applied for the purposes of a registered pension scheme <sup>F<sup>240</sup></sup> which are not relevant foreign income and which would otherwise

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

be chargeable to income tax under Chapter 8 of Part 5 of ITTOIA 2005 (income not otherwise charged).]

- (2) The exemption provided by subsection (1) does not apply to income derived from investments or deposits held as a member of a property investment LLP; and for this purpose “income” includes relevant stock lending fees, in relation to any investments, to which subsection (1) would apply by virtue of section 129B of ICTA (inclusion of relevant stock lending fees in income).
- [<sup>F241</sup>(2A) The exemption provided by subsection (1) does not prevent the income from being charged to tax by virtue of section 185A.]
- (3) In this Part “investments”, in relation to a registered pension scheme, includes futures contracts and options contracts; and income derived from transactions relating to futures contracts or options contracts is to be treated as derived from the contracts.
- (4) For that purpose a contract is not prevented from being a futures contract or an options contract by the fact that a 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) in full settlement of all obligations.

#### Textual Amendments

**F240** Words in s. 186(1)(b) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 644, Sch. 2 para. 161](#) (with [Sch. 2](#))

**F241** S. 186(2A) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 158\(2\), Sch. 21 para. 7](#)

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

**C49** S. 186 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), regs. 1, 17](#)

#### Commencement Information

**I27** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 187 Chargeable gains

- (1) Section 271 of TCGA 1992 (exemptions) is amended as follows.
- (2) In paragraph (b) of subsection (1), for the words after “part of” substitute “ the Fund mentioned in section 613(4) of the Taxes Act (House of Commons Members' Fund); ”.
- (3) In subsection (1), omit—
- (a) paragraph (d) (retirement annuity contracts),
  - (b) paragraph (g) (exempt approved schemes),
  - (c) paragraph (h) (approved personal pension schemes), and
  - (d) paragraph (j) (authorised unit trusts which are also approved personal pension schemes or exempt approved schemes),
- and the second sentence.
- (4) After that subsection insert—

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

“(1A) A gain accruing to a person on a disposal of investments held for the purposes of a registered pension scheme is not a chargeable gain.”

- (5) Omit subsection (2) (superannuation funds approved before 6th April 1980).
- (6) In subsection (10)—
  - (a) for “subsections (1)(g) and (h) and (2)” substitute “ subsection (1A) ”, and
  - (b) omit the words after “options contracts”.
- (7) In subsection (12), for “Subsection (1)(b), (c), (d), (g) and (h) and subsection (2)” substitute “ Subsections (1)(b) and (c) and (1A) ”.

**Commencement Information**

**I28** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Members' contributions*

**188 Relief for contributions**

- (1) An individual who is an active member of a registered pension scheme is entitled to relief under this section in respect of relievable pension contributions paid during a tax year if the individual is a relevant UK individual for that year.
- (2) In this Part “relievable pension contributions”, in relation to an individual and a pension scheme, means contributions by or on behalf of the individual under the pension scheme other than contributions to which subsection (3) [<sup>F242</sup>or (3A)] applies.
- (3) This subsection applies to—
  - (a) any contributions paid after the individual has reached the age of 75,
  - [<sup>F243</sup>(aa) any contributions which are life assurance premium contributions (see section 195A),]
  - (b) any contributions paid by an employer of the individual (as to which see sections 196 to 201), <sup>F244</sup>...
  - <sup>F244</sup>(c) .....
- [<sup>F245</sup>(3A) This subsection applies to a contribution if the contribution results from the transfer of property or money, or the payment of a sum, towards the pension scheme pursuant to a relevant order in a case where—
  - (a) section 266A (members' liability in respect of unauthorised member payments) applies, and
  - (b) relief is claimed under that section in respect of the liability mentioned in subsection (1)(a) of that section.
- (3B) In the case of a contribution which is greater than UMP (see section 266A(5)), subsection (3A) does not apply to the contribution so far as it is greater than UMP.
- (3C) In subsection (3A) “relevant order” means an order under any of the following—
  - (a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland).]
- (4) For the purposes of this Part a pension credit which increases the rights of the individual under the pension scheme is only to be treated as a contribution on behalf of the individual if it derives from a pension scheme that is not a registered pension scheme.
- (5) For the purposes of this Part—
- (a) any other transfer of any sum held for the purposes of, or representing accrued rights under, a pension scheme so as to become held for the purposes of, or to represent rights under, another pension scheme, <sup>F246</sup>...
- <sup>F246</sup>(b) .....  
is not to be treated as a contribution.
- <sup>F247</sup>(6) .....
- (7) References in the Income Tax Acts to relief in respect of life assurance premiums do not include relief under this section.
- (8) The following sections make further provision about relief under this section—  
 section 189 (relevant UK individual),  
 section 190 (annual limit for relief),  
 sections 191 to 194 (methods of giving relief), and  
 section 195 (transfer of certain shares to be treated as payment of contribution).

#### Textual Amendments

- F242** Words in s. 188(2) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 para. 13(2)**
- F243** S. 188(3)(aa) inserted (19.7.2007) (with effect in accordance with Sch. 18 paras. 4-7 of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 18 para. 2**
- F244** S. 188(3)(c) and word omitted (6.4.2015) by virtue of [Finance Act 2013 \(c. 29\)](#), **s. 52(2)(11)**
- F245** S. 188(3A)-(3C) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 para. 13(3)**
- F246** S. 188(5)(b) and preceding word repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 7**, **Sch. 27 Pt. 3(1)**
- F247** S. 188(6) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), **s. 52(3)(10)**

#### Commencement Information

- I29** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## 189 Relevant UK individual

- (1) For the purposes of this Part an individual is a relevant UK individual for a tax year if—
- (a) the individual has relevant UK earnings chargeable to income tax for that year,
- (b) the individual is resident in the United Kingdom at some time during that year,
- (c) the individual was resident in the United Kingdom both at some time during the five tax years immediately before that year and when the individual became a member of the pension scheme, or

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- (d) the individual, or the individual's spouse [<sup>F248</sup>or civil partner], has for the tax year general earnings from overseas Crown employment subject to UK tax.
- (2) In this Part “relevant UK earnings” means—
- (a) employment income,
  - (b) income which is chargeable under [<sup>F249</sup>Part 2 of ITTOIA 2005] and is immediately derived from the carrying on or exercise of a trade, profession or vocation (whether individually or as a partner acting personally in a partnership), <sup>F250</sup>...
  - [<sup>F251</sup>(ba) income which is chargeable under Part 3 of ITTOIA 2005 and is immediately derived from the carrying on of a UK furnished holiday lettings business (whether individually or as a partner acting personally in a partnership), <sup>F252</sup>...]
  - [<sup>F253</sup>(bb) income which is chargeable under Part 3 of ITTOIA 2005 and is immediately derived from the carrying on of an EEA furnished holiday lettings business (whether individually or as a partner acting personally in a partnership), and]
  - [<sup>F254</sup>(c) income to which subsection (2A) applies.]
- [<sup>F255</sup>(2A) This subsection applies to income if—
- (a) it is patent income, and
  - (b) the individual, alone or jointly, devised the invention for which the patent in question was granted.]

[<sup>F256</sup>(2B) The income covered by subsection (2)(b) includes—

    - (a) an amount treated as a profit under section 863J(2) of ITTOIA 2005, and
    - (b) income treated as received under section 863J(4) of that Act.]

(3) For the purposes of this section and section 190 relevant UK earnings are to be treated as not being chargeable to income tax if, in accordance with arrangements having effect by [<sup>F257</sup>under section 2(1) of the Taxation (International and Other Provisions) Act 2010] (double taxation agreements), they are not taxable in the United Kingdom.

(4) “General earnings from overseas Crown employment subject to UK tax” has the meaning given by section 28 of ITEPA 2003.

[<sup>F258</sup>(5) “UK furnished holiday lettings business” means a UK property business so far as consisting of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005).

(6) If there is a letting of accommodation only part of which is holiday accommodation, just and reasonable apportionments are to be made for the purpose of determining what is comprised in a UK furnished holiday lettings business.

[“EEA furnished holiday lettings business” means an overseas property business so far

<sup>F259</sup>(6A) as consisting of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005) in one or more EEA states.

(6B) If there is a letting of accommodation only part of which is holiday accommodation, just and reasonable apportionments are to be made for the purpose of determining what is comprised in an EEA furnished holiday lettings business.]

(7) “Patent income” means—

      - (a) royalties or other sums paid in respect of the use of a patent charged to tax under section 579 of ITTOIA 2005,
      - (b) amounts on which tax is payable under section 587 or 593 of ITTOIA 2005, or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (c) amounts on which tax is payable under—
- (i) section 472(5) of the Capital Allowances Act, or
  - (ii) paragraph 100 of Schedule 3 to that Act.]

#### Textual Amendments

- F248** Words in s. 189(1)(d) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **176**
- F249** Words in s. 189(2)(b) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 645\(2\)](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))
- F250** Word in s. 189(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F251** S. 189(2)(ba) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(b\)](#) (with [Sch. 2](#))
- F252** Word in s. 189(2)(ba) omitted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(2\)](#)
- F253** S. 189(2)(bb) inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(2\)](#)
- F254** S. 189(2)(c) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(c\)](#) (with [Sch. 2](#))
- F255** S. 189(2A) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(3\)](#) (with [Sch. 2](#))
- F256** S. 189(2B) inserted (with effect in accordance with Sch. 17 para. 21 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 17 para. 18](#)
- F257** Words in s. 189(3) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 63](#) (with [Sch. 9 paras. 1-9, 22](#))
- F258** S. 189(5)-(7) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(4\)](#) (with [Sch. 2](#))
- F259** S. 189(6A)(6B) inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(3\)](#)

#### Commencement Information

- I30** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### 190 Annual limit for relief

- (1) The maximum amount of relief to which an individual is entitled under section 188 (relief for contributions) for a tax year is (subject as follows) the amount of the individual's relevant UK earnings which are chargeable to income tax for the tax year.
- (2) If the amount of the individual's relevant UK earnings which are chargeable to income tax for the tax year is less than the basic amount, the maximum amount of relief to which the individual is entitled under section 188 for the tax year is increased by the difference between—
  - (a) the amount of the individual's relevant UK earnings which are so chargeable, and
  - (b) the basic amount,
 (so that, if the individual has no relevant UK earnings which are so chargeable, the maximum amount of such relief is the basic amount).



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

(3) Subsection (2) is subject to section 191(7) (limit on methods of giving relief to which individual is entitled by virtue of subsection (2)).

(4) “The basic amount” is £3,600 or such greater amount as the Treasury may by order specify.

<sup>F260</sup>(5) . . . . .

**Textual Amendments**

**F260** S. 190(5) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\), s. 52\(4\)\(10\)](#)

**Commencement Information**

**I31** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**191 Methods of giving relief**

(1) Relief to which an individual is entitled under section 188 (relief for contributions) in respect of contributions is to be given as provided by this section.

(2) Subject as follows, the relief is to be given in accordance with section 192 (relief at source).

(3) Subject to subsection (7), relief in respect of contributions under a pension scheme made by a member of the pension scheme may (instead of being given in accordance with section 192) be given in accordance with section 193 (relief under net pay arrangements) if—

- (a) the pension scheme is an occupational pension scheme,
- (b) the member is an employee of a sponsoring employer, and
- (c) relief in respect of contributions made under the pension scheme by all of the other members of the pension scheme who are employees of the sponsoring employer is given in accordance with that section.

(4) Subject to subsection (7), relief in respect of contributions under a pension scheme made by a member of the pension scheme may (instead of being given in accordance with section 192) be given in accordance with section 193 if—

- (a) the pension scheme is a public service pension scheme or marine pilots' benefits fund, and
- (b) the member is an employee.

(5) Subject to subsection (7), subsection (6) applies where—

- (a) contributions are made under a public service pension scheme or marine pilots' benefit fund by a member who is not an employee, or
- (b) contributions are made otherwise than by a member of the pension scheme under a net pay pension scheme.

(6) Relief in respect of the contributions—

- (a) may (but need not) be given in accordance with section 192, but
- (b) where not so given, is to be given in accordance with section 194 (relief on making of claim).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (7) Relief to which an individual is entitled by virtue of section 190(2)—
- (a) may only be given in accordance with section 192, and
  - (b) is not required to be given in respect of contributions under a net pay pension scheme.
- (8) In this section “marine pilots' benefits fund” means—
- (a) a fund established under section 15(1)(i) of the Pilotage Act 1983 (c. 21), or
  - (b) any scheme supplementing or replacing such a fund.
- (9) In this Part “net pay pension scheme” means a pension scheme in the case of which some or all of the members of the pension scheme are entitled to be given relief in accordance with section 193 in respect of the payment of contributions by them under the pension scheme.
- (10) Schedule 36 contains (in Part 4) transitional provision about relief in respect of contributions to pre-commencement retirement annuity contracts.

#### **Commencement Information**

**I32** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## **192 Relief at source**

- (1) Where an individual is entitled to be given relief in accordance with this section in respect of the payment of a contribution under a pension scheme, the individual or other person by whom the contribution is paid is entitled, on making the payment, to deduct and retain out of it a sum equal to income tax on the contribution [<sup>F261</sup>at the relevant rate].
- [<sup>F262</sup>(1A) For the purposes of this section and sections 192A and 192B “the relevant rate” is—
- (a) if the Commissioners for Her Majesty’s Revenue and Customs so notify the scheme administrator, the Scottish basic rate for the tax year in which the payment is made; and
  - (b) the basic rate for that tax year in all other cases.]
- (2) If a sum is deducted from the payment of the contribution—
- (a) the scheme administrator must allow the deduction on receipt of the residue,
  - (b) the individual or other person is acquitted and discharged of so much money as is represented by the deduction as if the sum had actually been paid, and
  - (c) the sum deducted is to be treated as income tax paid by the scheme administrator.
- (3) When the payment of the contribution is received—
- (a) the scheme administrator is entitled to recover from the Board of Inland Revenue the amount which is treated as income tax paid by the scheme administrator in relation to the contribution, and
  - (b) any amount so recovered is to be treated for the purposes of the Tax Acts in the same manner as the payment of the contribution.
- [<sup>F263</sup>(4) If (apart from this section) income tax at the higher rate [<sup>F264</sup>, the Scottish higher rate, the additional rate or the Scottish additional rate] is chargeable in respect of any part

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of the individual's total income for the tax year, on the making of a claim the basic rate limit and the higher rate limit for the tax year in the individual's case are increased by the amount of the contribution.]

- <sup>F265</sup>(5) . . . . .
- (6) Subsections (1) and (2) have effect subject to such conditions as the Board of Inland Revenue may prescribe by regulations.
- (7) The Board of Inland Revenue may by regulations make provision for carrying subsections (1) to (3) into effect, in particular by making provision—
- (a) about how a sum is to be recovered under subsection (3)(a) (including the manner in which a claim for the recovery of a sum is to 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 of documents by persons authorised by the Board of Inland Revenue, and
  - (d) specifying the consequences of failure to comply with conditions prescribed by virtue of subsection (6).
- (8) Regulations under this section may, in particular—
- (a) modify the operation of any provision of the Tax Acts, or
  - (b) provide for the application of any provision of the Tax Acts (with or without modification).
- (9) Where, after relief is given to an individual in accordance with this section for a tax year, an assessment, alteration of an assessment or other adjustment of the individual's liability to tax is made, any appropriate consequential adjustments are to be made in relief given to the individual in accordance with this section.
- (10) Where relief is given to an individual in accordance with this section for a tax year in respect of a contribution, relief is not to be given—
- (a) in respect of the contribution under any other provision of the Income Tax Acts, or
  - (b) (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.
- <sup>F266</sup>(11) Subsection (10) does not apply to prevent the giving of relief in respect of the contribution in accordance with subsection 192A.]

#### Textual Amendments

- F261** Words in s. 192(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(2)**
- F262** S. 192(1A) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(3)**
- F263** S. 192(4) substituted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 2 para. 11**
- F264** Words in s. 192(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(4)**
- F265** S. 192(5) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 474**, **Sch. 3 Pt. 1** (with Sch. 2)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F266** S. 192(11) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), 3(5)

**Commencement Information**

**I33** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**[<sup>F267</sup>192A] Relief at source: additional relief**

- (1) An individual to whom relief is given in accordance with section 192 in respect of a contribution is entitled to a tax reduction for the tax year in which the payment of the contribution is made if the conditions in subsection (2) or (4) are met.
- (2) The conditions are that—
  - (a) the relevant rate is the basic rate for the tax year in which the payment of the contribution is made,
  - (b) the individual is a Scottish taxpayer for that tax year, and
  - (c) the Scottish basic rate for that tax year is higher than the basic rate.
- (3) If the conditions in subsection (2) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the Scottish basic rate for the tax year in which the payment is made and the amount of relief given under section 192.
- (4) The conditions are that—
  - (a) the relevant rate is the Scottish basic rate for the tax year in which the payment of the contribution is made,
  - (b) the individual is not a Scottish taxpayer for that tax year, and
  - (c) the basic rate for that tax year is higher than the Scottish basic rate.
- (5) If the conditions in subsection (4) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the basic rate for the tax year in which the payment is made and the amount of relief given under section 192.
- (6) A tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.

**Textual Amendments**

**F267** Ss. 192A, 192B inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), 4

**192B. Relief at source: excessive relief given**

- (1) If relief is given to an individual in accordance with section 192 in respect of a contribution and the conditions in subsection (2) or (4) apply, an amount of excessive relief given is treated as an amount of tax for which the individual is liable for the tax year in which the payment of the contribution is made.
- (2) The conditions are that—

*Status: Point in time view as at 15/09/2016.*

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- (a) the relevant rate is the basic rate for the tax year in which the payment of the contribution is made,
  - (b) the individual is a Scottish taxpayer for that tax year, and
  - (c) the Scottish basic rate for that tax year is lower than that rate.
- (3) If the conditions in subsection (2) apply, the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the Scottish basic rate for the tax year in which the payment is made.
- (4) The conditions are that—
  - (a) the relevant rate is the Scottish basic rate for the tax year in which the payment of the contribution is made,
  - (b) the individual is not a Scottish taxpayer in that tax year, and
  - (c) the basic rate for that tax year is lower than the Scottish basic rate.
- (5) If the conditions in subsection (4) apply, the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the basic rate for the tax year in which the payment is made.
- (6) An amount of excessive relief treated as an amount of tax under this section is added at Step 7 of the calculation in section 23 of ITA 2007.]

#### **Textual Amendments**

**F267** Ss. 192A, 192B inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), 4

### **193 Relief under net pay arrangements**

- (1) This section applies where an individual is entitled to be given relief in accordance with this section in respect of the payment of a contribution under a pension scheme.
- (2) The amount of the contribution is to be allowed to be deducted by the sponsoring employer from the employment income from the individual's employment with the employer for the tax year in which the payment is made.
- (3) A deduction may be made only once in respect of the same contribution.
- (4) A claim for excess relief may be made if—
  - (a) the amount of the contributions paid by an individual under one or more relevant net pay pension schemes in a tax year exceeds the employment income from the individual's employment or employments with the sponsoring employer or employers for the tax year, or
  - (b) it is not possible for the sponsoring employer or employers for any other reason to deduct the whole amount of the contribution from the individual's employment income.
- (5) A net pay pension scheme is a relevant net pay pension scheme if the members of the pension scheme entitled to be given relief in accordance with this section in respect of the payment of contributions by them under the pension scheme include the individual.

*Status: Point in time view as at 15/09/2016.*

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- (6) On the making of the claim for excess relief the amount of the excess may be deducted [<sup>F268</sup>in calculating the net income] of the individual for the tax year [<sup>F269</sup>(see Step 2 of the calculation in section 23 of ITA 2007)].
- (7) Where, after relief is given to an individual in accordance with this section for a tax year, an assessment, alteration of an assessment or other adjustment of the individual's liability to tax is made, any appropriate consequential adjustments are to be made in relief given to the individual in accordance with this section.
- (8) Where relief is given to an individual in accordance with this section for a tax year in respect of a contribution, relief is not to be given in respect of it under any other provision of the Income Tax Acts.

#### Textual Amendments

**F268** Words in s. 193(6) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 475\(a\)](#) (with [Sch. 2](#))

**F269** Words in s. 193(6) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 475\(b\)](#) (with [Sch. 2](#))

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

**C50** S. 193 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [19](#)

#### Commencement Information

**I34** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## 194 Relief on making of claim

- (1) Where an individual is entitled to be given relief in accordance with this section in respect of the payment of a contribution, on the making of a claim the amount of the contribution may be deducted [<sup>F270</sup>in calculating the net income] of the individual for the tax year in which the payment is made [<sup>F271</sup>(see Step 2 of the calculation in section 23 of ITA 2007)].
- (2) Where, after relief is given to an individual in accordance with this section for a tax year, an assessment, alteration of an assessment or other adjustment of the individual's liability to tax is made, any appropriate consequential adjustments are to be made in relief given to the individual in accordance with this section.
- (3) Where relief is given to an individual in accordance with this section for a tax year in respect of a contribution, relief is not to be given—
- (a) in respect of the contribution under any other provision of the Income Tax Acts, or
  - (b) (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.

#### Textual Amendments

**F270** Words in s. 194(1) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 476\(a\)](#) (with [Sch. 2](#))

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F271** Words in s. 194(1) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 476\(b\)](#) (with [Sch. 2](#))

#### **Commencement Information**

**I35** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### **195 Transfer of certain shares to be treated as payment of contribution**

- (1) For the purposes of sections 188 to 194 (relief for contributions) references to contributions paid by an individual include contributions made in the form of the transfer by the individual of eligible shares in a company within the permitted period.
- (2) For the purposes of those sections the amount of a contribution made by way of a transfer of shares is the market value of the shares at the date of the transfer.
- (3) “Eligible shares”, in relation to a contribution made by an individual, means shares—
  - (a) which the individual has exercised a right to acquire in accordance with the provisions of an SAYE option scheme, or
  - (b) which have been appropriated to the individual in accordance with the provisions of a share incentive plan.
- (4) “The permitted period”—
  - (a) in relation to shares which the individual has exercised a right to acquire in accordance with the provisions of an SAYE option scheme, is the period of 90 days following the exercise of that right, and
  - (b) in relation to shares which have been appropriated to the individual in accordance with the provisions of a share incentive plan, is the period of 90 days following the date when the individual directed the trustees of the share incentive plan to transfer the ownership of the shares to the individual.
- (5) In this section—

“SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of ITEPA 2003 (<sup>F272</sup>... SAYE option schemes)), and

“share incentive plan” has the same meaning as in the SIP code (see section 488 of ITEPA 2003 (<sup>F273</sup>... share incentive plans)).

#### **Textual Amendments**

**F272** Word in s. 195(5) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 139](#), 146 (with [Sch. 8 paras. 147-157](#))

**F273** Word in s. 195(5) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 52](#), 89 (with [Sch. 8 paras. 90-96](#))

#### **Commencement Information**

**I36** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## **[<sup>F274</sup>195A] Life assurance premium contributions**

- (1) Contributions paid by or on behalf of an individual under a registered pension scheme are life assurance premium contributions for the purposes of section 188(3)(aa) if—
  - (a) rights under a non-group life policy (see subsection (2)) are (or later become) held for the purposes of the pension scheme, and
  - (b) the contributions are treated by this section as paid in respect of premiums under the non-group life policy (see subsections (3) to (5)).
- (2) For the purposes of this section a “non-group life policy” is a policy of insurance under which the only benefits which may become payable are benefits payable in consequence, or in anticipation, of—
  - (a) the death of the individual or one of a group of individuals which includes the individual, or
  - (b) the deaths of more than one of a group of individuals—
    - (i) which includes the individual, and
    - (ii) the other members of which are connected with the individual.
- (3) Contributions paid by or on behalf of the individual under the pension scheme are treated as paid in respect of premiums under the non-group life policy if—
  - (a) the payment of the contributions constitutes the payment of premiums under the policy, or
  - (b) the person by whom the contributions are paid intends the contributions (or an amount equivalent to them) to be applied towards paying premiums under the policy.
- (4) Where the amount of the premiums under the policy in a tax year exceeds the amount of any contributions treated as paid in respect of the premiums by subsection (3), other contributions paid by or on behalf of the individual under the pension scheme in the tax year are treated as paid in respect of premiums under the policy to the extent that their amount does not exceed the difference between the amount of the premiums and the amount of any contributions treated as paid in respect of the premiums by subsection (3).
- (5) But where—
  - (a) the benefits under the policy relate to the death of one or more of a group of individuals, and
  - (b) contributions are also paid under the pension scheme in the tax year by or on behalf of another member or other members of the group,
 the amount of the contributions paid by or on behalf of the individual which are treated as paid in respect of premiums under the policy by subsection (4) does not exceed what is just and reasonable having regard to the operation of section 188(3)(aa) in relation to the contributions paid by or on behalf of another member or other members of the group.
- (6) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend subsections (2) to (5).
- (7) Regulations under subsection (6) which limit—
  - (a) the policies of insurance which are non-group life assurance policies for the purposes of this section, or
  - (b) the contributions which are treated by this section as paid in respect of premiums under such policies,



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may be made so as to have effect in relation to times before they are made.

- (8) For the purposes of this section an individual (“A”) is connected with another individual (“B”) if—
- (a) A is B's spouse or civil partner,
  - (b) A is a relative of B,
  - (c) A is the spouse or civil partner of a relative of B,
  - (d) A is a relative of B's spouse or civil partner, or
  - (e) A is the spouse or civil partner of a relative of B's spouse or civil partner;
- and for the purposes of this subsection “relative” means brother, sister, ancestor or lineal descendant.]

#### Textual Amendments

**F274** S. 195A inserted (19.7.2007) (with effect in accordance with Sch. 18 paras. 4-7 of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 18 para. 3](#)

### *Employers' contributions*

#### **196 Relief for employers in respect of contributions paid**

- (1) This section makes provision about an employer’s entitlement to relief in respect of contributions paid by the employer under a registered pension scheme in respect of any individual.
- (2) For the purposes of [<sup>F275</sup>Part 2 of ITTOIA 2005][<sup>F276</sup>or Part 3 of CTA 2009 (trading income)] —
- (a) the contributions are to be treated as not being payments of a capital nature to the extent that they otherwise would be, and
  - (b) if they are allowed to be deducted in computing the amount of the profits of the employer, they are deductible in computing the amount of the profits for the period of account in which they are paid.
- (3) For the purposes of [<sup>F277</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), the contributions—
- (a) are to be treated as being expenses of management to the extent that they otherwise would not be, and
  - (b) are referable to the accounting period in which they are paid.
- (4) For the purposes of [<sup>F278</sup>section 76 of FA 2012] (expenses of insurance companies), the contributions—
- (a) are to be [<sup>F279</sup>treated as meeting the conditions in section 77(2)(a) and (c) of that Act to the extent that they would otherwise not meet them], and
  - (b) are referable to the accounting period in which they are paid.
- <sup>F280</sup>(5) . . . . .
- (6) This section is subject to sections 197 and 198 (spreading of relief) (and to transitional provision contained in Part 4 of Schedule 36).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Textual Amendments

- F275** Words in s. 196(2) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 646](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))
- F276** Words in s. 196(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 573\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F277** Words in s. 196(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 573\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F278** Words in s. 196(4) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 113\(a\)](#)
- F279** Words in s. 196(4)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 113\(b\)](#)
- F280** S. 196(5) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), s. 52(5)(10)

### Commencement Information

- I37** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F281</sup>196A] Power to restrict relief

- (1) The Board of Inland Revenue may make regulations for restricting the extent to which contributions paid by an employer under a registered pension scheme in respect of an individual are subject to relief in circumstances in which subsection (2) or (3) applies (or both do).
- (2) This subsection applies where any of the benefits which will or may be payable to or in respect of the individual under the registered pension scheme will be payable only if relevant benefits expected to be so paid under an employer-financed retirement benefits scheme are not so paid.
- (3) This subsection applies where, because relevant benefits are or may be payable to or in respect of the individual under an employer-financed retirement benefits scheme, the aggregate of the amount of any sums and the market value of any assets—
  - (a) held for the purposes of, or
  - (b) representing accrued rights under,
 the registered pension scheme which may be transferred by way of a recognised transfer in respect of the individual will or may be less than it otherwise would be.
- (4) The reference in subsection (1) to contributions paid by an employer being subject to relief is to—
  - (a) their being deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 [<sup>F282</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) their being expenses of management of the employer for the purposes of [<sup>F283</sup>section 1219 of CTA 2009] (expenses of management: companies with investment business), or
  - (c) their being [<sup>F284</sup>ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012],
 (depending on which is appropriate in relation to the employer).
- (5) In this section—
 

“employer-financed retirement benefits scheme”, and

“relevant benefits”,

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have the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act).]

#### Textual Amendments

- F281** S. 196A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 39, 64\(1\)](#)
- F282** Words in s. 196A(4)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 574\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F283** Words in s. 196A(4)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 574\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F284** Words in s. 196A(4)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 114](#)

#### [<sup>F285</sup>196E] **Employer asset-backed contributions: denial of relief (1)**

- (1) An employer (“E”) is not to be given relief in respect of a contribution (“E’s contribution”) paid by E under a registered pension scheme if conditions A, B and C are met.
- (2) Condition A is that—
- (a) under an arrangement (“the asset-backed arrangement”)—
    - (i) a person (“the borrower”) receives money or another asset (“the advance”) from another person (“the lender”),
    - (ii) the borrower, or a person connected with the borrower, makes a disposal of an asset (“the security”) to or for the benefit of the lender or a person connected with the lender, and
    - (iii) the lender, or a person connected with the lender, is entitled to payments in respect of the security,
  - (b) the borrower is E or a person connected with E, and
  - (c) the advance is (wholly or partly) paid or provided by the lender out of E’s contribution (directly or indirectly),
- and the case is not one in relation to which either condition A in section 196D or condition A in section 196F is met.
- (3) For the purposes of subsection (2)(a)(iii) it does not matter if an entitlement of the lender, or a person connected with the lender, is subject to any condition.
- (4) Condition B is that the asset-backed arrangement is not an acceptable structured finance arrangement (see section 196C).
- (5) Condition C is that it is reasonable to suppose that the amount of one or more of the payments mentioned in subsection (2)(a)(iii) has been, or is to be, determined (wholly or partly) on the basis that, in essence, the whole or a part of the advance represents a loan which is (wholly or partly) to be repaid by way of one or more of those payments.
- (6) For the purposes of subsection (5) it does not matter—
- (a) that the repayment of the loan might be subject to any condition, or
  - (b) that the accounts of any person do not record a financial liability in respect of the whole or a part of the advance or that the whole or a part of the advance is not otherwise treated as representing a loan for the purposes of the accounts of any person,

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but, subject to that, all relevant circumstances are to be taken into account in order to get to the essence of the matter.

- (7) For the purposes of this section—
- (a) the borrower and the lender are not connected with one another if that would otherwise be the case,
  - (b) if the borrower is not E, references to a person connected with the borrower include a person connected with E who would not otherwise be connected with the borrower, and
  - (c) “loan” includes any advance of money.

#### **Textual Amendments**

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196C Employer asset-backed contributions: “acceptable structured finance arrangement” (1)**

- (1) For the purposes of section 196B the asset-backed arrangement is an “acceptable structured finance arrangement” if conditions M to Q are met.
- (2) Condition M is that—
  - (a) in accordance with generally accepted accounting practice, the borrower's accounts for the period in which the advance is received record a financial liability (“the recorded financial liability”) in respect of the advance, and
  - (b) the asset-backed arrangement is a type 1 finance arrangement for the purposes of Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (finance arrangements).
- (3) Condition N is that—
  - (a) the lender is a responsible authority,
  - (b) the advance is money which is paid by the lender directly to the borrower wholly and directly out of E's contribution, and
  - (c) the advance and the recorded financial liability (as originally recorded) are both of an amount equal to the amount of E's contribution.
- (4) Condition O is that, as at the time the advance is paid, the position of the lender is as follows—
  - (a) it is the lender (and not any person connected with the lender) who is entitled to the payments mentioned in section 196B(2)(a)(iii),
  - (b) those payments are to arise at times which have been fixed and fall at intervals of no more than one year (but allowing for payments otherwise due to arise on a non-working day to arise on the next working day),
  - (c) the lender is to receive each payment no later than 3 months after the day on which the payment arises (but allowing for payments otherwise due to be received on a non-working day to be received on the next working day),
  - (d) on receipt by the lender, each payment is directly to become part of the sums held for the purposes of the registered pension scheme,

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- (e) the payments are all to be of the same amount,
  - (f) the total amount of the payments is not to be less than the amount of E's contribution, and
  - (g) all the payments are to be received by the lender within a period (“the payment period”) ending no later than the end of the period of 25 years beginning with the day on which E's contribution is paid.
- (5) For the purposes of subsection (4)(b) the first payment is to arise no later than one year after the day on which the advance is paid.
- (6) For the purposes of subsection (4)(e) the following are to be ignored—
- (a) negligible differences in the amounts of payments;
  - (b) differences in the amounts of payments which would be caused by a term of the asset-backed arrangement that requires the amounts of all outstanding payments to be increased periodically by a percentage which cannot be higher than the highest of the following—
    - (i) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the term of the asset-backed arrangement in question;
    - (ii) the percentage increase in the retail prices index for the reference period;
    - (iii) the percentage for the reference period which corresponds to 5% per annum.
- (7) For the purposes of subsection (4), in determining the lender's position, regard must be had (in particular) to any arrangements connected (directly or indirectly) to the asset-backed arrangement.
- (8) Condition P is that, as at the time the advance is paid, in accordance with generally accepted accounting practice the recorded financial liability is to be reduced to nil by the end of the payment period by (and only by) the payments mentioned in section 196B(2)(a)(iii).
- (9) Condition Q is that, as at the time the advance is paid, no commitment to which subsection (10) applies has been given.
- (10) This subsection applies to a commitment (whether or not legally enforceable and whether or not subject to any conditions) if—
- (a) it is given (directly or indirectly) to a relevant person,
  - (b) it is a commitment to secure that a person receives money or another asset, and
  - (c) it is linked (directly or indirectly) to the receipt by the lender of a payment mentioned in section 196B(2)(a)(iii).
- (11) In subsection (10)(a) “relevant person” means—
- (a) E;
  - (b) a person connected with E;
  - (c) a person acting (directly or indirectly) at the direction or request, or with the agreement, of E or a person connected with E;
  - (d) a person chosen (directly or indirectly) by E or a person connected with E;
  - (e) a person within a class of person chosen (directly or indirectly) by E or a person connected with E;
  - (f) a partnership;

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but does not include a responsible authority.

(12) In this section “responsible authority” means—

- (a) the persons who from time to time are the trustees of the registered pension scheme, or
  - (b) the persons who from time to time are the persons controlling the management of the registered pension scheme,
- in their capacity as such.

#### **Textual Amendments**

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

#### **196D Employer asset-backed contributions: denial of relief (2)**

- (1) An employer (“E”) is not to be given relief in respect of a contribution (“E’s contribution”) paid by E under a registered pension scheme if conditions A and B are met.
- (2) Condition A is that—
  - (a) under an arrangement (“the asset-backed arrangement”) a person (“the transferor”) makes a disposal of an asset (“the security”) to a partnership,
  - (b) the transferor is E or a person connected with E,
  - (c) the transferor, or a person connected with the transferor, is a member of the partnership immediately after the disposal (whether or not a member immediately before it),
  - (d) under the asset-backed arrangement the partnership receives money or another asset (“the advance”) from a person (“the lender”) other than the transferor,
  - (e) the advance is (wholly or partly) paid or provided by the lender out of E’s contribution (directly or indirectly),
  - (f) there is a relevant change in relation to the partnership (see section 196H), and
  - (g) under the asset-backed arrangement the share in the partnership’s profits of the person involved in the relevant change (see section 196H) is determined by reference (wholly or partly) to payments in respect of the security.
- (3) If the transferor is not E, for the purposes of this section references to a person connected with the transferor include a person connected with E who would not otherwise be connected with the transferor.
- (4) For the purposes of subsection (2)(g) it does not matter if any determination of the share in the partnership’s profits of the person involved in the relevant change as mentioned is subject to any condition.
- (5) Condition B is that the asset-backed arrangement is not an acceptable structured finance arrangement (see section 196E).

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### Textual Amendments

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

## 196E Employer asset-backed contributions: “acceptable structured finance arrangement” (2)

- (1) For the purposes of section 196D the asset-backed arrangement is an “acceptable structured finance arrangement” if conditions M to Q are met.
- (2) Condition M is that—
  - (a) in accordance with generally accepted accounting practice, the partnership's accounts for the period in which the advance is received record a financial liability (“the recorded financial liability”) in respect of the advance, and
  - (b) the asset-backed arrangement is a type 2 finance arrangement for the purposes of Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (finance arrangements).
- (3) Condition N is that—
  - (a) the lender is a responsible authority,
  - (b) the advance is money which is paid by the lender directly to the partnership wholly and directly out of E's contribution, and
  - (c) the advance and the recorded financial liability (as originally recorded) are both of an amount equal to the amount of E's contribution.
- (4) Condition O is that, as at the time the advance is paid, the position of the lender is as follows—
  - (a) it is the lender (and not any person connected with the lender) who is or is to be the person involved in the relevant change in relation to the partnership,
  - (b) the lender's share in the partnership's profits is to be determined wholly by reference to the payments mentioned in section 196D(2)(g),
  - (c) determinations of the lender's share in the partnership's profits are to be made at times which have been fixed and fall at intervals of no more than one year (but allowing for determinations otherwise due to be made on a non-working day to be made on the next working day),
  - (d) no later than 3 months after the day on which a determination of the lender's share in the partnership's profits is made, the lender is to make a drawing from the partnership on account of its determined share (but allowing for drawings otherwise due to be made on a non-working day to be made on the next working day),
  - (e) on its making, each drawing is directly to become part of the sums held for the purposes of the registered pension scheme,
  - (f) the drawings are all to be of the same amount,
  - (g) the total amount of the drawings is not to be less than the amount of E's contribution, and
  - (h) all of the lender's share in the partnership's profits is to be drawn by the lender from the partnership within a period (“the drawing period”) ending no later

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than the end of the period of 25 years beginning with the day on which E's contribution is paid.

- (5) For the purposes of subsection (4)(c) the first determination is to be made no later than one year after the day on which the advance is paid.
- (6) For the purposes of subsection (4)(f) the following are to be ignored—
- (a) negligible differences in the amounts of drawings;
  - (b) differences in the amounts of drawings which would be caused by a term of the asset-backed arrangement that requires the amounts of all outstanding drawings to be increased periodically by a percentage which cannot be higher than the highest of the following—
    - (i) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the term of the asset-backed arrangement in question;
    - (ii) the percentage increase in the retail prices index for the reference period;
    - (iii) the percentage for the reference period which corresponds to 5% per annum.
- (7) In determining the lender's position for the purposes of subsection (4), regard must be had (in particular) to any arrangements connected (directly or indirectly) to the asset-backed arrangement.
- (8) Condition P is that, as at the time the advance is paid, in accordance with generally accepted accounting practice the recorded financial liability is to be reduced to nil by the end of the drawing period by (and only by) the payments mentioned in section 196D(2)(g).
- (9) Condition Q is that, as at the time the advance is paid, no commitment to which subsection (10) applies has been given.
- (10) This subsection applies to a commitment (whether or not legally enforceable and whether or not subject to any conditions) if—
- (a) it is given (directly or indirectly) to a relevant person,
  - (b) it is a commitment to secure that a person receives money or another asset, and
  - (c) it is linked (directly or indirectly) to any determination of the lender's share in the partnership's profits or any drawing from the partnership on account of that share.
- (11) In subsection (10)(a) “relevant person” means—
- (a) E;
  - (b) a person connected with E;
  - (c) a person acting (directly or indirectly) at the direction or request, or with the agreement, of E or a person connected with E;
  - (d) a person chosen (directly or indirectly) by E or a person connected with E;
  - (e) a person within a class of person chosen (directly or indirectly) by E or a person connected with E;
  - (f) a partnership;
- but does not include a responsible authority.
- (12) In this section—
- (a) “responsible authority” means—



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- (i) the persons who from time to time are the trustees of the registered pension scheme, or
  - (ii) the persons who from time to time are the persons controlling the management of the registered pension scheme,
- in their capacity as such, and
- (b) references to the making of drawings from the partnership include references to the receiving of distributions from the partnership.

#### Textual Amendments

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### 196F Employer asset-backed contributions: denial of relief (3)

- (1) An employer (“E”) is not to be given relief in respect of a contribution (“E’s contribution”) paid by E under a registered pension scheme if conditions A and B are met.
- (2) Condition A is that—
  - (a) a partnership holds an asset (“the security”) at any time before an arrangement (“the asset-backed arrangement”) is made,
  - (b) under the asset-backed arrangement the partnership receives money or another asset (“the advance”) from another person (“the lender”),
  - (c) the advance is (wholly or partly) paid or provided by the lender out of E’s contribution (directly or indirectly),
  - (d) there is a relevant change in relation to the partnership (see section 196H), and
  - (e) under the asset-backed arrangement the share in the partnership’s profits of the person involved in the relevant change (see section 196H) is determined by reference (wholly or partly) to payments in respect of the security.
- (3) For the purposes of subsection (2)(e) it does not matter if any determination of the share in the partnership’s profits of the person involved in the relevant change as mentioned is subject to any condition.
- (4) Condition B is that the asset-backed arrangement is not an acceptable structured finance arrangement (see section 196G).

#### Textual Amendments

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### **196G Employer asset-backed contributions: “acceptable structured finance arrangement” (3)**

- (1) For the purposes of section 196F the asset-backed arrangement is an “acceptable structured finance arrangement” if conditions M to Q are met.
- (2) Condition M is that—
  - (a) in accordance with generally accepted accounting practice, the partnership's accounts for the period in which the advance is received record a financial liability (“the recorded financial liability”) in respect of the advance, and
  - (b) the asset-backed arrangement is a type 3 finance arrangement for the purposes of Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (finance arrangements).
- (3) Condition N is that—
  - (a) the lender is a responsible authority,
  - (b) the advance is money which is paid by the lender directly to the partnership wholly and directly out of E's contribution, and
  - (c) the advance and the recorded financial liability (as originally recorded) are both of an amount equal to the amount of E's contribution.
- (4) Condition O is that, as at the time the advance is paid, the position of the lender is as follows—
  - (a) it is the lender (and not any person connected with the lender) who is or is to be the person involved in the relevant change in relation to the partnership,
  - (b) the lender's share in the partnership's profits is to be determined wholly by reference to the payments mentioned in section 196F(2)(e),
  - (c) determinations of the lender's share in the partnership's profits are to be made at times which have been fixed and fall at intervals of no more than one year (but allowing for determinations otherwise due to be made on a non-working day to be made on the next working day),
  - (d) no later than 3 months after the day on which a determination of the lender's share in the partnership's profits is made, the lender is to make a drawing from the partnership on account of its determined share (but allowing for drawings otherwise due to be made on a non-working day to be made on the next working day),
  - (e) on its making, each drawing is directly to become part of the sums held for the purposes of the registered pension scheme,
  - (f) the drawings are all to be of the same amount,
  - (g) the total amount of the drawings is not to be less than the amount of E's contribution, and
  - (h) all of the lender's share in the partnership's profits is to be drawn by the lender from the partnership within a period (“the drawing period”) ending no later than the end of the period of 25 years beginning with the day on which E's contribution is paid.
- (5) For the purposes of subsection (4)(c) the first determination is to be made no later than one year after the day on which the advance is paid.
- (6) For the purposes of subsection (4)(f) the following are to be ignored—
  - (a) negligible differences in the amounts of drawings;

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- (b) differences in the amounts of drawings which would be caused by a term of the asset-backed arrangement that requires the amounts of all outstanding drawings to be increased periodically by a percentage which cannot be higher than the highest of the following—
- (i) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the term of the asset-backed arrangement in question;
  - (ii) the percentage increase in the retail prices index for the reference period;
  - (iii) the percentage for the reference period which corresponds to 5% per annum.
- (7) In determining the lender's position for the purposes of subsection (4), regard must be had (in particular) to any arrangements connected (directly or indirectly) to the asset-backed arrangement.
- (8) Condition P is that, as at the time the advance is paid, in accordance with generally accepted accounting practice the recorded financial liability is to be reduced to nil by the end of the drawing period by (and only by) the payments mentioned in section 196F(2)(e).
- (9) Condition Q is that, as at the time the advance is paid, no commitment to which subsection (10) applies has been given.
- (10) This subsection applies to a commitment (whether or not legally enforceable and whether or not subject to any conditions) if—
- (a) it is given (directly or indirectly) to a relevant person,
  - (b) it is a commitment to secure that a person receives money or another asset, and
  - (c) it is linked (directly or indirectly) to any determination of the lender's share in the partnership's profits or any drawing from the partnership on account of that share.
- (11) In subsection (10)(a) “relevant person” means—
- (a) E;
  - (b) a person connected with E;
  - (c) a person acting (directly or indirectly) at the direction or request, or with the agreement, of E or a person connected with E;
  - (d) a person chosen (directly or indirectly) by E or a person connected with E;
  - (e) a person within a class of person chosen (directly or indirectly) by E or a person connected with E;
  - (f) a partnership;
- but does not include a responsible authority.
- (12) In this section—
- (a) “responsible authority” means—
    - (i) the persons who from time to time are the trustees of the registered pension scheme, or
    - (ii) the persons who from time to time are the persons controlling the management of the registered pension scheme,in their capacity as such, and

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- (b) references to the making of drawings from the partnership include references to the receiving of distributions from the partnership.

#### **Textual Amendments**

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196H Employer asset-backed contributions: “relevant change in relation to the partnership” and “person involved in the relevant change”**

- (1) For the purposes of sections 196D and 196F there is a relevant change in relation to the partnership if condition X or Y is met.
- (2) Condition X is that, in connection with the asset-backed arrangement, the lender or a person connected with the lender becomes a member of the partnership at any time.
- (3) Condition Y is that—
  - (a) in connection with the asset-backed arrangement, there is at any time a change in a member's share in the partnership's profits, and
  - (b) the member is the lender or a person connected with the lender or a person who in connection with the asset-backed arrangement becomes at any time connected with the lender.
- (4) For the purposes of subsections (2) and (3) an event occurs in connection with the asset-backed arrangement if it occurs directly or indirectly in consequence of it or otherwise in connection with it.
- (5) For the purposes of sections 196D to 196G references to the person involved in the relevant change in relation to the partnership are—
  - (a) if it is condition X that is met, to the lender or the person connected with the lender (as the case may be), and
  - (b) if it is condition Y that is met, to the member of the partnership in whose share in the partnership's profits there is a change.

#### **Textual Amendments**

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196I Employer asset-backed contributions: change in lender's original position under acceptable structured finance arrangement etc**

- (1) This section applies if—
  - (a) an employer (“E”) pays a contribution (“E's contribution”) under a registered pension scheme,

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- (b) conditions A and C in section 196B are met or condition A in section 196D or 196F is met,
  - (c) the asset-backed arrangement is an acceptable structured finance arrangement for the purposes of section 196B, 196D or 196F (as the case may be) and, accordingly, condition B in that section is not met, and
  - (d) at any time (“the relevant time”) after the advance is paid—
    - (i) the lender's position changes from the lender's original position in any respect (whether as a result of a term of the asset-backed arrangement or another arrangement or otherwise),
    - (ii) an event occurs or does not occur and the occurrence or non-occurrence of the event does not accord with the lender's original position in any respect,
    - (iii) in accordance with generally accepted accounting practice, the recorded financial liability is reduced to nil other than by a payment mentioned in section 196B(2)(a)(iii), 196D(2)(g) or section 196F(2)(e) (as the case may be),
    - (iv) a commitment to which section 196C(10), 196E(10) or 196G(10) (as the case may be) applies is given, or
    - (v) an event falling within section 196J occurs.
- (2) This section also applies if—
- (a) the requirements of subsection (1)(a) to (c) are met, and
  - (b) at any time (“the relevant time”) after the advance is paid, in accordance with generally accepted accounting practice, the recorded financial liability is reduced in part other than by a payment mentioned in section 196B(2)(a)(iii), 196D(2)(g) or section 196F(2)(e) (as the case may be).
- (3) Subject to subsection (4), the relevant amount is treated as follows as relevant—
- (a) for corporation tax purposes, the relevant amount is treated as if it were a profit which E has in respect of E's loan relationships chargeable to corporation tax under section 299 of CTA 2009 for E's accounting period in which the relevant time falls, or
  - (b) for income tax purposes, the relevant amount is treated as if it were an amount of income of E chargeable to income tax under Chapter 8 of Part 5 of ITTOIA 2005 for the tax year in which the relevant time falls.
- (4) The amount treated as profit or income by subsection (3)(a) or (b), together with any amounts so treated on any previous applications of this section in relation to the asset-backed arrangement, is not to exceed the total amount of relief given in respect of E's contribution.
- (5) If this section applies by virtue of subsection (1), from the relevant time Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (as relevant) is no longer to apply in relation to the asset-backed arrangement.
- (6) But no person is, by virtue of subsection (5), to be placed in a position which is more advantageous than the position in which the person would have been had this section never applied; and, in order to give effect to this principle, such assessments to tax or adjustments to any assessment to tax as are just and reasonable are to be made.
- (7) Subsection (1)(d)(i) and (ii) does not cover—

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- (a) cases in which the lender's change in position, or the occurrence or non-occurrence of the event, is the direct result of a mere administrative error, so long as the consequences of the error are remedied promptly, or
  - (b) mere changes in the persons who are the trustees of the registered pension scheme or in the persons who control the management of the registered pension scheme.
- (8) For the purposes of subsection (1)(d)(ii) it does not matter if the occurrence or non-occurrence of the event is authorised by a term of the asset-backed arrangement or results from the occurrence or non-occurrence of another event which is so authorised.
- (9) If this section applies by virtue of subsection (1)(d)(v), in subsection (3) references to the relevant time are to be read as references to the time immediately before the relevant time.
- (10) In this section—
- “the advance” and “the asset-backed arrangement” have the same meaning as in section 196B, 196D or 196F (as the case may be),
  - “the lender's original position” means the lender's position as at the time the advance is paid set out in the paragraphs of section 196C(4), 196E(4) or 196G(4) (as the case may be),
  - “the recorded financial liability” has the same meaning as in section 196C, 196E or 196G (as the case may be), and
  - “the relevant amount” means—
    - (a) if this section applies by virtue of subsection (1), the outstanding amount of the recorded financial liability immediately before the relevant time determined in accordance with generally accepted accounting practice, or
    - (b) if this section applies by virtue of subsection (2), the amount of the reduction of the recorded financial liability.

#### **Textual Amendments**

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

#### **196J Employer asset-backed contributions: further events which cause section 196I to apply**

- (1) The events falling within this section are those listed in subsection (2).
- (2) The events are—
- (a) if E is a company within the charge to corporation tax when E's contribution is paid, E ceases to be within that charge;
  - (b) if E is a limited liability partnership in relation to which section 863(1) of ITTOIA 2005 or section 1273(1) of CTA 2009 applies when E's contribution is paid, that provision ceases to apply in relation to E;
  - (c) if E is a firm for the purposes of ITTOIA 2005 (see section 847) or CTA 2009 (see section 1257) (other than a limited liability partnership) when E's

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contribution is paid, the partnership ceases to carry on the trade, profession or business in question;

- (d) in any case—
- (i) if E is a company, E enters administration or the winding up of E starts;
  - (ii) if E is a partnership, the partnership is dissolved;
  - (iii) if E is an individual, E dies.

(3) Sections 10(3) and 12(7) of CTA 2009 apply for the purposes of subsection (2)(d)(i).

#### Textual Amendments

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196K Employer asset-backed contributions: “advances” under acceptable structured finance arrangements**

- (1) This section applies if—
- (a) an employer pays a contribution under a registered pension scheme,
  - (b) condition A in section 196B, 196D or 196F is met,
  - (c) the asset-backed arrangement is an acceptable structured finance arrangement for the purposes of section 196B, 196D or 196F (as the case may be) and, accordingly, condition B in that section is not met, and
  - (d) the advance gives rise to a loan within the meaning of Chapter 3 (see section 162).
- (2) Section 180(4) does not prevent the advance from being a scheme administration employer payment (if it would otherwise do so).
- (3) In this section “the advance” and “the asset-backed arrangement” have the same meaning as in section 196B, 196D or 196F (as the case may be).

#### Textual Amendments

**F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196L Employer asset-backed contributions: supplementary**

- (1) This section applies for the purposes of sections 196B to 196K.
- (2) References to relief being given in respect of a contribution paid by an employer under a registered pension scheme are references to relief being given by way of—
- (a) the contribution being deducted in computing the amount of the employer's profits for the purposes of Part 2 of ITTOIA 2005 or Part 3 of CTA 2009 (trading income),

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- (b) the contribution being treated as an expense of management of the employer for the purposes of Chapter 2 of Part 16 of CTA 2009 (expenses of management: companies with investment business), or
  - [ the contribution being ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012.]
- <sup>F286</sup>(c) [
- (3) Whether a person is connected with another person is determined in accordance with section 1122 of CTA 2010.
- (4) Sections 774, 775 and 776(2) and (4) of CTA 2010 apply as they apply for the purposes of Chapter 2 of Part 16 of that Act.
- (5) A reference to a disposal of an asset includes—
  - (a) anything constituting a disposal of an asset for the purposes of TCGA 1992, and
  - (b) so far as not covered by paragraph (a), the taking of any step by virtue of which a person receives an asset.
- (6) Section 776(2) of CTA 2010 applies for the purposes of subsection (5)(b).
- (7) “Non-working day” means—
  - (a) a Saturday or Sunday,
  - (b) a Christmas Eve, Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom,
 and “working day” is to be read accordingly.]

#### Textual Amendments

- F285** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))
- F286** S. 196L(2)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 115](#)

## 197 Spreading of relief

- (1) This section applies where—
  - (a) contributions are paid by an employer under a registered pension scheme in two consecutive chargeable periods (“the previous chargeable period” and “the current chargeable period”), and
  - (b) the amount of the contributions paid in the current chargeable period otherwise than for an excepted purpose (“CCCP”) exceeds 210% of the amount of the contributions paid in the previous chargeable period (“CPCP”).
- (2) Relief under [<sup>F287</sup>the relieving provisions] is to be given in respect of so much of CCCP as exceeds 110% of CPCP (“the amount of the relevant excess contributions”) in accordance with subsections (4) and (5).
- (3) But subsection (2)—
  - (a) does not apply if the amount of the relevant excess contributions is less than £500,000, and



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- (b) has effect subject to section 198 (cessation of business).
- (4) A fraction of the whole of the amount of the relevant excess contributions is to be treated for the purposes of [F288 the relieving provisions] as if it had been paid in the chargeable period, or in each of the two or three chargeable periods, immediately after the current chargeable period (leaving only the remainder to be treated as paid in the current chargeable period).
- (5) The following table specifies (by reference to the amount of the relevant excess contributions)—
- (a) the fraction of the whole of the amount of the relevant excess contributions which is to be treated as paid in the chargeable period, or in each of the two or three chargeable periods, immediately after the current chargeable period, and
  - (b) the chargeable period or periods in which it is to be treated as paid.

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<b>AMOUNT OF THE RELEVANT EXCESS CONTRIBUTIONS</b>	<b>FRACTION AND CHARGEABLE PERIOD OR PERIODS</b>
500,000 or more but less than 1,000,000	One-half of the whole of the amount of the relevant excess contributions is to be treated as paid in the chargeable period immediately after the current chargeable period
1,000,000 or more but less than 2,000,000	One-third of the whole of the amount of the relevant excess contributions is to be treated as paid in each of the two chargeable periods immediately after the current chargeable period
2,000,000 or more	One-quarter of the whole of the amount of the relevant excess contributions is to be treated as paid in each of the three chargeable periods immediately after the current chargeable period

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- (6) Subsection (7) specifies for the purposes of subsection (1) when contributions paid by the employer in the current chargeable period are paid for an excepted purpose.
- (7) They are paid for an excepted purpose if paid with a view to funding—
- (a) an increase in the amount of pensions paid to pensioner members of the pension scheme to reflect increases in the cost of living, or
  - (b) benefits which may accrue under the pension scheme to or in respect of individuals who become members of the pension scheme in the current chargeable period as a result of future service as employees of the employer.
- (8) Where the previous chargeable period and the current chargeable period are not of equal length, this section has effect as if CPCP were the amount it would otherwise be as adjusted by being multiplied by the appropriate factor.
- (9) The appropriate factor is—

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DCCP  


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 DPCP

where—

DCCP is the number of days in the current chargeable period, and

DPCP is the number of days in the previous chargeable period.

<sup>F289</sup>(9A) In this section “the relieving provisions” means the provisions mentioned in subsections (2) to (4) of section 196 (relief for employers in respect of contributions paid), as they have effect under that section.]

(10) In this section “chargeable period” means—

- (a) in a case where the contributions are deducted in computing profits to be charged under <sup>F290</sup>Part 2 of ITTOIA 2005]<sup>F291</sup> or Part 3 of CTA 2009 (trading income),] a period of account, and
- (b) in a case where relief in respect of the contributions is given under <sup>F292</sup><sup>F293</sup>section 76 of FA 2012] (expenses of insurance companies) or Chapter 2 of Part 16 of CTA 2009 (expenses of management: companies with investment business), an accounting period.]

#### Textual Amendments

- F287** Words in s. 197(2) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(2\)\(a\)](#)
- F288** Words in s. 197(4) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(2\)\(b\)](#)
- F289** S. 197(9A) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(2\)\(c\)](#)
- F290** Words in s. 197(10)(a) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 647](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))
- F291** Words in s. 197(10)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 575\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F292** Words in s. 197(10)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 575\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F293** Words in s. 197(10)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 116](#)

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

- C51** S. 197 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), [regs. 1, 20](#)

#### Commencement Information

- I38** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 198 Spreading of relief: cessation of business

(1) This section applies if—

- (a) the employer ceases to carry on business in the current chargeable period or a later chargeable period in which section 197(4) would require a fraction of the amount of the relevant excess contributions to be treated as paid, and
- (b) were section 197(4) to apply, relief in relation to the whole of the amount of the relevant excess contributions would not be given pre-cessation.

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- (2) Relief is given pre-cessation if it is given for the chargeable period in which the employer ceases to carry on business or any earlier chargeable period.
- (3) The portion of the amount of the relevant excess contributions in relation to which relief would not have been given pre-cessation (“the unrelieved portion”) is to be treated as paid (at the option of the employer) either—
  - (a) in the chargeable period in which the employer ceases to carry on business, or
  - (b) as provided by subsection (4).
- (4) This subsection provides that the amount determined under subsection (5) is to be treated as paid on each day in the period—
  - (a) beginning with the current chargeable period, and
  - (b) ending with the day on which the employer ceases to carry on business, (“the relevant period”).
- (5) The amount referred to in subsection (4) is—

$$\frac{UP}{DRP}$$

where—

UP is the amount of the unrelieved portion, and

DRP is the number of days in the relevant period.

- (6) Expressions used in this section and section 197 have the same meaning in this section as in that section.

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

**C52** S. 198 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 20

**Commencement Information**

**I39** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 199 Deemed contributions

- (1) This section applies where a sum is paid to the trustees or managers of a registered pension scheme by an employer in or towards the discharge of any liability of the employer under—
  - (a) section 75 of the Pensions Act 1995 (c. 26)(deficiencies in the assets of a pension scheme), or
  - (b) Article 75 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (corresponding provision for Northern Ireland).
- (2) The making of the payment is to be treated for the purposes of [F294, the relieving provisions (within the meaning of section 197) and sections 197 and 198] as if it were the payment of a contribution by the employer under the pension scheme.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

(3) Subsections (4) and (5) apply if the employer’s trade, profession, vocation or business is discontinued before the making of the payment.

(4) The payment is to be relieved—

- (a) to the same extent as it would have been but for the discontinuance, and
- (b) as if it had been made on the last day on which the trade, profession, vocation or business was carried on.

[<sup>F295</sup>(5) And, for the purposes of section 76 of FA 2012, it is to be treated as meeting the conditions in section 77(2)(a) and (c) of that Act to the extent that it would otherwise not meet them.]

#### **Textual Amendments**

**F294** Words in s. 199(2) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(3\)](#)

**F295** S. 199(5) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 117](#)

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

**C53** S. 199 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [21](#)

**C54** S. 199 applied (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. [1\(1\)](#), [3\(2\)](#)

#### **Commencement Information**

**I40** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### [<sup>F296</sup>**199A** **Indirect contributions**

(1) This section applies where an employer (“E”)—

- (a) pays contributions under a registered pension scheme (“the original scheme”) in a chargeable period, and
- (b) would (apart from subsection (4)) be entitled in the next chargeable period to an amount of relief in respect of a payment within subsection (2),

and the avoidance condition is met.

(2) A payment is within this subsection if all or part of the payment is intended to facilitate the payment of pension contributions under the original scheme or a substitute scheme by a person other than E.

(3) The avoidance condition is that—

- (a) section 197 would apply if, in the chargeable period mentioned in subsection (1)(b), E paid pension contributions under the original scheme of the amount of the relevant relief, and
- (b) the purpose, or one of the purposes, of facilitating the payment of pension contributions by a person other than E is to enable pension contributions to be paid without that section applying.

(4) For the purposes of the spreading provisions, the amount of the relevant relief is to be treated as the amount of a pension contribution paid by E under the original scheme in the chargeable period mentioned in subsection (1)(b).

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) The “relevant relief” is the relief to which the employer would (apart from subsection (4)) be entitled in that chargeable period in respect of—
- (a) the payment within subsection (2), or
  - (b) where only part of the payment is intended to facilitate the payment of pension contributions as mentioned in that subsection, that part of the payment.
- (6) A “substitute scheme” is any registered pension scheme—
- (a) to which there is a relevant transfer in the period of 2 years ending with the day on which the payment within subsection (2) is made, or
  - (b) to which it is envisaged that a relevant transfer will or may be made after that day.
- (7) A relevant transfer is a recognised transfer from the original scheme of more than 30% of the aggregate of—
- (a) in a case within subsection (6)(a), the amount of the sums and the market value of the assets held for the purposes of, or representing accrued rights under, the original scheme immediately before the transfer, and
  - (b) in a case within subsection (6)(b), the amount of those sums and the market value of those assets on the day on which the payment is made.
- (8) If there is a transfer from a substitute scheme to another registered pension scheme which would have been a relevant transfer had it been a transfer from the original scheme at the time the relevant transfer was made, that other scheme is also a substitute scheme.
- (9) In subsection (1)(b) the reference to relief in respect of a payment within subsection (2) includes relief for a liability in respect of the making of the payment by a person other than E.
- (10) In this section references to E being entitled to an amount of relief are to an amount—
- (a) being deductible in computing the amount of the profits of E for the purposes of Part 2 of ITTOIA 2005 [<sup>F297</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) being expenses of management of E for the purposes of [<sup>F298</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), or
  - (c) being [<sup>F299</sup>ordinary BLAGAB management expenses of E for an accounting period for the purposes of section 76 of FA 2012].
- (11) In this section—
- “the spreading provisions” means sections 197 and 198 and this section, and
  - “chargeable period” has the meaning given by section 197.]

#### Textual Amendments

**F296** S. 199A inserted (21.7.2008) (with effect in accordance with s. 90(2) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 90\(1\)](#)

**F297** Words in s. 199A(10)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 576\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))

**F298** Words in s. 199A(10)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 576\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F299** Words in s. 199A(10)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 118](#)

## 200 No other relief for employers in connection with contributions

No sums other than contributions paid by an employer under a registered pension scheme—

- (a) are deductible in computing the amount of the profits of the employer for the purposes of [<sup>F300</sup>Part 2 of ITTOIA 2005][<sup>F301</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) are expenses of management for the purposes of [<sup>F302</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), or
  - [<sup>F303</sup>(c) are to count as ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012,]
- in connection with the cost of providing benefits under the pension scheme.

### Textual Amendments

- F300** Words in s. 200(a) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 649](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))
- F301** Words in s. 200(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 577\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F302** Words in s. 200(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 577\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F303** S. 200(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 119](#)

### Modifications etc. (not altering text)

- C55** S. 200 applied (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [3\(3\)](#)

### Commencement Information

- I41** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 201 Relief for employees

- (1) In section 307(1) of ITEPA 2003 (exemption for provision made by employer for retirement or death benefit), after “employer” insert “ under a registered pension scheme or otherwise ”.
- (2) For section 308 of ITEPA 2003 (exemption of contributions to approved personal pension arrangements) substitute—

### “308 Exemption of contributions to registered pension scheme

No liability to income tax arises in respect of earnings where an employee’s employer makes contributions under a registered pension scheme.”

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Commencement Information

**I42** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Inland Revenue contributions*

## **202 Minimum contributions under pensions legislation**

F304(1) .....

F304(2) .....

F304(3) .....

F304(4) .....

- (5) The Board of Inland Revenue may by regulations—
- (a) prescribe circumstances in which this section does not apply, or
  - (b) make provision supplementing this section.

F304(6) .....

#### Textual Amendments

**F304** S. 202 omitted (6.4.2016 except for s. 202(5)) by virtue of [Finance Act 2013 \(c. 29\), s. 52\(6\)\(12\)](#)

#### Commencement Information

**I43** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Inheritance tax exemptions*

## **203 Inheritance tax exemptions**

- (1) The Inheritance Tax Act 1984 (c. 51) is amended as follows.
- (2) In section 12 (dispositions that are not transfers of value)—
- (a) in subsection (2), for the words following “if” substitute “ it is a contribution under a registered pension scheme or section 615(3) scheme in respect of an employee of the person making the disposition. ”, and
  - (b) omit subsections (3) and (4).
- (3) In section 58(1) (settled property in which no qualifying interest in possession subsists but which is not “relevant property”), for paragraph (d) substitute—
- “(d) property which is held for the purposes of a registered pension scheme or section 615(3) scheme;”.
- (4) In section 151 (treatment of pension rights etc.)—
- (a) omit subsections (1) and (1A),

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- (b) in subsections (2), (4) and (5), for “fund or scheme to which this section applies” substitute “registered pension scheme or section 615(3) scheme”, and
  - (c) in subsection (2)(b), for the “fund or scheme” (in both places) substitute “scheme”.
- (5) In section 152 (cash options), for the words from the beginning to “or scheme” substitute “Where on a person’s death an annuity becomes payable under a registered pension scheme or section 615(3) scheme to a widow, widower<sup>F305</sup>, surviving civil partner] or dependant of that person and under the terms of the scheme”.
- (6) In section 272 (general interpretation), insert at the appropriate places—
- ““registered pension scheme” has the same meaning as in Part 4 of the Finance Act 2004;”, and
- ““section 615(3) scheme” means a superannuation fund to which section 615(3) of the Taxes Act 1988 applies;”.

#### **Textual Amendments**

**F305** Words in s. 203(5) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **178**

#### **Commencement Information**

**I44** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## **CHAPTER 5**

### REGISTERED PENSION SCHEMES: TAX CHARGES

#### *Charges on authorised payments*

#### **204 Authorised pensions and lump sums**

- (1) Schedule 31 contains provision about the taxation of pensions and lump sums which are authorised to be paid by this Part.
- (2) Schedule 36 contains (in Part 4) transitional provision about the taxation of annuities under existing retirement annuity contracts and other relevant transitional provision.

#### **Commencement Information**

**I45** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### **205 Short service refund lump sum charge**

- (1) A charge to income tax, to be known as the short service refund lump sum charge, arises where a short service refund lump sum is paid by a registered pension scheme.



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (2) The person liable to the short service refund lump sum charge is the scheme administrator.
- (3) The scheme administrator is liable to the short service refund lump sum charge whether or not—
  - (a) the scheme administrator, and
  - (b) the person to whom the short service refund lump sum is paid, are resident<sup>F306</sup> ... or domiciled in the United Kingdom.
- (4) The rate of the charge is—
  - (a) 20% in respect of so much of the lump sum as does not exceed [<sup>F307</sup>£20,000], and
  - (b) [<sup>F308</sup>50%] in respect of so much (if any) of it as exceeds that limit.
- (5) The Treasury may by order amend subsection (4) so as to—
  - (a) increase or decrease either or both of the rates for the time being specified in that subsection, or
  - (b) increase the limit for the time being specified in paragraph (a) of that subsection.
- (6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.
- (7) A short service refund lump sum is not to be treated as income for any purpose of the Tax Acts.

#### Textual Amendments

- F306** Words in s. 205(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 121](#)
- F307** Sum in s. 205(4)(a) substituted (24.3.2010 with effect for the tax year 2010-11 and subsequent tax years) by [The Taxation of Pensions Schemes \(Rates, etc\) Order 2010 \(S.I. 2010/536\)](#), [arts. 1, 3\(2\)](#)
- F308** Percentage in s. 205(4)(b) substituted (24.3.2010 with effect for the tax year 2010-11 and subsequent tax years) by [The Taxation of Pensions Schemes \(Rates, etc\) Order 2010 \(S.I. 2010/536\)](#), [arts. 1, 3\(3\)](#)

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

- C56** S. 205 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)
- C57** S. 205 applied by 2003 c. 1, s. 636A(3) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))

#### Commencement Information

- I46** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### <sup>F309</sup>205A Serious ill-health lump sum charge

.....

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects  
 for the Finance Act 2004, Part 4. (See end of Document for details)*

### Textual Amendments

**F309** S. 205A omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of Finance Act 2016 (c. 24), Sch. 5 para. 1(2)

## 206 Special lump sum death benefits charge

- (1) A charge to income tax, to be known as the special lump sum death benefits charge, arises where—
- (a) a pension protection lump sum death benefit,
  - (b) an annuity protection lump sum death benefit, <sup>F310</sup> ...
  - <sup>F311</sup>(c) a drawdown pension fund lump sum death benefit, <sup>F312</sup> or
  - (d) a flexi-access drawdown fund lump sum death benefit,
- is paid <sup>F313</sup>, to a non-qualifying person,] by a registered pension scheme <sup>F314</sup> in respect of a member who had reached the age of 75 at the date of the member's death].
- <sup>F315</sup>(1ZA) In subsection (1) the reference to a member (and to the member's death) are to be read—
- (a) in relation to—
    - (i) a drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29, or
    - (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2) of Schedule 29,
 as a reference to a dependant (and to the dependant's death),
  - (b) in relation to a flexi-access drawdown fund lump sum death benefit under paragraph 17A(3) of Schedule 29, as a reference to a nominee (and to the nominee's death), and
  - (c) in relation to a flexi-access drawdown fund lump sum death benefit under paragraph 17A(4) of Schedule 29, as a reference to a successor (and to the successor's death).]
- <sup>F316</sup>(1A) The special lump sum death benefits charge also arises where—
- (a) a defined benefits lump sum death benefit, or
  - (b) an uncrystallised funds lump sum death benefit,
- is paid <sup>F317</sup>, to a non-qualifying person,] by a registered pension scheme in respect of a member who had reached the age of 75 at the date of the member's death.]
- <sup>F318</sup>(1B) The special lump sum death benefits charge also arises where—
- (a) a lump sum death benefit is paid <sup>F319</sup>, to a non-qualifying person,] by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member's death,
  - (b) the lump sum death benefit is—
    - (i) a drawdown pension fund lump sum death benefit under paragraph 17(1) of Schedule 29,
    - (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(1) of Schedule 29,
    - <sup>F320</sup>(ia) [ a defined benefits lump sum death benefit,] or
    - (iii) an uncrystallised funds lump sum death benefit, and

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- (c) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the member's death and the day on which the scheme administrator could first reasonably have been expected to have known of it.
- (1C) The special lump sum death benefits charge also arises where—
- (a) a lump sum death benefit is paid [<sup>F321</sup>, to a non-qualifying person,] by a registered pension scheme on the death of a dependant, nominee or successor of a deceased member of the scheme,
  - (b) the dependant, nominee or successor (“the beneficiary”) had not reached the age of 75 at the date of the beneficiary's death,
  - (c) the lump sum death benefit is—
    - (i) a drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29, or
    - (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2), (3) or (4) of Schedule 29, and
  - (d) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the beneficiary's death and the day on which the scheme administrator could first reasonably have been expected to have known of it.]
- (2) The person liable to the special lump sum death benefits charge is the scheme administrator.
- (3) The scheme administrator is liable to the special lump sum death benefits charge whether or not—
- (a) the scheme administrator, and
  - (b) the person to whom the lump sum death benefit is paid,
- are resident<sup>F322</sup> ... or domiciled in the United Kingdom.
- (4) The rate of the charge is [<sup>F323</sup>45%] in respect of the lump sum death benefit.
- (5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).
- (6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.
- [<sup>F324</sup>(7) A lump sum death benefit in respect of which income tax is charged under this section is not to be treated as income for any purpose of the Tax Acts [<sup>F325</sup>(but see subsection (8)).]]
- [<sup>F326</sup>(8) Where—
- (a) a lump sum death benefit in respect of which tax is charged under this section is one paid to a non-qualifying person in the person's capacity as a trustee, and
  - (b) a payment of any part of the lump sum is made out of a settlement to a beneficiary who is an individual,
- the amount received by the beneficiary, together with so much of the tax charged under this section on the lump sum as is attributable to the amount received by the beneficiary, is income of the beneficiary for income tax purposes but the beneficiary may claim to deduct that much of that tax from the income tax charged on the

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beneficiary's total income for the tax year in which the payment is made to the beneficiary.

(9) For the purposes of this section, a person is a “non-qualifying person” in relation to payment of a lump sum if—

- (a) the person is not an individual, or
- (b) the person is an individual and the payment is made to the person in the person's capacity as—
  - (i) a trustee or personal representative,
  - (ii) a director of a company,
  - (iii) a partner in a firm, or
  - (iv) a member of a limited liability partnership,

except that a person is not a “non-qualifying person” in relation to payment of a lump sum if the payment is made to the person in the person's capacity as a bare trustee.

(10) In subsection (9)—

“bare trustee” means a person acting as trustee for—

- (a) an individual absolutely entitled as against the trustee,
- (b) two or more individuals who are so entitled,
- (c) an individual who would be so entitled but for being a minor or otherwise lacking legal capacity, or
- (d) two or more individuals who would be so entitled but for all or any of them being a minor or otherwise lacking legal capacity,

“director” is read in accordance with section 452 of CTA 2010, and references to a firm are to be read in the same way as references to a firm in Part 9 of ITTOIA 2005 (which contains special provision about partnerships).]

#### Textual Amendments

- F310** Word in s. 206(1)(b) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 13\(a\)](#)
- F311** S. 206(1)(c) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 41\(2\)](#)
- F312** S. 206(1)(d) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 13\(b\)](#)
- F313** Words in s. 206(1) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(2\)](#)
- F314** Words in s. 206(1) inserted (17.12.2014) (with application in accordance with s. 2(5) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [s. 2\(2\)](#)
- F315** S. 206(1ZA) inserted (17.12.2014) (with application in accordance with Sch. 2 para. 20 of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 17\(2\)](#)
- F316** S. 206(1A) inserted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 41\(3\)](#)
- F317** Words in s. 206(1A) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(2\)](#)
- F318** S. 206(1B)(1C) inserted (17.12.2014) (with application in accordance with Sch. 2 para. 20 of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 17\(3\)](#)
- F319** Words in s. 206(1B)(a) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(2\)](#)
- F320** S. 206(1B)(b)(iia) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(3\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F321** Words in s. 206(1C)(a) inserted (with effect in accordance with s. 21(10) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 21(2)
- F322** Words in s. 206(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 46 para. 123
- F323** Word in s. 206(4) substituted (17.12.2014) (with application in accordance with s. 2(5) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), s. 2(3)
- F324** S. 206(7) substituted (17.12.2014) (with application in accordance with Sch. 2 para. 20 of the amending Act) by Taxation of Pensions Act 2014 (c. 30), Sch. 2 para. 17(4)
- F325** Words in s. 206(7) inserted (with effect in accordance with s. 21(10) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 21(4)
- F326** S. 206(8)-(10) inserted (with effect in accordance with s. 21(10) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 21(5)

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

- C58** S. 206 modified (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), 3(1)(2), Sch. 3 Pt. 1
- C59** S. 206 applied by S.R. 1995/95, reg. 89A(10) (as inserted (N.I.) (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/410), regs. 1(2), 16

#### Commencement Information

- I47** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 207 Authorised surplus payments charge

- (1) A charge to income tax, to be known as the authorised surplus payments charge, arises where an authorised surplus payment is made to a sponsoring employer by an occupational pension scheme that is a registered pension scheme.
  - (2) The person liable to the authorised surplus payments charge is the scheme administrator.
  - (3) The scheme administrator is liable to the authorised surplus payments charge whether or not—
    - (a) the scheme administrator, and
    - (b) the sponsoring employer,are resident<sup>F327</sup> ... or domiciled in the United Kingdom.
  - (4) The rate of the charge is 35% in respect of the authorised surplus payment.
  - (5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).
  - (6) Subsection (1) does not apply to any authorised surplus payment—
    - (a) to the extent that (if this section had not been enacted) the sponsoring employer would have been exempt, or entitled to claim exemption, from income tax or corporation tax in respect of it, or
    - (b) if the sponsoring employer is a charity.
- [<sup>F328</sup>(6A) Subsection (1) does not apply to an authorised surplus payment to the extent that the payment is funded (directly or indirectly) by a surrender of (or an agreement to

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surrender) benefits or rights which results in the registered pension scheme being treated as making an unauthorised payment under section 172A.

- (6B) Terms used in subsection (6A) which are defined in section 172A have the same meaning as they have in that section.]
- (7) An authorised surplus payment in respect of which income tax is charged under this section is not to be treated as income for any purpose of the Tax Acts.
- (8) Schedule 36 contains (in Part 4) transitional provisions about the authorised surplus payments charge.

#### Textual Amendments

**F327** Words in s. 207(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 124](#)

**F328** S. 207(6A)(6B) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 11](#)

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

**C60** S. 207 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

#### Commencement Information

**I48** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Unauthorised payments charge*

## 208 Unauthorised payments charge

- (1) A charge to income tax, to be known as the unauthorised payments charge, arises where an unauthorised payment is made by a registered pension scheme.
- (2) The person liable to the charge—
- (a) in the case of an unauthorised member payment [<sup>F329</sup>made to or in respect of a person before the person's death, is the person,]
  - (b) in the case of an unauthorised member payment made [<sup>F330</sup>in respect of a person after the person's] death, is the recipient, and
  - (c) in the case of an unauthorised employer payment, is the [<sup>F331</sup>person] to or in respect of whom the payment is made.
- (3) If more than one person is liable to the unauthorised payments charge in respect of an unauthorised payment, those persons are jointly and severally liable to the charge in respect of the payment.
- (4) A person is liable to the unauthorised payments charge whether or not—
- (a) that person,
  - (b) any other person who is liable to the unauthorised payments charge, and
  - (c) the scheme administrator,
- are resident<sup>F332</sup>... or domiciled in the United Kingdom.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) The rate of the charge is 40% in respect of the unauthorised payment.
- [<sup>F333</sup>(6) The Treasury may by order amend subsection (5) so as to vary the rate of the unauthorised payments charge.
- (6A) An order under subsection (6) may make provision for there to be different rates in different circumstances.]
- (7) An unauthorised payment may also be subject to—
- (a) the unauthorised payments surcharge under section 209, and
  - (b) the scheme sanction charge under section 239.
- (8) An unauthorised payment is not to be treated as income for any purpose of the Tax Acts.

#### Textual Amendments

- F329** Words in s. 208(2)(a) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 14\(a\)](#)
- F330** Words in s. 208(2)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 14\(b\)](#)
- F331** Word in s. 208(2)(c) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 14\(c\)](#)
- F332** Words in s. 208(4) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\), Sch. 46 para. 125](#)
- F333** S. 208(6)(6A) substituted for s. 208(6) (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 2 para. 12](#)

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

- C61** S. 208 modified (1.4.2012) by [The Postal Services Act 2011 \(Taxation\) Regulations 2012 \(S.I. 2012/764\), regs. 1\(1\), 24; S.I. 2012/687; S.I. 2012/688; S.I. 2012/966](#)

#### Commencement Information

- I49** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 209 Unauthorised payments surcharge

- (1) A charge to income tax, to be known as the unauthorised payments surcharge, arises where a surchargeable unauthorised payment is made by a registered pension scheme.
- (2) “Surchargeable unauthorised payments” means—
- (a) surchargeable unauthorised member payments (see section 210), and
  - (b) surchargeable unauthorised employer payments (see section 213).
- (3) The person liable to the charge—
- (a) in the case of a surchargeable unauthorised member payment [<sup>F334</sup>made to or in respect of a person before the person's death, is the person,]
  - (b) in the case of a surchargeable unauthorised member payment made [<sup>F335</sup>in respect of a person after the person's] death, is the recipient, and
  - (c) in the case of a surchargeable unauthorised employer payment, is the [<sup>F336</sup>person] to or in respect of whom the payment was made.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (4) If more than one person is liable to the unauthorised payments surcharge in respect of a surchargeable unauthorised payment, those persons are jointly and severally liable to the surcharge in respect of the payment.
- (5) A person is liable to the unauthorised payments surcharge whether or not—
- (a) that person,
  - (b) any other person who is liable to the unauthorised payments surcharge,<sup>F337</sup>...
  - (c) the scheme administrator, [<sup>F338</sup>and]
  - [<sup>F339</sup>(d) the sub-scheme administrator,]  
are resident<sup>F340</sup>... or domiciled in the United Kingdom.
- (6) The rate of the charge is 15% in respect of the surchargeable unauthorised payment.
- [<sup>F341</sup>(7) The Treasury may by order amend subsection (6) so as to vary the rate of the unauthorised payments surcharge.
- (8) An order under subsection (7) may make provision for there to be different rates in different circumstances.]

#### Textual Amendments

- F334** Words in s. 209(3)(a) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 15\(a\)](#)
- F335** Words in s. 209(3)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 15\(b\)](#)
- F336** Word in s. 209(3)(c) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 15\(c\)](#)
- F337** Word in s. 209(5)(b) deleted (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [4\(1\)\(a\)](#)
- F338** Word in s. 209(5)(c) added (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [4\(1\)\(b\)](#)
- F339** S. 209(5)(d) added (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [4\(1\)\(c\)](#)
- F340** Words in s. 209(5) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 126](#)
- F341** S. 209(7)(8) substituted for s. 209(7) (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 13](#)

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

- C62** S. 209 modified (1.4.2012) by [The Postal Services Act 2011 \(Taxation\) Regulations 2012 \(S.I. 2012/764\)](#), regs. 1(1), [24](#); S.I. 2012/687; S.I. 2012/688; S.I. 2012/966

#### Commencement Information

- I50** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 210 Surchargeable unauthorised member payments

- (1) This section identifies which unauthorised member payments made by a registered pension scheme [<sup>F342</sup>to or in respect of a person who is or has been a member of] the pension scheme are surchargeable.



*Status: Point in time view as at 15/09/2016.*

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- (2) If the surcharge threshold is reached before the end of the period of 12 months beginning with a reference date, each unauthorised member payment made [<sup>F343</sup>to or in respect of the person] in the surcharge period is surchargeable.
- (3) The surcharge period is the period—
  - (a) beginning with the reference date, and
  - (b) ending with the day on which the surcharge threshold is reached.
- (4) The first reference date is the date on which the pension scheme first makes an unauthorised member payment [<sup>F344</sup>to or in respect of the person].
- (5) Each subsequent reference date is the date, after the end of the previous reference period, on which the pension scheme next makes an unauthorised member payment [<sup>F345</sup>to or in respect of the person].
- (6) The previous reference period is the period of 12 months beginning with the previous reference date or, if the surcharge threshold is reached in that period, is the surcharge period ending with the date on which it was reached.
- (7) The surcharge threshold is reached if the unauthorised payments percentage reaches 25%.
- (8) The unauthorised payments percentage is the aggregate of the percentages of the pension fund used up by each unauthorised member payment made by the pension scheme [<sup>F346</sup>to or in respect of the person] on or after the reference date.
- (9) The percentage of the pension fund used up on the occasion of an unauthorised member payment is—

$$\frac{\text{UMP}}{\text{VR}} \times 100$$

where—

UMP is the amount of the unauthorised member payment, and

VR is an amount equal to the [<sup>F347</sup>aggregate of the value of the member's rights under arrangements relating to the member under the pension scheme when the unauthorised payment is made (or, if the unauthorised member payment is made after the member has died or has otherwise ceased to be a member of the pension scheme, at the date when the member died or otherwise ceased to be a member).]

- (10) The value of the member's rights under [<sup>F348</sup>an arrangement on any] date is the aggregate of—
  - (a) the value of the member's crystallised rights under the arrangement on that date, calculated in accordance with section 211, and
  - (b) the value of the member's uncrystallised rights under the arrangement on that date, calculated in accordance with section 212.

#### Textual Amendments

**F342** Words in s. 210(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\)](#), [Sch. 23 para. 16\(2\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F343** Words in s. 210(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F344** Words in s. 210(4) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F345** Words in s. 210(5) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F346** Words in s. 210(8) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F347** Words in s. 210(9) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(4\)](#)
- F348** Words in s. 210(10) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(5\)](#)

#### Commencement Information

- I51** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 211 Valuation of crystallised rights for purposes of section 210

- (1) The value of the member's crystallised rights under [<sup>F349</sup>an arrangement] on any date is the aggregate of—
- (a) the value of each scheme pension or lifetime annuity to which the member has an actual (rather than a prospective) entitlement under the arrangement on that date, <sup>F350</sup> ...
  - (b) the aggregate of the amount of the sums, and the market value of the assets, representing the [<sup>F351</sup>member's drawdown pension fund] in respect of the arrangement on that date (if any) [<sup>F352</sup>, and
  - (c) the aggregate of the amount of the sums, and the market value of the assets, representing the member's flexi-access drawdown fund in respect of the arrangement on that date (if any).]
- (2) The value of a scheme pension or lifetime annuity is—

$$RVF \times ARP$$

where—

RVF is the relevant valuation factor (see section 276), and

ARP is an amount equal to the annual rate of the pension or annuity on the date.

#### Textual Amendments

- F349** Words in s. 211(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 17](#)
- F350** Word in s. 211(1)(a) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 14\(a\)](#)
- F351** Words in s. 211(1)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 71](#)
- F352** S. 211(1)(c) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 14\(b\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Commencement Information

**I52** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 212 Valuation of uncrystallised rights for purposes of section 210

- (1) Rights are uncrystallised if the member is not entitled to the present payment of benefits in respect of the rights.
- (2) The member is to be treated as entitled to the present payment of benefits in respect of the sums and assets representing the [<sup>F353</sup>member's drawdown pension fund][<sup>F354</sup>or the member's flexi-access drawdown fund].
- (3) The value of the member's uncrystallised rights under [<sup>F355</sup>an arrangement] on any date is to be calculated—
  - (a) in accordance with subsection (4) if the arrangement is a cash balance arrangement,
  - (b) in accordance with subsection (5) if the arrangement is a money purchase arrangement other than a cash balance arrangement,
  - (c) in accordance with subsection (6) if the arrangement is a defined benefits arrangement, and
  - (d) in accordance with subsection (7) if the arrangement is a hybrid arrangement.
- (4) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits in respect of those rights if the member became entitled to benefits in respect of those rights on the date.
- (5) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is the aggregate of—
  - (a) the amount of such of the sums held for the purposes of the arrangement on the date as represent those rights, and
  - (b) the market value of such of the assets held for the purposes of the arrangement on the date as represent those rights.
- (6) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is—

$$(RVF \times ARP) + LS$$

where—

RVF is the relevant valuation factor (see section 276),

ARP is the annual rate of pension to which the member would, on the valuation assumptions, be entitled under the arrangement on the date if, on the date, the member acquired an actual (rather than a prospective) right to receive a pension in respect of the rights, and

LS is the amount of any lump sum to which the member would, on the valuation assumptions, be entitled under the arrangement on the date (otherwise than by way of

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commutation of pension) if, on the date, the member acquired an actual (rather than a prospective) right to payment of a lump sum in respect of the rights.

- (7) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is—
- (a) if each of subsections (4), (5) and (6) is relevant, the greatest of the values of the rights calculated in accordance with each of those subsections, or
  - (b) if only two of those subsections are relevant, the greater of the values of the rights calculated in accordance with each of the two subsections.
- (8) Subsection (4) is relevant if, in any circumstances, cash balance benefits may be provided to or in respect of the member under the arrangement.
- (9) Subsection (5) is relevant if, in any circumstances, money purchase benefits other than cash balance benefits may be provided to or in respect of the member under the arrangement.
- (10) Subsection (6) is relevant if, in any circumstances, defined benefits may be provided to or in respect of the member under the arrangement.

#### Textual Amendments

**F353** Words in s. 212(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 72](#)

**F354** Words in s. 212(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 15](#)

**F355** Words in s. 212(3) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 18](#)

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

**C63** S. 212 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [9](#), [10](#)

#### Commencement Information

**I53** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 213 Surchargeable unauthorised employer payments

- (1) This section identifies which unauthorised employer payments made by a registered pension scheme to or in respect of a [<sup>F356</sup>person who is or has been a] sponsoring employer are surchargeable.
- (2) If the surcharge threshold is reached before the end of the period of 12 months beginning with a reference date, each unauthorised employer payment made to or in respect of the [<sup>F357</sup>person] in the surcharge period is surchargeable.
- (3) The surcharge period is the period—
  - (a) beginning with the reference date, and
  - (b) ending with the day on which the surcharge threshold is reached.
- (4) The first reference date is the date on which the pension scheme first makes an unauthorised employer payment to or in respect of the [<sup>F358</sup>person].

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) Each subsequent reference date is the date, after the end of the previous reference period, on which the pension scheme next makes an unauthorised employer payment to or in respect of the [<sup>F359</sup>person].
- (6) The previous reference period is the period of 12 months beginning with the previous reference date or, if the surcharge threshold is reached in that period, is the surcharge period ending with the date on which it was reached.
- (7) The surcharge threshold is reached if the unauthorised payments percentage reaches 25%.
- (8) The unauthorised payments percentage is the aggregate of the percentages of the pension fund used up by each unauthorised employer payment made by the pension scheme to or in respect of the [<sup>F360</sup>person] on or after the reference date.
- (9) The percentage of the pension fund used up on the occasion of an unauthorised employer payment is—

$$\frac{\text{UEP}}{\text{AA}} \times 100$$

where—

UEP is the amount of the unauthorised employer payment, and

AA is an amount equal to the aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme at the time when the unauthorised employer payment is made.

#### Textual Amendments

- F356** Words in s. 213(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 19\(2\)](#)
- F357** Word in s. 213(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 19\(3\)](#)
- F358** Word in s. 213(4) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 19\(3\)](#)
- F359** Word in s. 213(5) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 19\(3\)](#)
- F360** Word in s. 213(8) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 19\(3\)](#)

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

- C64** S. 213 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 22

#### Commencement Information

- I54** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### [<sup>F361</sup>High income excess relief charge

#### Textual Amendments

**F361** Ss. 213A-213P and cross-heading inserted (with effect for tax year 2011-12 and subsequent tax years in accordance with Sch. 2 para. 5 of the amending Act) by Finance Act 2010 (c. 13), Sch. 2 para. 2; which insertion fell without ever having effect as a result of the repeal (10.12.2010) of the affecting provision by The Finance Act 2010, Section 23 and Schedule 2 (High Income Excess Relief Charge) (Repeal) Order 2010 (S.I. 2010/2938), arts. 1, 2

#### 213A High income excess relief charge

- (1) A charge to income tax, to be known as the high income excess relief charge, arises where—
  - (a) an individual who is a member of one or more registered pension schemes has a high income for a tax year, and
  - (b) there is a total pension savings amount in the case of the individual for the tax year.
- (2) The person liable to the high income excess relief charge is the individual.
- (3) The individual is liable to the high income excess relief charge whether or not—
  - (a) the individual, and
  - (b) the scheme administrator of the pension scheme or schemes concerned, are UK resident, ordinarily UK resident or domiciled in the United Kingdom.
- (4) The high income excess relief charge is a charge at the appropriate rate in respect of the total pension savings amount.
- (5) The total pension savings amount is not to be treated as income for any purpose of the Tax Acts apart from this Part.
- (6) In calculating the individual's liability to income tax for the tax year the amount of any income tax to which the individual is liable under this section is to be added at Step 7 of the calculation in section 23 of ITA 2007 (which applies as if this section were a provision listed in section 30 of that Act).
- (7) The following sections make further provision about the high income excess relief charge—
  - (a) sections 213B to 213D (high income),
  - (b) section 213E (the appropriate rate),
  - (c) sections 213F to 213N (total pension savings amount),
  - (d) section 213O (anti-avoidance), and
  - (e) section 213P (power to amend).

#### 213B High income

An individual has a high income for a tax year if—

- (a) the individual's gross income for the tax year is £150,000 or more, and
- (b) the individual's relevant income for the tax year is not less than £130,000.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 213C Gross income

To find the individual's gross income for a tax year take the following steps—

*Step 1* Identify the individual's total income for the tax year.

*Step 2* Add the amount of any deductions made from any employment income of the individual for the tax year under Part 12 of ITEPA 2003 (payroll giving), under section 193(2) of this Act or under Chapter 2 of Part 5 of ITEPA 2003 (employee's expenses) in accordance with paragraph 51 of Schedule 36 to this Act.

*Step 3* Deduct the amount of any relief under the provisions listed in section 24 of ITA 2007, other than Chapter 3 of Part 8 of that Act (gifts of shares, securities or real property to charity) and sections 193(4) and 194(1) of this Act, to which the individual is entitled for the tax year.

*Step 4* Add so much of the amount that is the total pension savings amount in the case of the individual for the tax year as remains after deducting from it the amount of any relievable pension contributions paid by or on behalf of the individual during the tax year.

## 213D Relevant income

(1) To find the individual's relevant income for a tax year take the following steps—

*Step 1* Identify the individual's total income for the tax year.

*Step 2* Add the amount of any deductions made from any employment income of the individual for the tax year under Part 12 of ITEPA 2003 (payroll giving), under section 193(2) of this Act or under Chapter 2 of Part 5 of ITEPA 2003 (employee's expenses) in accordance with paragraph 51 of Schedule 36 to this Act.

*Step 3* Deduct the amount of any relief under the provisions listed in section 24 of ITA 2007, other than Chapter 3 of Part 8 of that Act (gifts of shares, securities or real property to charity) and sections 193(4) and 194(1) of this Act, to which the individual is entitled for the tax year.

*Step 4* Add any amount by which what would otherwise be general earnings or specific employment income of the individual for the tax year has been reduced by relevant salary sacrifice arrangements or relevant flexible remuneration arrangements.

The result is the individual's relevant income for the tax year.

(2) In subsection (1)—

“relevant salary sacrifice arrangements” means arrangements under which the individual gives up the right to receive general earnings or specific employment income in return for the making of relevant pension provision and which are made on or after 22 April 2009 (whether before or after the employment in question began);

“relevant flexible remuneration arrangements” means arrangements under which the individual and an employer of the individual agree that relevant pension provision is to be made rather than the individual receive some description of employment income and which are made on or after 22 April 2009 (whether before or after the employment in question began).

(3) In subsection (2) “relevant pension provision” means the payment of contributions (or additional contributions) to a pension scheme in respect of the individual or otherwise (by an employer of the individual or any other person) to secure an increase in the

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

amount of benefits to which the individual or any person who is a dependant of, or is connected with, the individual is actually or prospectively entitled under a pension scheme.

- (4) Section 993 of ITA 2007 (meaning of “connected” persons) applies for the purposes of subsection (3).

### **213E The appropriate rate**

- (1) “The appropriate rate”, in relation to the total pension savings amount in the case of the individual for a tax year, is—
- (a) 0% in relation to so much (if any) of that amount as, when added to the individual's reduced net income for the tax year, does not exceed the basic rate limit,
  - (b) 20% in relation to so much (if any) of that amount as, when so added, exceeds the basic rate limit but does not exceed the higher rate limit, and
  - (c) 30% in relation to so much (if any) of that amount as, when so added, exceeds the higher rate limit.
- (2) But where the individual's gross income for the tax year is less than £180,000, the percentages in subsection (1)(b) and (c) are each reduced (but to no less than 0%) by 1 percentage point for every £1,000 by which it is less than £180,000.
- (3) The individual's reduced net income for the tax year is the amount after taking step 3 in section 23 of ITA 2007 in the case of the individual for the tax year.
- (4) Where the basic rate limit or the higher rate limit for the tax year is (in accordance with section 192 of this Act and section 414 of ITA 2007) increased in the case of the individual, the references to the limit in subsection (1) are to the limit as so increased.

### **213F Total pension savings amount**

- (1) The total pension savings amount in the case of an individual for a tax year is arrived at by aggregating the pension savings amounts in respect of each arrangement relating to the individual under a registered pension scheme of which the individual is a member.
- (2) The pension savings amount in respect of an arrangement—
- (a) is the amount arrived at under section 213G if it is a money purchase arrangement other than a cash balance arrangement,
  - (b) is the amount arrived at under section 213H if it is a cash balance arrangement,
  - (c) is the amount arrived at under section 213J if it is a defined benefits arrangement, and
  - (d) is the amount arrived at under section 213N if it is a hybrid arrangement.
- (3) Where the pension savings amount in respect of an arrangement would otherwise be a negative amount it is to be taken to be nil.
- (4) Where—
- (a) the total pension input amount in the case of the individual under section 229 for the tax year, exceeds
  - (b) the amount of the annual allowance for the tax year,
- the total pension savings amount in the case of the individual for the tax year is reduced by the amount of the excess.



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- (5) The Treasury may by regulations make provision—
- (a) for an arrangement relating to the individual to be left out of account in arriving at the total pension savings amount in the case of the individual for a tax year if the individual meets the condition in subsection (6) throughout the tax year and such conditions as are prescribed by the regulations are met, and
  - (b) for modifying the operation of any of the provisions relating to the high income excess relief charge in relation to an arrangement relating to the individual for a tax year if the individual meets the condition in subsection (6) for only part of the tax year and such conditions as are prescribed by the regulations are met.
- (6) The condition in this subsection, in relation to the individual and an arrangement under a pension scheme, is that the individual is a deferred member of the pension scheme (or would be if it were the only arrangement under the pension scheme relating to the individual).

### **213G Money purchase arrangements other than cash balance arrangements**

- (1) The pension savings amount in respect of a money purchase arrangement other than a cash balance arrangement is the total of—
- (a) any relievable pension contributions paid by or on behalf of the individual under the arrangement, and
  - (b) contributions paid in respect of the individual under the arrangement by an employer of the individual,
- during the tax year.
- (2) The references to contributions in subsection (1)(a) and (b) do not include minimum payments under—
- (a) section 8 of the Pension Schemes Act 1993, or
  - (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993,
- or any amount recovered under regulations made under subsection (3) of either of those sections.
- (3) When at any time contributions paid under a pension scheme by an employer otherwise than in respect of any individual become held for the purposes of the provision under an arrangement under the pension scheme of benefits to or in respect of an individual, they are to be treated as being contributions paid at that time in respect of the individual under the arrangement.
- (4) If during the tax year the individual becomes entitled to a serious ill-health lump sum under the arrangement or dies, the pension savings amount in the case of the individual in respect of the arrangement is nil.

### **213H Cash balance arrangements**

- (1) The pension savings amount in respect of a cash balance arrangement is the appropriate increase.
- (2) The appropriate increase is—

$$(ACR \times CARARF) - (UOR \times OARARF)$$

where—

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ACR is the amount of the closing rights (see subsection (3)), adjusted in accordance with section 213I,

CARARF is the factor which is the appropriate age-related factor (see section 213L) in relation to the closing rights,

UOR is the amount of the opening rights (see subsection (4)), uprated in accordance with section 213M, and

OARARF is the factor which is the appropriate age-related factor (see section 213L) in relation to the opening rights.

- (3) The amount of the closing rights is the amount which would, on the relevant assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the tax year.
- (4) The amount of the opening rights is the amount which would, on the relevant assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the preceding tax year.
- (5) If, during the tax year, minimum payments are made under—
  - (a) section 8 of the Pension Schemes Act 1993, or
  - (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993,
 in relation to the individual in connection with a cash balance arrangement, the amount is to be subtracted from what would otherwise be the pension savings amount in the case of the individual in respect of the arrangement.
- (6) If during the tax year the individual becomes entitled to a serious ill-health lump sum under the arrangement or dies, the pension savings amount in the case of the individual in respect of the arrangement is nil.
- (7) In this section and section 213J “the relevant assumptions” means—
  - (a) the valuation assumptions (see section 277) as modified by regulations made by the Treasury, and
  - (b) such other assumptions as the Treasury may by regulations prescribe.

### **213I Adjustment of closing rights**

- (1) This section applies for adjusting ACR under section 213H.
- (2) If, during the tax year, the rights of the individual under the arrangement have been reduced by having become subject to a pension debit, the amount of the reduction is to be added to ACR.
- (3) If, during the tax year, the rights of the individual under the arrangement have been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of the increase is to be subtracted from ACR.
- (4) If, during the tax year, the rights of the individual under the arrangement have been reduced by reason of a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, the arrangement so as to become

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held for the purposes of, or to represent rights under, any other pension scheme that is—

- (a) a registered pension scheme, or
- (b) a qualifying recognised overseas pension scheme,

the amount of the reduction is to be added to ACR.

- (5) If, during the tax year, the rights of the individual under the arrangement have been increased by reason of a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement, the amount of the increase is to be subtracted from ACR.
- (6) If, during the tax year, the rights of the individual under the arrangement have been reduced by any surrender made, or similar action taken, pursuant to an option available to the individual under the arrangement, the amount of the reduction is to be added to ACR.
- (7) If, during the tax year—
  - (a) benefit crystallisation event 1, 2, 3, or 4 occurs in relation to the individual and the arrangement,
  - (b) benefit crystallisation event 6 so occurs by virtue of the individual becoming entitled to a pension commencement lump sum or a lifetime allowance excess lump sum, or
  - (c) there is an allocation of rights of the individual under the arrangement (not falling within paragraph (a)),

the amount of the reduction in the amount of the rights available for the provision of benefits to or in respect of the individual occurring by reason of the event or allocation is to be added to ACR.

## **213J Defined benefits arrangements**

- (1) The pension savings amount in respect of a defined benefits arrangement is the aggregate of—
  - (a) the appropriate pension increase (see subsection (2)), and
  - (b) the appropriate lump sum increase (see subsection (5)).

- (2) The appropriate pension increase is—

$$(\text{ACP} \times \text{CAPARF}) - (\text{UOP} \times \text{OAPARF})$$

where—

ACP is the amount of the closing pension (see subsection (3)), adjusted in accordance with section 213K,

CAPARF is the factor which is the appropriate age-related factor (see section 213L) in relation to the closing pension,

UOP is the amount of the opening pension (see subsection (4)), uprated in accordance with section 213M, and

OAPARF is the factor which is the appropriate age-related factor (see section 213L) in relation to the opening pension.

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- (3) The amount of the closing pension is the annual rate of the pension to which the individual would, on the relevant assumptions, be entitled under the arrangement if the individual became entitled to it at the end of the tax year.
- (4) The amount of the opening pension is the annual rate of the pension to which the individual would, on the relevant assumptions, be entitled under the arrangement if the individual became entitled to it at the end of the preceding tax year.
- (5) The appropriate lump sum increase is—

$$(\text{ACLS} \times \text{CALSARF}) - (\text{UOLS} \times \text{OALSARF})$$

where—

ACLS is the amount of the closing lump sum (see subsection (6)), adjusted in accordance with section 213K,

CALSARF is the factor which is the appropriate age-related factor (see section 213L) in relation to the closing lump sum,

UOLS is the amount of the opening lump sum (see subsection (7)), uprated in accordance with section 213M, and

OALSARF is the factor which is the appropriate age-related factor (see section 213L) in relation to the opening lump sum.

- (6) The amount of the closing lump sum is the amount of the lump sum to which the individual would, on the relevant assumptions, be entitled under the arrangement if the individual became entitled to it at the end of the tax year.
- (7) The amount of the opening lump sum is the amount of the lump sum to which the individual would, on the relevant assumptions, be entitled under the arrangement if the individual became entitled to it at the end of the preceding tax year.
- (8) If, during the tax year, minimum payments are made under—
- (a) section 8 of the Pension Schemes Act 1993, or
  - (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993,
- in relation to the individual in connection with a defined benefits arrangement, the amount is to be subtracted from what would otherwise be the pension savings amount in the case of the individual in respect of the arrangement.
- (9) If during the tax year the individual becomes entitled to a serious ill-health lump sum under the arrangement or dies, the pension savings amount in the case of the individual in respect of the arrangement is nil.

### **213K Adjustment of closing pension and lump sum**

- (1) This section applies for adjusting ACP and ACLS under section 213J.
- (2) If, during the tax year, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by having become subject to a pension debit, the amount of the reduction is to be added to ACP or ACLS.
- (3) If, during the tax year, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been increased

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by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of the increase is to be subtracted from ACP or ACLS.

- (4) If, during the tax year, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by reason of a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any other pension scheme that is—
  - (a) a registered pension scheme, or
  - (b) a qualifying recognised overseas pension scheme,the amount of the reduction is to be added to ACP or ACLS.
- (5) If, during the tax year, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been increased by reason of a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement, the amount of the increase is to be subtracted from ACP or ACLS.
- (6) If, during the tax year, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by any commutation, allocation or surrender made, or similar action taken, pursuant to an option available to the individual under the arrangement, the amount of the reduction is to be added to ACP or ACLS.
- (7) If, during the tax year—
  - (a) benefit crystallisation event 2 or 3 occurs in relation to the individual and the arrangement, or
  - (b) benefit crystallisation event 6 occurs in relation to the individual and the arrangement by virtue of the individual becoming entitled to a pension commencement lump sum or a lifetime allowance excess lump sum,the annual rate of the pension, or the amount of the lump sum, to which the individual became entitled (otherwise than by commutation of lump sum or of pension) is to be added to ACP or ACLS.

## **213L Age-related factors**

- (1) The Treasury must make regulations about age-related factors.
- (2) Different provision may be made in relation to rights age-related factors and lump sum age-related factors, on the one hand, and pension age-related factors on the other.
- (3) For the purposes of sections 213H and 213J the “appropriate” age-related factor is the age-related factor which applies in the case of the individual, and the amount of the rights or lump sum, or rate of the pension, in accordance with the regulations.
- (4) Regulations under subsection (1) must make provision for the age-related factor or factors applying in the case of the individual to be arrived at by reference to—
  - (a) the age of the individual, and
  - (b) the relevant normal pension age,at the relevant time.

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- (5) The relevant time, in relation to factors for a tax year, is the end of the tax year unless the case is one in which there is a change in the relevant normal pension age during the tax year.
- (6) In that case, the relevant time, in relation to the relevant normal pension age and the opening rights, opening pension or opening lump sum for the tax year, is the end of the previous tax year.
- (7) Regulations under subsection (1) may make provision for the age-related factor or factors applying in the case of an individual and an arrangement to vary according to the nature and extent of the benefits which may be provided to or in respect of the individual under the arrangement.
- (8) Before making the first regulations under subsection (1) the Treasury must seek advice from the Government Actuary or the Deputy Government Actuary.
- (9) Before making any other regulations under subsection (1) the Treasury must carry out a review of the provision made by the regulations for the time being in force under this section; and when conducting such a review the Treasury must seek advice from the Government Actuary or the Deputy Government Actuary.
- (10) The Treasury must carry out a review of the provision made by the regulations for the time being in force under subsection (1)—
  - (a) no later than the end of the period of 5 years beginning with the day on which the first regulations are made under this section, and
  - (b) no later than the end of the period of 5 years beginning with the last review of the provision made by the regulations for the time being in force under this section.
- (11) In this section “the relevant normal pension age”, in relation to an individual and an arrangement, means the age at which the individual would be unconditionally entitled to benefits under the arrangement without any reduction on account of age (assuming that the individual were a deferred member of the pension scheme under which it is an arrangement and it were the only arrangement under the pension scheme relating to the individual).
- (12) But the Treasury may by regulations make provision for the relevant normal pension age to be the age specified in, or determined in accordance with, the regulations in cases of such descriptions as are specified in the regulations.
- (13) The Treasury may by regulations make provision modifying the operation of sections 213H to 213K in relation to cases where the relevant normal pension age in relation to an individual and an arrangement is not the same in relation to all the rights or benefits under the arrangement.

### **213M Uprating of opening rights, pension and lump sum**

- (1) This section applies for uprating UOR under section 213H and UOP and UOLS under section 213J.
- (2) Each is to be increased by the appropriate percentage.
- (3) The appropriate percentage for a tax year is the percentage arrived at for the tax year in accordance with provision made by order made by the Treasury.

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- (4) An order under subsection (3)—
  - (a) must make provision for securing that the appropriate percentage for a tax year reflects any decrease in the value of money over a specified period, and
  - (b) may do so by reference to any movement in a specified index, or an average of any movements in specified indices, over a specified period.
- (5) If an order is made under subsection (3) which amends any provision included in an order by virtue of subsection (4)(b), the Treasury must as soon as reasonably practicable after the making of the order carry out a review of the provision made by the regulations for the time being in force under section 213L(1).

### **213N Hybrid arrangements**

- (1) The pension savings amount in respect of a hybrid arrangement is the greater or greatest of such of amounts A, B and C as are relevant amounts.
- (2) An amount is a relevant amount in the case of a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits of the variety mentioned in the definition of that amount.
- (3) Amount A is what would be the pension savings amount under section 213G if the benefits provided to or in respect of the individual under the arrangement were money purchase benefits other than cash balance benefits.
- (4) Amount B is what would be the pension savings amount under section 213H if the benefits provided to or in respect of the individual under the arrangement were cash balance benefits.
- (5) Amount C is what would be the pension savings amount under section 213J if the benefits provided to or in respect of the individual under the arrangement were defined benefits.

### **213O Anti-avoidance**

- (1) This section applies if a high income excess relief charge scheme applies in the case of the individual for the tax year.
- (2) A scheme is a high income excess relief charge scheme if in the case of the individual for the tax year conditions A to C are met.
- (3) Condition A is that it is reasonable to assume that the main purpose, or one of the main purposes, of the scheme is to avoid the whole or any part of the liability of the individual to the high income excess relief charge for the tax year.
- (4) Condition B is that the scheme involves either or both of the following—
  - (a) reducing the individual's gross income or relevant income for the tax year, and
  - (b) reducing the total pension savings amount in the case of the individual for the tax year.
- (5) Condition C is that the scheme involves the reduction, or any of the reductions, being redressed by—
  - (a) an increase in the individual's gross income or relevant income, or the total pension savings amount in the case of the individual, for a different tax year, or

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- (b) the provision at any time of some other benefit to or for the benefit of the individual or any person who is a dependant of, or is connected with, the individual.
- (6) The individual is to be treated for the purposes of the high income excess relief charge as if—
  - (a) the individual's gross income and relevant income for the tax year, and
  - (b) the total pension savings amount in the case of the individual for the tax year, were what they would be apart from the scheme.
- (7) In this section “scheme” includes any arrangement, agreement, understanding, transaction or series of transactions (whether or not legally enforceable).
- (8) Section 993 of ITA 2007 (meaning of “connected” persons) applies for the purposes of subsection (5).

### **213P Power to make regulations about charge**

- (1) The Treasury may by regulations make provision about the high income excess relief charge.
- (2) The provision may include modifications of any provision made in sections 213A to 213O.
- (3) The provision may include provision consequential on, or supplementary or incidental to, the provision made by those sections and transitional provisions (including provision making modifications of enactments).
- (4) The provision may not include provision increasing any person's liability to tax.
- (5) “Modifications” includes amendments.]

### *Lifetime allowance charge*

### **214 Lifetime allowance charge**

- (1) A charge to income tax, to be known as the lifetime allowance charge, arises where—
  - (a) a benefit crystallisation event occurs in relation to an individual who is a member of one or more registered pension schemes, and
  - (b) either the first lifetime allowance charge condition or the second lifetime allowance charge condition is met.
- (2) The first lifetime allowance charge condition is that—
  - (a) the whole or any part of the individual’s lifetime allowance is available on the benefit crystallisation event, but
  - (b) the amount crystallised by the benefit crystallisation event exceeds the amount of the individual’s lifetime allowance which is available on the benefit crystallisation event.
- (3) The second lifetime allowance charge condition is that none of the individual’s lifetime allowance is available on the benefit crystallisation event.
- (4) The following sections make further provision about the lifetime allowance charge— section 215 (amount of charge),



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section 216 and Schedule 32 (benefit crystallisation events and amounts crystallised),  
section 217 (persons liable to charge),  
section 218 (individual’s lifetime allowance and standard lifetime allowance),  
section 219 (availability of individual’s lifetime allowance), and  
sections 220 to 226 (lifetime allowance enhancement factors).

- (5) In sections 215 to 219—
- (a) references to “the individual”, in relation to the lifetime allowance charge, are to the individual in relation to whom the benefit crystallisation event giving rise to the charge occurs, and
  - (b) references to “the pension scheme”, in relation to the lifetime allowance charge, are to the pension scheme to which the benefit crystallisation event giving rise to the charge, or the amount crystallised by it, relates.
- (6) Schedule 36 contains (in Part 2) transitional provision about the lifetime allowance charge.

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)
- C67** S. 214 modified (1.4.2012) by [The Postal Services Act 2011 \(Taxation\) Regulations 2012 \(S.I. 2012/764\)](#), regs. 1(1), [24](#); [S.I. 2012/687](#); [S.I. 2012/688](#); [S.I. 2012/966](#)

**Commencement Information**

- I55** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**215 Amount of charge**

- (1) The lifetime allowance charge is a charge in respect of the chargeable amount.
- (2) The lifetime allowance charge is a charge—
- (a) at the rate of 55% in respect of so much (if any) of the chargeable amount as constitutes the lump-sum amount, and
  - (b) at the rate of 25% in respect of so much (if any) of the chargeable amount as constitutes the retained amount.
- [<sup>F362</sup>(2A) The Treasury may by order amend subsection (2) so as to vary the rates of the lifetime allowance charge.
- (2B) An order under subsection (2A) may make provision for there to be different rates in different circumstances.]
- (3) The “chargeable amount” is the aggregate of—
- (a) the basic amount, and
  - (b) any amount which is treated as forming part of the lump-sum amount under subsection (6) or of the retained amount under subsection (8).

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- (4) The “basic amount”—
- (a) if the first lifetime allowance [<sup>F363</sup>charge] condition is met, is the amount by which the amount crystallised by the benefit crystallisation event exceeds the amount of the individual’s lifetime allowance available on it, and
  - (b) if the second lifetime allowance charge condition is met, is the amount crystallised by the benefit crystallisation event.
- (5) The “lump-sum amount” is the aggregate of—
- (a) so much of the basic amount as is paid as a lump sum to the individual or a lump sum death benefit in respect of the individual, and
  - (b) any amount which is treated as forming part of the lump-sum amount under subsection (6).
- (6) If and to the extent that the tax payable under this section on any of the lump-sum amount is covered by a scheme-funded tax payment, it is to be treated as itself forming part of the lump-sum amount.
- (7) The “retained amount” is the aggregate of—
- (a) so much of the basic amount as is not paid as a lump sum to the individual or a lump sum death benefit in respect of the individual, and
  - (b) any amount which is treated as forming part of the retained amount under subsection (8).
- (8) If and to the extent that the tax payable under this section on any of the retained amount is covered by a scheme-funded tax payment, it is to be treated as itself forming part of the retained amount.
- (9) An amount of tax payable under this section is “covered by a scheme-funded tax payment” if—
- (a) the tax is paid by the scheme administrator, <sup>F364</sup>...
  - <sup>F364</sup>(b) .....
- <sup>F365</sup>(10) .....
- (11) The chargeable amount is not to be treated as income for any purpose of the Tax Acts.

#### **Textual Amendments**

- F362** S. 215(2A)(2B) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 2 para. 14**
- F363** Word in s. 215(4)(a) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 29 para. 15**
- F364** S. 215(9)(b) and word repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), Sch. 10 paras. 41(a), 64(1), **Sch. 11 Pt. 4**
- F365** S. 215(10) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), Sch. 10 paras. 41(b), 64(1), **Sch. 11 Pt. 4**

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 31 para. 11** (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), **5-11**
- C68** S. 215(9) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

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### Commencement Information

**I56** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 216 Benefit crystallisation events and amounts crystallised

- (1) This table sets out—
- (a) the events which are benefit crystallisation events in relation to the individual, and
  - (b) the amount which is crystallised by each of those events.

<b><i>BENEFIT CRYSTALLISATION EVENTS</i></b>	<b><i>AMOUNT CRYSTALLISED</i></b>
1. The designation of sums or assets held for the purposes of a money purchase arrangement under any of the relevant pension schemes as available for the payment of [ <sup>F366</sup> drawdown pension] to the individual	The aggregate of the amount of the sums and the market value of the assets designated
2. The individual becoming entitled to a scheme pension under any of the relevant pension schemes	$RVF \times P$
3. The individual, having become so entitled, becoming entitled to payment of the scheme pension, otherwise than in excepted circumstances, at an increased annual rate which [ <sup>F367</sup> —	$RVF \times XP$
(a) exceeds the threshold annual rate, and	
(b)] exceeds by more than the permitted margin the rate at which it was payable on the day on which the individual became entitled to it	
4. The individual becoming entitled to a lifetime annuity purchased under a money purchase arrangement under any of the relevant pension schemes	The aggregate of the amount of such of the sums, and the market value of such of the assets, representing the individual's rights under the arrangement as are applied to purchase the lifetime annuity [ <sup>F368</sup> and any related dependants' annuity][ <sup>F369</sup> and any related nominees' annuity]
5. The individual reaching the age of 75 when prospectively entitled to a scheme pension or a lump sum (or both) under a defined benefits arrangement under any of the relevant pension schemes	$(RVF \times DP) + DSLS$

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

<p>[<sup>F370</sup>5A. The individual reaching the age of 75 having designated sums or assets held for the purposes of a money purchase arrangement under any of the relevant pension schemes as available for the payment of [<sup>F371</sup>drawdown pension] to the individual</p>	<p>The aggregate of the amount of the sums and the market value of the assets representing the [<sup>F372</sup>individual's drawdown pension fund] under the arrangement [<sup>F373</sup>(if any), plus the aggregate of the amount of the sums and the market value of the assets representing the individual's flexi-access drawdown fund under the arrangement (if any),] less the aggregate of amounts crystallised by benefit crystallisation event 1 in relation to the arrangement and the individual]</p>
<p>[<sup>F374</sup>5B. The individual reaching the age of 75 when there is a money purchase arrangement relating to the individual under any of the relevant pension schemes</p>	<p>The amount of any remaining unused funds]</p>
<p>[<sup>F375</sup>5C. The designation, on or after 6 April 2015 but before the end of the relevant two-year period, of relevant unused uncrystallised funds as available for the payment, to a dependant or nominee of the individual, of (as the case may be) dependants' flexi-access drawdown pension or nominees' flexi-access drawdown pension</p>	<p>The aggregate of the amount of the sums and the market value of the assets designated]</p>
<p>[<sup>F376</sup>5D. A person becoming entitled, on or after 6 April 2015 but before the end of the relevant two-year period, to a dependants' annuity or nominees' annuity in respect of the individual if—</p> <ul style="list-style-type: none"> <li>(a) the annuity is purchased using (whether or not exclusively) relevant unused uncrystallised funds, and</li> <li>(b) the individual died on or after 3 December 2014</li> </ul>	<p>The aggregate of—</p> <ul style="list-style-type: none"> <li>(a) the amount of such of the sums, and</li> <li>(b) the market value of such of the assets,</li> </ul> <p>applied to purchase the annuity as are relevant unused uncrystallised funds]</p>
<p>6. The individual becoming entitled to a relevant lump sum under any of the relevant pension schemes</p>	<p>The amount of the lump sum [<sup>F377</sup>paid to the individual]</p>
<p>7. A person being paid a relevant lump sum death benefit in respect of the individual under any of the relevant pension schemes</p>	<p>The amount of the lump sum death benefit</p>
<p>8. The transfer of sums or assets held for the purposes of, or representing accrued rights under, any of the relevant pension schemes so as to become held for the purposes of or to represent rights</p>	<p>The aggregate of the amount of any sums transferred and the market value of any assets transferred</p>

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

under a qualifying recognised overseas pension scheme in connection with the individual's membership of that pension scheme

[<sup>F378</sup>9. If regulations under section 164(1)(f) so provide, the happening of an event prescribed in the regulations in relation to a payment prescribed in the regulations

An amount determined in accordance with the regulations]

(2) Schedule 32 gives the meaning of expressions used in the table in subsection (1).

#### Textual Amendments

- F366** Words in s. 216(1) substituted (with effect in accordance with Sch. 16 paras. 85, 104(1) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 73\(2\)](#)
- F367** Words in s. 216(1) inserted (retrospective to 6.4.2006) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 paras. 5, 12\(3\)](#)
- F368** Words in s. 216(1) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 31, 64\(1\)](#)
- F369** Words in s. 216(1) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 4\(2\)](#)
- F370** Words in s. 216(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 30](#)
- F371** Words in s. 216(1) substituted (with effect in accordance with Sch. 16 paras. 85, 104(1) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 73\(3\)\(a\)](#)
- F372** Words in s. 216(1) substituted (with effect in accordance with Sch. 16 paras. 85, 104(1) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 73\(3\)\(b\)](#)
- F373** Words in s. 216(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 16](#)
- F374** Words in s. 216(1) inserted (with effect in accordance with Sch. 16 paras. 85, 104(1) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 43](#)
- F375** Words in s. 216(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 21](#)
- F376** Words in s. 216(1) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 4\(3\)](#)
- F377** Words in s. 216(1) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 42, 64\(1\)](#)
- F378** Words in s. 216 inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 1\(3\)](#)

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)
- C69** S. 216 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [23\(4\)](#)
- C70** S. 216 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [29\(1\)\(2\)\(5\)](#)
- C71** S. 216 modified by S.I. 2006/572, art. 29A (as inserted (with effect in accordance with art. 1 of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2006 \(S.I. 2006/1962\)](#), arts. 1, [3\(3\)](#))
- C72** S. 216 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 6\(1\)](#)
- C73** S. 216 modified (1.4.2015) by [The Police Pensions \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/370\)](#), regs. 1(2), [14\(2\)\(3\)](#)
- C74** S. 216 modified (1.4.2015) by [The Armed Forces Pension \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/390\)](#), regs. 1(2), [14\(2\)](#) (with reg. 14(1))

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- C75** S. 216 modified (1.4.2015) by The Firefighters' Pension Scheme (England) (Consequential Provisions) Regulations 2015 (S.I. 2015/319), regs. 1(2), **13(2)(3)**
- C76** S. 216 applied (with modifications) (N.I.) (1.4.2015) by The Firefighters' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/166), regs. 1, **12(2)**
- C77** S. 216 modified (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/146), regs. 1(2), **14(2)(3)** (with reg. 14(1))
- C78** S. 216 modified (1.4.2015) by The Public Service (Civil Servants and Others) Pensions (Consequential and Amendment) Regulations 2015 (S.I. 2015/372), regs. 1(2), **14(2)(3)**
- C79** S. 216 modified (1.4.2015) by The National Health Service Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/145), regs. 1(2), **14(2)(3)** (with reg. 14(1))
- C80** S. 216 applied (with modifications) (N.I.) (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/170), regs. 1, **13(2)**
- C81** S. 216 applied (with modifications) (1.4.2015) by The National Health Service Pension Scheme (Consequential Provisions) Regulations 2015 (S.I. 2015/432), regs. 1(2), **14(3)**
- C82** S. 216 modified (S.) (1.4.2015) by The Police Pensions (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/118), regs. 1(3), **14(2)(3)** (with reg. 14(1))
- C83** S. 216 applied (with modifications) (N.I.) (1.4.2015) by The Health Service Workers (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/167), regs. 1, **13(2)**
- C84** S. 216 applied (with modifications) (N.I.) (1.4.2015) by The Public Service (Civil Servants and Others) Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/81), regs. 1(1), **13(2)**
- C85** S. 216 applied (with modifications) (N.I.) (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/156), regs. 1(2), **13(2)**
- C86** S. 216 modified (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) Regulations 2015 (S.I. 2015/436), regs. 1(2), **14(2)(3)** (with reg. 14(1))
- C87** S. 216 modified (S.) (1.4.2015) by The Firefighters' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/117), regs. 1(3), **13(2)(3)** (with reg. 13(1))
- C88** S. 216 modified (W.) (1.4.2015) by The Firefighters Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (S.I. 2015/848), regs. 1(2), **13(2)(3)** (with reg. 13(1))

#### Commencement Information

- I57** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 217 Persons liable to charge

- (1) The persons liable to the lifetime allowance charge are—
- (a) the individual, and
  - (b) the scheme administrator of the pension scheme,
- and their liability is joint and several.

[<sup>F379</sup>(1A) Subsection (1) is subject to subsections (2) and (2A).]

- (2) [<sup>F380</sup>Where] the liability arises by reason of the payment of a relevant lump sum death benefit it is a liability of the person to whom the lump sum death benefit is paid.

[<sup>F381</sup>(2A) Where the liability arises by reason of a designation mentioned in the description of benefit crystallisation event 5C, [<sup>F382</sup>or by reason of a person becoming entitled to an annuity as mentioned in the description of benefit crystallisation event 5D,] it is a liability of the dependant or nominee (as the case may be).]

[<sup>F383</sup>(3) Subsection (4) applies if—

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (a) two or more relevant post-death benefit crystallisation events occur in respect of an individual, and
  - (b) tax is not chargeable on the whole of the total of the amounts crystallised by them.
- (4) The person liable under subsection (2) or (2A) to the lifetime allowance charge charged by reason of the occurrence of any one of the relevant post-death benefit crystallisation events is liable to such portion of the total amount of the tax payable by reason of the relevant post-death benefit crystallisation events having occurred as appears to an officer of Revenue and Customs to be just and reasonable.
- (4A) For the purposes of subsections (3) and (4), a benefit crystallisation event is a “relevant post-death benefit crystallisation event” if it is benefit crystallisation event 5C [<sup>F384</sup>, 5D] or 7.]
- (5) A person is liable to the lifetime allowance charge whether or not—
- (a) that person,
  - (b) any other person who is liable to the lifetime allowance charge, and
  - (c) the scheme administrator (if not so liable),
- are resident<sup>F385</sup> ... or domiciled in the United Kingdom.

#### Textual Amendments

- F379** S. 217(1A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 22\(2\)](#)
- F380** Word in s. 217(2) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 22\(3\)](#)
- F381** S. 217(2A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 22\(4\)](#)
- F382** Words in s. 217(2A) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 5\(2\)](#)
- F383** S. 217(3)-(4A) substituted for s. 217(3)(4) (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 22\(5\)\(6\)](#)
- F384** Word in s. 217(4A) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), Sch. 4 para. 5(3)
- F385** Words in s. 217(5) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 127](#)

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)
- C89** S. 217 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

#### Commencement Information

- I58** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 218 Individual’s lifetime allowance and standard lifetime allowance

- (1) Subject as follows, the individual’s lifetime allowance is the standard lifetime allowance.

[<sup>F386</sup>(2) The standard lifetime allowance for the tax years 2016-17 and 2017-18 is £1,000,000.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (2A) The standard lifetime allowance for any later tax year (“the subsequent tax year”) is the same as the standard lifetime allowance for the tax year immediately preceding the subsequent tax year, unless subsection (2C) provides for it to be higher.
- (2B) Subsection (2C) applies if—
- (a) the consumer prices index for the month of September in any tax year (“the prior tax year”) is higher than it was for the previous September, and
  - (b) the prior tax year is the tax year 2017-18 or a later tax year.
- (2C) The standard lifetime allowance for the tax year following the prior tax year is the standard lifetime allowance for the prior tax year—
- (a) increased by the percentage increase in the index, and
  - (b) if the result is not a multiple of £100, rounded up to the nearest amount which is such a multiple.
- (2D) The Treasury must before the tax year 2018-19, and before each subsequent tax year, make regulations specifying the amount given by subsections (2A) to (2C) as the standard lifetime allowance for the tax year concerned.]
- (4) Where one or more lifetime allowance enhancement factors operate in relation to a benefit crystallisation event occurring in relation to the individual, the individual’s lifetime allowance at the time of the benefit crystallisation event is—

$$SLA + (SLA \times LAEF)$$

where—

SLA is the standard lifetime allowance at the time of the benefit crystallisation event, and

LAEF is the lifetime allowance enhancement factor which operates with respect to the benefit crystallisation event and the individual or (where more than one so operates) the aggregate of them.

- (5) The following make provision for the operation of lifetime allowance enhancement factors—
- section 220 (pension credits from previously crystallised rights),
  - sections 221 to 223 (individuals who are not always relevant UK individuals),
  - sections 224 to 226 (transfers from recognised overseas pension schemes),
  - paragraphs 7 to 11 of Schedule 36 (primary protection), and
  - paragraph 18 of that Schedule (pre-commencement pension credits).
- [<sup>F387</sup>(5A) Where the operation of a lifetime allowance enhancement factor is provided for by any of sections 220, 222, 223 and 224 and the time mentioned in the definition of SLA in the section concerned was before 6 April 2012, subsection (4) has effect as if the amount to be multiplied by LAEF were £1,800,000 (the standard lifetime allowance for the tax year 2011-12) if that is greater than SLA.
- (5B) Where the operation of a lifetime allowance enhancement factor is provided for by paragraph 7 of Schedule 36, subsection (4) has effect as if SLA were £1,800,000 (the standard lifetime allowance for the tax year 2011-12) if that is greater than SLA.



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

[ Where the operation of a lifetime allowance enhancement factor is provided for by <sup>F388</sup>(5BA) any of sections 220, 222, 223 and 224 and the time mentioned in the definition of SLA in the section concerned fell within the period consisting of the tax year 2012-13 and the tax year 2013-14, subsection (4) has effect as if the amount to be multiplied by LAEF were £1,500,000 if that is greater than SLA.

(5BB) Where more than one lifetime allowance enhancement factor operates, subsection (5BA) does not apply if subsection (5A) or (5B) applies.]

[ Where the operation of a lifetime allowance enhancement factor is provided for by <sup>F389</sup>(5BC) any of sections 220, 222, 223 and 224 and the time mentioned in the definition of SLA in the section concerned fell within the period consisting of the tax year 2014-15 and the tax year 2015-16, subsection (4) has effect as if the amount to be multiplied by LAEF were £1,250,000 if that is greater than SLA.

(5BD) Where more than one lifetime allowance enhancement factor operates, subsection (5BC) does not apply if any of subsections (5A), (5B) and (5BA) applies.]

(5C) Where benefit crystallisation event 7 occurs on or after 6 April 2012 by reason of the payment of a relevant lump sum death benefit in respect of the death of the individual before that date, the standard lifetime allowance at the time of the benefit crystallisation event is £1,800,000 (the standard lifetime allowance for the tax year 2011-12).]

[<sup>F390</sup>(5D) Where benefit crystallisation event 7 occurs on or after 6 April 2014 by reason of the payment of a relevant lump sum death benefit in respect of the death of the individual during the period consisting of the tax year 2012-13 and the tax year 2013-14, the standard lifetime allowance at the time of the benefit crystallisation event is £1,500,000.]

[<sup>F391</sup>(5E) Where benefit crystallisation event 7 occurs on or after 6 April 2016 by reason of the payment of a relevant lump sum death benefit in respect of the death of the individual during the period consisting of the tax year 2014-15 and the tax year 2015-16, the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000.]

[<sup>F392</sup>(5F) Where—

(a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2015 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died before 6 April 2012,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,800,000.

(5G) Where—

(a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2015 of sums or assets held for the purposes of an arrangement relating to the individual, and

(b) the individual died in the period consisting of the tax year 2012-13 and the tax year 2013-14,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,500,000.

(5H) Where—

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (a) benefit crystallisation event 5C occurs by reason of the designation on or after 6 April 2016 of sums or assets held for the purposes of an arrangement relating to the individual, and
- (b) the individual died in the period consisting of the tax year 2014-15 and the tax year 2015-16,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000.

(5I) Where—

- (a) benefit crystallisation event 5D occurs by reason of a person becoming entitled on or after 6 April 2016 to an annuity in respect of the individual, and
- (b) the individual died in the period beginning with 3 December 2014 and ending with 5 April 2016,

the standard lifetime allowance at the time of the benefit crystallisation event is £1,250,000.]

- (6) Paragraph 19 of that Schedule makes provision for the reduction of what would otherwise be the individual's lifetime allowance in certain cases where the individual is permitted to take pension before normal minimum pension age.
- (7) In this Part references (however expressed) to a person's lifetime allowance at any time are to what would be the person's lifetime allowance, calculated in accordance with this section, if a benefit crystallisation event occurred in relation to the person at that time.

#### **Textual Amendments**

- F386** S. 218(2)-(2D) substituted for s. 218(2)(3) (with effect in accordance with s. 19(8) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 19\(2\)](#)
- F387** S. 218(5A)-(5C) inserted (with effect in accordance with Sch. 18 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 18 para. 2\(3\)](#)
- F388** S. 218(5BA)(5BB) inserted (with effect in accordance with Sch. 22 para. 6(4) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 22 para. 6\(2\)](#)
- F389** S. 218(5BC)(5BD) inserted (with effect in accordance with s. 19(8) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 19\(3\)](#)
- F390** S. 218(5D) inserted (with effect in accordance with Sch. 22 para. 6(4) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 22 para. 6\(3\)](#)
- F391** S. 218(5E) inserted (with effect in accordance with s. 19(8) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 19\(4\)](#)
- F392** S. 218(5F)-(5I) inserted (6.4.2015 retrospectively for specified purposes and at 6.4.2016 retrospectively in so far as not already in force in accordance with s. 19(9)) by [Finance Act 2016 \(c. 24\), s. 19\(5\)](#)

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\), s. 284\(1\), Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\), regs. 1\(1\), 5-11](#)

#### **Commencement Information**

- I59** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 219 Availability of individual's lifetime allowance

- (1) This section is about the availability of the individual's lifetime allowance on the occurrence of a benefit crystallisation event in relation to the individual ("the current benefit crystallisation event").
  - (2) If no benefit crystallisation event has occurred in relation to the individual before the current benefit crystallisation event, the whole of the individual's lifetime allowance is available on the current benefit crystallisation event.
  - (3) If one or more benefit crystallisation events have occurred in relation to the individual before the current benefit crystallisation event—
    - (a) in a case in which the previously-used amount is equal to or greater than the amount of the individual's lifetime allowance, none of the individual's lifetime allowance is available on the current benefit crystallisation event, and
    - (b) in any other case, so much of the individual's lifetime allowance as is left after deducting the previously-used amount is available on the current benefit crystallisation event.
  - (4) The previously-used amount is—
    - (a) where one benefit crystallisation event has occurred in relation to the individual before the current benefit crystallisation event, the amount [<sup>F393</sup>which is the relevant untaxed amount in relation to] the previous benefit crystallisation event as adjusted under subsection (5), or
    - (b) where two or more benefit crystallisation events have occurred in relation to the individual before the current benefit crystallisation event, the aggregate of the amounts [<sup>F394</sup>which are the relevant untaxed amounts in relation to] each previous benefit crystallisation event as adjusted under subsection (5).
- [<sup>F395</sup>(4A) "The relevant untaxed amount", in relation to a previous benefit crystallisation event, is—
- (a) where no tax was charged in relation to the benefit crystallisation event, the amount in respect of which tax would have been so charged if none of the individual's lifetime allowance had been available, and
  - (b) where tax was charged in relation to the benefit crystallisation event, so much of the amount in respect of which tax would have been so charged if none of the individual's lifetime allowance had been available as exceeds the amount in respect of which tax was so charged.]
- (5) The adjustment of the [<sup>F396</sup>relevant untaxed amount in relation to] a previous benefit crystallisation event referred to in subsection (4)(a) and (b) is the multiplication of that amount by—

$$\frac{\text{CSLA}}{\text{PSLA}}$$

where—

CSLA is the standard lifetime allowance at the time of the current benefit crystallisation event, and

PSLA is the standard lifetime allowance at the time of the previous benefit crystallisation event.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- [<sup>F397</sup>(5A) If paragraph 7 of Schedule 36 (primary protection) makes provision for a lifetime allowance enhancement factor in relation to the individual, subsection (5) has effect [<sup>F398</sup>where the previous benefit crystallisation event occurred before 6 April 2014] as if CSLA were £1,500,000 if that is greater than CSLA.]
- (6) Where more than one benefit crystallisation event occurs in relation to an individual on the same day, it is for the individual to decide the order in which they are to be treated as occurring for the purposes of this section; but this subsection is subject to section 166(2) (entitlement to pension commencement lump sum to arise immediately before entitlement to associated pension).
- (7) Where more than one [<sup>F399</sup>relevant post-death] benefit crystallisation event occurs [<sup>F400</sup>... in respect of an [<sup>F401</sup>individual, the relevant post-death] benefit crystallisation events are to be treated for the purposes of this section as occurring immediately before the individual's death [<sup>F402</sup>but immediately after any benefit crystallisation event occurring immediately before the individual's death by virtue of section 166(2)].
- [<sup>F403</sup>(7A) For the purposes of subsection (7), a benefit crystallisation event is a “relevant post-death benefit crystallisation event” if it is benefit crystallisation event 5C [<sup>F404</sup>, 5D] or 7.]
- (8) Paragraph 20 of Schedule 36 makes provision affecting this section in relation to pre-commencement pensions.
- (9) In this Part references (however expressed) to the portion of a person's lifetime allowance that is available at any time are to the portion of the person's lifetime allowance that would be available, calculated in accordance with this section, if a benefit crystallisation event occurred in relation to the person at that time.

#### Textual Amendments

- F393** Words in s. 219(4)(a) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 31\(2\)\(a\)](#)
- F394** Words in s. 219(4)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 31\(2\)\(b\)](#)
- F395** S. 219(4A) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 31\(3\)](#)
- F396** Words in s. 219(5) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 31\(4\)](#)
- F397** S. 219(5A) inserted (with effect in accordance with Sch. 22 para. 7(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 22 para. 7\(1\)](#)
- F398** Words in s. 219(5A) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 6 para. 10\(1\)\(2\)](#)
- F399** Words in s. 219(7) inserted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 23\(2\)\(a\)\(4\)](#)
- F400** Words in s. 219(7) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 23\(2\)\(b\)\(4\)](#)
- F401** Words in s. 219(7) substituted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 23\(2\)\(c\)\(4\)](#)
- F402** Words in s. 219(7) inserted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 10, 24\(3\)](#)
- F403** S. 219(7A) inserted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 23\(3\)\(4\)](#)
- F404** Word in s. 219(7A) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), Sch. 4 para. 6

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))

**C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)

**Commencement Information**

**I60** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**220 Pension credits from previously crystallised rights**

- (1) This section makes provision for the operation of a lifetime allowance enhancement factor with respect to a benefit crystallisation event occurring in relation to an individual where—
- (a) the individual has (at any time after 5th April 2006 but before the benefit crystallisation event) acquired rights under a registered pension scheme by reason of having become entitled to a pension credit,
  - (b) the pension credit derived from the same or another registered pension scheme, and
  - (c) the rights under that registered pension scheme which became subject to the corresponding pension debit consisted of or included rights to a post-commencement pension in payment.
- (2) “Post-commencement pension in payment” means a pension to which a person became (actually) entitled on or after 6th April 2006.
- (3) The lifetime allowance enhancement factor is the pension credit factor.
- (4) The pension credit factor is—

$$\frac{APC}{SLA}$$

where—

APC is [<sup>F405</sup>the post-commencement pension in payment portion of] the amount which is the appropriate amount for the purposes of section 29(1) of WRPA 1999 or Article 26(1) of WRP(NI)O 1999 in relation to the pension credit, and

SLA is the standard lifetime allowance at the time when the rights were acquired.

- [<sup>F406</sup>(4A) The post-commencement pension in payment portion of the appropriate amount referred to in the definition of APC—
- (a) in a case where the appropriate amount is arrived at under section 29(2) or (3) (b) of WRPA 1999 or Article 26(2) or (3)(b) of WRP(NI)O 1999, is so much of that amount as is attributable to rights to a post-commencement pension in payment, and
  - (b) in a case where the appropriate amount is arrived at under section 29(3)(a) of WRPA 1999 or Article 26(3)(a) of WRP(NI)O 1999, is so much of that amount as is just and reasonable.]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) This section only applies if notice of intention to rely on it is given to the Inland Revenue in accordance with regulations made by the Board of Inland Revenue.

#### Textual Amendments

**F405** Words in s. 220(4) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 45\(2\)](#), 64(1)

**F406** S. 220(4A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 45\(3\)](#), 64(1)

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

**C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))

**C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)

#### Commencement Information

**I61** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 221 Non-residence: general

- (1) This section makes provision for the operation of a lifetime allowance enhancement factor with respect to a benefit crystallisation event occurring in relation to an individual where, during any part of the period that is the active membership period in relation to an arrangement relating to the individual under a registered pension scheme, the individual is a relevant overseas individual.
- (2) Section 222 provides the lifetime allowance enhancement factor in the case of an arrangement that is a money purchase arrangement; and section 223 provides the lifetime allowance enhancement factor in the case of any other arrangement.
- (3) For the purposes of this Part an individual is a relevant overseas individual at any time if, at that time, the individual either is not a relevant UK individual or—
- (a) is a relevant UK individual only by virtue of paragraph (c) of section 189(1) (individuals resident in UK at some time in previous five tax years), and
  - (b) is not employed by a person resident in the United Kingdom.
- (4) In this section and sections 222 and 223 “the active membership period”, in relation to a benefit crystallisation event occurring in relation to an arrangement relating to the individual, is the period—
- (a) beginning with the date on which the benefits first began to accrue to or in respect of the individual under the arrangement or, if later, 6th April 2006, and
  - (b) ending immediately before the benefit crystallisation event.
- (5) But if benefits ceased to accrue to or in respect of the individual under the arrangement before the benefit crystallisation event, the active membership period is to be treated as having ended then.
- (6) This section only applies if notice of intention to rely on it is given to the Inland Revenue in accordance with regulations made by the Board of Inland Revenue.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)

**Commencement Information**

- I62** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**222 Non-residence: money purchase arrangements**

- (1) This section applies in the case of an arrangement that is a money purchase arrangement.
- (2) The lifetime allowance enhancement factor is—
  - (a) if the arrangement is a cash balance arrangement, the cash balance arrangement non-residence factor (see subsections (3) to (5)), and
  - (b) if the arrangement is any other sort of money purchase arrangement, the other money purchase arrangement non-residence factor (see subsections (6) and (7)).
- (3) The cash balance arrangement non-residence factor is—
  - (a) the factor arrived at by the application of subsection (4) in relation to the part of the active membership period during which the individual was a relevant overseas individual, or
  - (b) if there have been two or more parts of that period during which the individual was a relevant overseas individual, the aggregate of the factors arrived at by the application of subsection (4) in relation to each of those parts of that period.
- (4) The factor arrived at by the application of this subsection in relation to any part of the active membership period is—

$$\frac{CV - OV}{SLA}$$

where—

CV is the closing value of the individual's rights under the arrangement,

OV is the opening value of the individual's rights under the arrangement, and

SLA is the standard lifetime allowance at the time when that part of that period ended.

- (5) For the purposes of subsection (4)—
  - (a) the closing value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of that part of that period, and

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) the opening value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the beginning of that part of that period.
- (6) The other money purchase arrangement non-residence factor is—
- (a) the factor arrived at by the application of subsection (7) in relation to the part of the active membership period during which the individual was a relevant overseas individual, or
- (b) if there have been two or more parts of that period during which the individual was a relevant overseas individual, the aggregate of the factors arrived at by the application of subsection (7) in relation to each of those parts of that period.
- (7) The factor arrived at by the application of this subsection in relation to any part of the active membership period is—

$$\frac{\text{ROIC}}{\text{SLA}}$$

where—

ROIC is the amount of the contributions made under the arrangement by or in respect of the individual in any part of the active membership period during which the individual is a relevant overseas individual, and

SLA is the standard lifetime allowance at the time when that part of that period ended.

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)
- C90** S. 222 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [12](#), [13](#)

**Commencement Information**

- I63** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**223 Non-residence: other arrangements**

- (1) This section applies in the case of an arrangement that is not a money purchase arrangement.
- (2) The lifetime allowance enhancement factor is—
- (a) if the arrangement is a defined benefits arrangement, the defined benefits arrangement non-residence factor (see subsections (3) and (4)), and
- (b) if the arrangement is a hybrid arrangement, the hybrid arrangement non-residence factor (see subsections (5) to (7)).



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (3) The defined benefits arrangement non-residence factor is—
- (a) the factor arrived at by the application of subsection (4) in relation to the part of the active membership period during which the individual was a relevant overseas individual, or
  - (b) if there have been two or more parts of that period during which the individual was a relevant overseas individual, the aggregate of the factors arrived at by the application of subsection (4) in relation to each of those parts of that period.
- (4) The factor arrived at by the application of this subsection in relation to any part of the active membership period is—

$$\frac{(RVF \times PE + LSE) - (RVF \times PB + LSB)}{SLA}$$

where—

RVF is the relevant valuation factor (see section 276),

PE is the amount of the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of that part of that period,

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the end of that part of that period,

PB is the amount of the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the beginning of that part of that period,

LSB is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the beginning of that part of that period, and

SLA is the standard lifetime allowance at the time when that part of that period ended.

- (5) The hybrid arrangement non-residence factor is the greater or greatest of such of—
- (a) what would be the cash balance arrangement non-residence factor (under section 222) if the arrangement were a cash balance arrangement,
  - (b) what would be the other money purchase arrangement non-residence factor (under that section) if the arrangement were any other sort of money purchase arrangement, and
  - (c) what would be the defined benefits arrangement non-residence factor (under subsections (3) and (4)) if the arrangement were a defined benefits arrangement,
- as are relevant factors in relation to the arrangement.
- (6) A factor is a relevant factor in relation to a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits linked to that factor.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

(7) For that purpose—

- (a) cash balance benefits are linked to the cash balance arrangement non-residence factor,
- (b) other money purchase benefits are linked to the other money purchase arrangement non-residence factor, and
- (c) defined benefits are linked to the defined benefits arrangement non-residence factor.

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)
- C91** S. 223 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [12](#), [14](#)

**Commencement Information**

- I64** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**224 Transfers from recognised overseas pension scheme: general**

- (1) This section makes provision for the operation of a lifetime allowance enhancement factor with respect to a benefit crystallisation event occurring in relation to an individual where (at any time after 5th April 2006 but before the benefit crystallisation event) there has been a recognised overseas scheme transfer.
- (2) There is a “recognised overseas scheme transfer” if any sums or assets—
  - (a) held for the purposes of an arrangement under a recognised overseas pension scheme, or
  - (b) representing accrued rights under such an arrangement,
 are transferred so as to become held for the purposes of, or to represent rights under, an arrangement under a registered pension scheme relating to the individual.
- (3) The arrangement specified in subsection (2)(a) or (b) is referred to in this section and sections 225 and 226 as the “recognised overseas scheme arrangement”.
- (4) The lifetime allowance enhancement factor is the recognised overseas scheme transfer factor.
- (5) The recognised overseas scheme transfer factor is—

$$\frac{\text{AAT} - \text{RRA}}{\text{SLA}}$$

where—

AAT is the aggregate of the amount of any sums transferred, and the market value of any assets transferred, on the recognised overseas scheme transfer,

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

RRA is the relevant relievable amount, and

SLA is the standard lifetime allowance at the time when the recognised overseas scheme transfer took place.

- (6) Section 225 specifies the relevant relievable amount in the case of a recognised overseas scheme arrangement that was a money purchase arrangement; and section 226 specifies the relevant relievable amount in the case of an recognised overseas scheme arrangement that was any other sort of arrangement.
- (7) In this section and sections 225 and 226 “overseas arrangement active membership period” is the period—
  - (a) beginning with the date on which the benefits first began to accrue to or in respect of the individual under the recognised overseas scheme arrangement or, if later, 6th April 2006, and
  - (b) ending immediately before the recognised overseas scheme transfer.
- (8) But if benefits ceased to accrue to or in respect of the individual under the recognised overseas scheme arrangement before the recognised overseas scheme transfer, the overseas arrangement active membership period is to be treated as having ended then.
- (9) This section only applies if notice of intention to rely on it is given to the Inland Revenue in accordance with regulations made by the Board of Inland Revenue.

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

**C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))

**C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)

**Commencement Information**

**I65** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**225 Overseas scheme transfers: money purchase arrangements**

- (1) This section applies in the case of a recognised overseas scheme arrangement that was a money purchase arrangement.
- (2) The relevant relievable amount is—
  - (a) if the recognised overseas scheme arrangement was a cash balance arrangement, the cash balance relevant relievable amount (see subsections (3) to (5)), and
  - (b) if the recognised overseas scheme arrangement was any other sort of money purchase arrangement, the other money purchase relevant relievable amount (see subsections (6) and (7)).
- (3) The cash balance relevant relievable amount is—
  - (a) the amount arrived at by the application of subsection (4) in relation to the part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual, or

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) if there have been two or more parts of that period during which the individual was not a relevant overseas individual, the aggregate of the amounts arrived at by the application of subsection (4) in relation to each of those parts of that period.
- (4) The amount arrived at by the application of this subsection in relation to any part of the overseas arrangement active membership period is—

$$CV - OV$$

where—

CV is the closing value of the individual's rights under the arrangement, and

OV is the opening value of the individual's rights under the arrangement.

- (5) For the purposes of subsection (4)—
- (a) the closing value of the individual's rights under the recognised overseas scheme arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of that part of that period, and
- (b) the opening value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the beginning of that part of that period.
- (6) The other money purchase relevant relievable amount is—
- (a) the amount arrived at by the application of subsection (7) in relation to the part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual, or
- (b) if there have been two or more parts of that period during which the individual was not a relevant overseas individual, the aggregate of the amounts arrived at by the application of subsection (7) in relation to each of those parts of that period.
- (7) The amount arrived at by the application of this subsection in relation to any part of the overseas arrangement active membership period is the amount of the contributions made under the arrangement by or in respect of the individual in any part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual.

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

**C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))

**C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Commencement Information

**I66** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 226 Overseas scheme transfers: other arrangements

- (1) This section applies in the case of a recognised overseas scheme arrangement that was not a money purchase arrangement.
- (2) The relevant relievable amount is—
  - (a) if the recognised overseas scheme arrangement was a defined benefits arrangement, the defined benefits relevant relievable amount (see subsections (3) and (4)), and
  - (b) if the recognised overseas scheme arrangement was a hybrid arrangement, the hybrid relevant relievable amount (see subsections (5) to (7)).
- (3) The defined benefits relevant relievable amount is—
  - (a) the amount arrived at by the application of subsection (4) in relation to the part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual, or
  - (b) if there have been two or more parts of that period during which the individual was not a relevant overseas individual, the aggregate of the amounts arrived at by the application of subsection (4) in relation to each of those parts of that period.
- (4) The amount arrived at by the application of this subsection in relation to any part of the overseas arrangement active membership period is—

$$(RVF \times PE + LSE) - (RVF \times PB + LSB)$$

where—

RVF is the relevant valuation factor (see section 276),

PE is the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the recognised overseas scheme arrangement if the individual became entitled to payment of it at the end of that part of that period,

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the end of that part of that period,

PB is the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the beginning of that part of that period, and

LSB is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the beginning of that part of that period.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (5) The hybrid relevant relievable amount is the greater or greatest of such of—
- (a) what would be the cash balance relevant relievable amount (under section 225) if the recognised overseas scheme arrangement had been a cash balance arrangement,
  - (b) what would be the other money purchase relevant relievable amount (under that section) if that arrangement had been any other sort of money purchase arrangement, and
  - (c) what would be the defined benefits relevant relievable amount (under subsections (3) and (4)) if that arrangement had been a defined benefits arrangement,
- as are relevant to that arrangement.
- (6) An amount is relevant to a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits linked to that amount.
- (7) For that purpose—
- (a) cash balance benefits are linked to the cash balance relevant relievable amount,
  - (b) other money purchase benefits are linked to the other money purchase relevant relievable amount, and
  - (c) defined benefits are linked to the defined benefits relevant relievable amount.

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

- C65** Ss. 214-226 applied by 2003 c. 1, s. 636A(5) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))
- C66** Ss. 214-226 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), [5-11](#)

**Commencement Information**

- I67** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Annual allowance charge*

**227 Annual allowance charge**

- (1) A charge to income tax, to be known as the annual allowance charge, arises [<sup>F407</sup>where an individual who is a member of one or more registered pension schemes has a [<sup>F408</sup>non-zero] chargeable amount for a tax year.]
- [<sup>F409</sup>(1A) The chargeable amount <sup>F410</sup>... is to be determined in accordance with section 227ZA.]
- <sup>F411</sup>(2) .....
- <sup>F411</sup>(3) .....
- (4) The annual allowance charge is a charge at the [<sup>F412</sup>appropriate rate] in respect of [<sup>F413</sup>the chargeable amount.]
- <sup>F414</sup> .....

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- [<sup>F415</sup>(4A) The appropriate rate is—
- (a) the basic rate [<sup>F416</sup>or, in the case of a Scottish taxpayer, the Scottish basic rate] in relation to so much (if any) of the [<sup>F417</sup>chargeable amount] as, when added to the individual's reduced net income for the tax year, does not exceed the basic rate limit for the tax year,
  - (b) the higher rate [<sup>F418</sup>or, in the case of a Scottish taxpayer, the Scottish higher rate] in relation to so much (if any) of the [<sup>F417</sup>chargeable amount] as, when so added, exceeds the basic rate limit for the tax year but does not exceed the higher rate limit for the tax year, and
  - (c) the additional rate [<sup>F419</sup>or, in the case of a Scottish taxpayer, the Scottish additional rate] in relation to so much (if any) of the [<sup>F417</sup>chargeable amount] as, when so added, exceeds the higher rate limit for the tax year.
- (4B) The individual's reduced net income for the tax year is the amount after taking Step 3 in section 23 of ITA 2007 in the case of the individual for the tax year.
- (4C) Where the basic rate limit or the higher rate limit for the tax year is (in accordance with section 192 of this Act or section 414 of ITA 2007) increased in the case of the individual, the references to the limit in subsection (4A) are to the limit as so increased.]
- (5) [<sup>F420</sup>The chargeable amount] is not to be treated as income for any purpose of the Tax Acts.
- <sup>F421</sup>(5A) .....
- <sup>F421</sup>(5B) .....
- (6) The following sections make further provision about the annual allowance charge—  
[<sup>F422</sup>sections 227ZA and 227B (chargeable amount),]  
[<sup>F422</sup>sections 227C to 227G (supplemental provision for calculations under section 227B),]  
section 228 (annual allowance),  
section [<sup>F423</sup>229(1)] (total pension input amount to be aggregate of pension input amounts for pension input periods ending in tax year),  
[<sup>F424</sup>section 229(2) to (4) (how to arrive at the pension input amount in respect of an arrangement),]  
sections 230 to 237 (pension input amounts),  
[<sup>F425</sup>sections 237A to 237F (persons liable to charge),] and  
section 238 (pension input period).
- (7) Schedule 36 contains (in Part 4) transitional provision about the annual allowance charge.

#### Textual Amendments

- F407** Words in s. 227(1) substituted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 63\(2\)](#)
- F408** Words in s. 227(1) inserted (with effect in accordance with Sch. 4 para. 11(4) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 11\(2\)\(a\)](#)
- F409** S. 227(1A) inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 63\(3\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F410** Words in s. 227(1A) omitted (with effect in accordance with Sch. 4 para. 11(4) of the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **Sch. 4 para. 11(2)(b)**
- F411** S. 227(2)(3) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of Finance Act 2011 (c. 11), **Sch. 17 para. 3(2)**
- F412** Words in s. 227(4) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 3(3)**
- F413** Words in s. 227(4) substituted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 63(4)**
- F414** Words in s. 227(4) omitted (17.12.2014) (with effect in accordance with Sch. 1 para. 66(3) of the amending Act) by virtue of Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 66(2)(a)**
- F415** S. 227(4A)-(4C) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 3(4)**
- F416** Words in s. 227(4A)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Scottish Rate of Income Tax (Consequential Amendments) Order 2015 (S.I. 2015/1810), arts. 1(1), **7(2)(a)**
- F417** Words in s. 227(4A) substituted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 63(5)**
- F418** Words in s. 227(4A)(b) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Scottish Rate of Income Tax (Consequential Amendments) Order 2015 (S.I. 2015/1810), arts. 1(1), **7(2)(b)**
- F419** Words in s. 227(4A)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Scottish Rate of Income Tax (Consequential Amendments) Order 2015 (S.I. 2015/1810), arts. 1(1), **7(2)(c)**
- F420** Words in s. 227(5) substituted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 63(6)**
- F421** S. 227(5A)(5B) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of Finance Act 2011 (c. 11), **Sch. 17 para. 3(5)**
- F422** Words in s. 227(6) inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 63(7)(a)**
- F423** Word in s. 227(6) substituted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 63(7)(b)**
- F424** Words in s. 227(6) inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 63(8) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), **Sch. 1 para. 63(7)(c)**
- F425** S. 227(6) entry inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 3(6)**

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

- C92** S. 227 modified (6.4.2006) by The Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (S.I. 2006/207), regs. 1(1), **8**
- C93** S. 227 revocation of earlier affecting provision S.I. 2006/207, reg. 8 (with effect in accordance with reg. 1(2) of the amending S.I.) by The Registered Pension Schemes (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/1751), regs. 1(1), **12(2)**
- C94** S. 227 modified (1.4.2012) by The Postal Services Act 2011 (Taxation) Regulations 2012 (S.I. 2012/764), regs. 1(1), **24**; S.I. 2012/687; S.I. 2012/688; S.I. 2012/966

#### Commencement Information

- I68** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### <sup>F426</sup>227ZA The chargeable amount

- (1) The chargeable amount is the alternative chargeable amount (see section 227B) if—



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- (a) the year is—
    - (i) the tax year in which the individual first flexibly accesses pension rights (see section 227G), or
    - (ii) a tax year later than that tax year,
  - (b) the money-purchase input sub-total (see section 227C) exceeds £10,000, and
  - (c) the alternative chargeable amount exceeds the default chargeable amount.
- (2) Otherwise, the chargeable amount is the default chargeable amount.
- (3) The default chargeable amount is the amount (if any) by which—
- (a) the total pension input amount calculated in accordance with section 229(1), exceeds
  - (b) the annual allowance for the year in the case of the individual (see sections 228(1) and 228A).

[ If there is no such excess, the default chargeable amount is zero. ]  
F427(4)

#### Textual Amendments

**F426** S. 227ZA inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 64(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 64](#)

**F427** S. 227ZA(4) inserted (with effect in accordance with Sch. 4 para. 11(4) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 11\(3\)](#)

#### F428 **227A** Individuals who meet flexible drawdown conditions

.....

#### Textual Amendments

**F428** S. 227A omitted (17.12.2014) (with effect in accordance with Sch. 1 para. 66(3) of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 66\(1\)](#)

#### F429 **227B** The alternative chargeable amount

- (1) The alternative chargeable amount is the total of—
  - (a) the amount (if any) by which the defined-benefit input sub-total exceeds the alternative annual allowance, and
  - (b) the amount by which the money-purchase input sub-total exceeds £10,000.

- (2) The alternative annual allowance is—

AA – £ 10,000

where AA is the annual allowance for the year in the case of the individual (see sections 228(1) and 228A).

- (3) The defined-benefit input sub-total is the total of—
  - (a) the pension input amounts in respect of each defined benefits arrangement relating to the individual under a registered pension scheme of which the individual is a member (see section 229(2)(c)),

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- (b) the pension input amounts in respect of each hybrid arrangement—
    - (i) relating to the individual under a registered pension scheme of which the individual is a member, and
    - (ii) in respect of which the pension input amount is input amount C mentioned in section 237, and
  - (c) any amounts required to be included by section <sup>F430</sup>... 227F(4) or (6) (pension input periods that end in the year [<sup>F431</sup>and contain] the day on which rights are first flexibly accessed <sup>F432</sup>...).
- (4) Subsection (3)(b) is subject to section 227D (pension input amounts for certain hybrid arrangements).
- (5) If, in the case of a hybrid arrangement, input amount C mentioned in section 237—
- (a) is a relevant input amount for the purposes of section 237, and
  - (b) is equal to—
    - (i) input amount A or B mentioned in section 237 if that is the only other relevant input amount for the purposes of section 237, or
    - (ii) the greater of input amounts A and B mentioned in section 237 if both are relevant input amounts for the purposes of section 237,
- the pension input amount in respect of the arrangement is, for the purposes of subsection (3)(b) and sections 227C(1)(b) and 227D(1)(c), treated as being input amount A or B or, as the case may be, the greater of input amounts A and B (and, in either case, not input amount C).

#### Textual Amendments

- F429** Ss. 227B-227G inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 65(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 65\(1\)](#)
- F430** Words in s. 227B(3)(c) omitted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(2\)\(a\)\(i\)](#)
- F431** Words in s. 227B(3)(c) substituted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(2\)\(a\)\(ii\)](#)
- F432** Words in s. 227B(3)(c) omitted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(2\)\(a\)\(iii\)](#)

#### 227C Meaning of “money-purchase input sub-total”

- (1) The money-purchase input sub-total is the total of—
- (a) the pension input amounts in respect of each money purchase arrangement relating to the individual under a registered pension scheme of which the individual is a member (see section 229(2)(a) and (b)), and
  - (b) the pension input amounts in respect of each hybrid arrangement—
    - (i) relating to the individual under a registered pension scheme of which the individual is a member, and
    - (ii) in respect of which the pension input amount is input amount A or B mentioned in section 237.
- (2) Subsection (1) is to be read with—
- <sup>F433</sup>(a) .....

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- (b) section 227F(2), (3) and (5) (pension input periods that end in the tax year and contain [<sup>F434</sup>the day on which rights are first flexibly accessed]).
- (3) Subsection (1)(b) is to be read with—
  - (a) section 227B(5) (hybrid arrangements where input amount C is highest-equal input amount), and
  - (b) section 227D (pension input amounts for certain hybrid arrangements).

#### Textual Amendments

- F429** Ss. 227B-227G inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 65(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 65\(1\)](#)
- F433** S. 227C(2)(a) and word omitted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(2\)\(b\)](#)
- F434** Words in s. 227C(2)(b) substituted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(2\)\(c\)](#)

### 227D Pension input amounts in respect of certain hybrid arrangements

- (1) In this section “relevant hybrid arrangement” means a hybrid arrangement—
  - (a) relating to the individual under a registered pension scheme of which the individual is a member,
  - (b) made on or after 14 October 2014 or having become a hybrid arrangement (whether or not for the first time) on or after that day, and
  - (c) in respect of which the pension input amount is input amount C mentioned in section 237.
- (2) As respects each relevant hybrid arrangement in the maximising set of relevant hybrid arrangements—
  - (a) the pension input amount in respect of the arrangement is for the purposes of sections 227B(3)(b) and 227C(1)(b) treated as being not input amount C mentioned in section 237 but, instead, the greater of such of input amounts A and B mentioned in section 237 as are, for the purposes of section 237, relevant input amounts in the case of the arrangement, and
  - (b) accordingly, the arrangement—
    - (i) is not to be included among the arrangements mentioned in section 227B(3)(b) whose pension input amounts are totalled under section 227B(3), but
    - (ii) is to be included among the arrangements mentioned in section 227C(1)(b) whose pension input amounts are totalled under section 227C(1).
- (3) For the purposes of subsection (2)—
  - (a) the maximising set contains no relevant hybrid arrangements,
  - (b) a particular relevant hybrid arrangement makes up that set, or
  - (c) two or more particular relevant hybrid arrangements make up that set,if the alternative chargeable amount with the maximising set so made up is not less than it would be with the maximising set made up in any other way.
- (4) In particular, the maximising set may be identified by taking the following steps—
  - Step 1* Identify all of the relevant hybrid arrangements.

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*Step 2* Identify all of the different combinations of the arrangements identified at Step 1 (including the combination consisting of all of those arrangements, and the combination consisting of none of them, as well as every possible combination of each possible size in between).

*Step 3* For each combination identified at Step 2 calculate what the money-purchase input sub-total would be if each relevant hybrid arrangement in the combination were treated in accordance with the rules in paragraphs (a) and (b) of subsection (2).

*Step 4* If the result of each calculation at Step 3 is less than or equal to £10,000 the chargeable amount is the default chargeable amount.

*Step 5* If the amount calculated at Step 3 for a combination is greater than £10,000 then calculate in accordance with section 227B what the alternative chargeable amount would be if—

- (a) each relevant hybrid arrangement in the combination were treated in accordance with the rules in paragraphs (a) and (b) of subsection (2), and
- (b) for each relevant hybrid arrangement not in the combination, input amount C mentioned in section 237 were included in the total under section 227B(3).

*Step 6* Identify the highest (or higher) of the amounts calculated at Step 5. The maximising set is made up of each relevant hybrid arrangement in the combination concerned.

- (5) Subsection (1)(c) is to be read with section 227B(5) (hybrid arrangements where input amount C is highest-equal input amount).

<sup>F435</sup>(6) .....

**Textual Amendments**

**F429** Ss. 227B-227G inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 65(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 65\(1\)](#)

**F435** S. 227D(6) omitted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(2\)\(d\)](#)

<sup>F436</sup>**227EPension input periods ending before rights are first flexibly accessed**

.....

**Textual Amendments**

**F436** S. 227E omitted (with effect in accordance with Sch. 4 para. 4(3) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 4\(1\)](#)

**227F Pension input periods in which rights are first flexibly accessed**

- (1) Subject to subsection (7), subsections (2) to (6) apply if, for an arrangement mentioned in section 227C(1), the pension input period ending in the tax year contains the day on which the individual first flexibly accesses pension rights (whether or not that day is in the tax year).

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- (2) If the arrangement is a cash balance arrangement, the pension input amount in respect of that arrangement is for the purposes of section 227C(1)(a) treated as being—

$$F \text{ PIP} \times \text{APIA}$$

where—

APIA is the (actual) pension input amount in respect of the arrangement (see section 229(2)(a)),

F is the number of days in the period—

- (a) beginning with the day after that on which the individual first flexibly accesses pension rights, and
- (b) ending at the end of the pension input period mentioned in subsection (1), and

PIP is the number of days in that pension input period.

- (3) If the arrangement is a money purchase arrangement other than a cash balance arrangement, the pension input amount in respect of that arrangement is for the purposes of section 227C(1)(a) treated as being the amount in respect of the arrangement that would be arrived at under section 233 for a pension input period—

- (a) beginning with the day after that on which the individual first flexibly accesses pension rights, and
- (b) ending at the end of the pension input period mentioned in subsection (1).

- (4) If the arrangement is a money purchase arrangement, the amount (if any) by which—

- (a) the (actual) pension input amount in respect of the arrangement (see section 229(2)(a) or (b)), exceeds
- (b) the amount treated by subsection (2) or (3) as being the pension input amount in respect of the arrangement,

is required to be included in the defined-benefit input sub-total calculated under section 227B(3).

- (5) If the arrangement is a hybrid arrangement—

- (a) input amount A mentioned in section 237 is for the purposes of sections 227C(1)(b) and 227D(2) treated as being—

$$F \text{ PIP} \times \text{AAIAA}$$

where—

AAIAA is the (actual) amount of input amount A for the arrangement,

F is the number of days in the period—

- (a) beginning with the day after that on which the individual first flexibly accesses pension rights, and
- (b) ending at the end of the pension input period mentioned in subsection (1), and

PIP is the number of days in that pension input period, and

- (b) input amount B mentioned in section 237 is for the purposes of sections 227C(1)(b) and 227D(2) treated as being the amount for the arrangement that would be arrived at under section 233 for a pension input period—

- (i) beginning on the day after that on which the individual first flexibly accesses pension rights, and

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- (ii) ending at the end of the pension input period mentioned in subsection (1).
- (6) If the arrangement is a hybrid arrangement, the amount (if any) by which—
- (a) the (actual) pension input amount in respect of the arrangement (see section 229(2)(d)), exceeds
  - (b) the amount which, in accordance with subsection (5) and section 227D, is for the purposes of section 227C(1)(b) the pension input amount in respect of the arrangement,
- is required to be included in the defined-benefit input sub-total calculated under section 227B(3).
- (7) Subsections (2) to (6) do not apply if section 165(3A) applied in the individual's case to the arrangement, or any other arrangement, at any time before 6 April 2015.

#### **Textual Amendments**

**F429** Ss. 227B-227G inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 65(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 65\(1\)](#)

### **227G When pension rights are first flexibly accessed**

- (1) References in sections 227B to 227F to when the individual first flexibly accesses pension rights are to the time, or the earlier or earliest of the times, given for that by the following subsections.
- (2) If—
- (a) the individual has a member's flexi-access drawdown fund in respect of an arrangement, and
  - (b) the fund came into being—
    - (i) as a result of sums or assets being designated on or after 6 April 2015 as available for the payment of drawdown pension, or
    - (ii) as a result of the operation of paragraph 8D(2) of Schedule 28,
 the individual first flexibly accesses pension rights immediately before the first qualifying payment is made from the fund (see subsection (10)).
- (3) If section 165(3A) applied in the individual's case to an arrangement at any time before 6 April 2015, the individual first flexibly accesses pension rights at the start of 6 April 2015.
- (4) If—
- (a) the individual has a member's drawdown pension fund in respect of an arrangement, and
  - (b) the sums and assets that make up the fund become newly-designated funds by the operation of paragraph 8B of Schedule 28,
- the individual first flexibly accesses pension rights immediately before the first qualifying payment (see subsection (10)) is made from the individual's member's flexi-access drawdown fund in respect of the arrangement (whether that is the payment that triggers the operation of paragraph 8B of Schedule 28 or a subsequent payment).
- (5) If—

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- (a) the individual has a member's drawdown pension fund in respect of an arrangement, and
  - (b) the sums and assets that make up the fund become newly-designated funds by the operation of paragraph 8C of Schedule 28,
- the individual first flexibly accesses pension rights immediately before the first qualifying payment is made from the individual's member's flexi-access drawdown fund in respect of the arrangement (see subsection (10)).
- (6) The individual first flexibly accesses pension rights immediately before the payment of the first uncrystallised funds pension lump sum paid to the individual.
  - (7) If the individual is entitled to payment of a lifetime annuity under a flexible annuity contract (see subsection (8)), the individual first flexibly accesses pension rights immediately before the first payment of the annuity is made.
  - (8) In subsection (7) “flexible annuity contract” means a contract for a lifetime annuity where—
    - (a) the annuity is within paragraph 3(1A) of Schedule 28, and
    - (b) the terms of the contract are such that there will or could be decreases in the amount of the annuity other than decreases from time to time allowed by regulations under paragraph 3(1)(d) of Schedule 28 (and any such regulations are to be treated as having effect for this purpose).
  - (9) If—
    - (a) the individual is entitled to payment of a scheme pension under a money purchase arrangement under a registered pension scheme,
    - (b) the individual became entitled to the scheme pension—
      - (i) on or after 6 April 2015, and
      - (ii) at a time when fewer than 11 other individuals were entitled to the present payment of a scheme pension, or dependants' scheme pension, under the registered pension scheme, and
    - (c) the scheme pension is not payable under an annuity contract treated under section 153(8) or (8A) as having become a registered pension scheme,the individual first flexibly accesses pension rights immediately before the first payment of the scheme pension is made.
  - (10) In subsections (2), (4) and (5), a reference to a qualifying payment from a fund is a reference to—
    - (a) payment of income withdrawal from the fund, or
    - (b) payment of a short-term annuity purchased using sums or assets out of the fund,but does not include payment at a time when the whole of the fund represents rights attributable to a disqualifying pension credit.
  - (11) In subsection (10) “disqualifying pension credit” is to be read in accordance with paragraph 2(3) and (4) of Schedule 29.]

#### **Textual Amendments**

**F429** Ss. 227B-227G inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 65(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 65\(1\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### <sup>F437</sup> 228 Annual allowance

- <sup>F438</sup>(1) The annual allowance for the tax year 2014-15 and, subject to subsection (2), each subsequent tax year is £40,000.]
- (2) The Treasury may by order provide that the annual allowance for any tax year subsequent to the tax year <sup>F439</sup>2014-15] is such amount as is specified in the order.]

#### Textual Amendments

- F437** S. 228 substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 4](#)
- F438** S. 228(1) substituted (with effect in accordance with s. 49(4) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 49\(2\)](#)
- F439** Word in s. 228(2) substituted (with effect in accordance with s. 49(4) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 49\(3\)](#)

### <sup>F440</sup> 228ZA ~~228ZB~~apered reduction of annual allowance: high-income individual

- (1) If the individual is a high-income individual for the tax year, section 228(1) has effect for the tax year in the individual's case as if the amount (“A”) which it specifies for the tax year were reduced (but not below £10,000) by—

$$(T - £150,000) \times (A - £10,000) / £60,000$$

where T is the individual's adjusted income for the tax year.

- (2) If the amount of the reduction under subsection (1) would otherwise not be a multiple of £1, it is to be rounded down to the nearest amount which is a multiple of £1.
- (3) The individual is a “high-income individual” for the tax year if—
- (a) the individual's adjusted income for the tax year is more than £150,000, and
  - (b) the individual's threshold income for the tax year is more than the amount given by £150,000 minus A.
- (4) The individual's “adjusted income” for the tax year is—
- (a) the individual's net income for the year (see Step 2 of the calculation in section 23 of ITA 2007), plus
  - (b) the amount of any relief under section 193(4) or 194(1) deducted at that Step, plus
  - (c) the amount of any deductions made from employment income of the individual for the year—
    - (i) under section 193(2), or
    - (ii) under Chapter 2 of Part 5 of ITEPA 2003 in accordance with paragraph 51(2) of Schedule 36, plus
  - (d) an amount equal to—
    - (i) the total pension input amount calculated in accordance with section 229(1), less
    - (ii) the amount of any contributions paid by or on behalf of the individual during the year under registered pension schemes of which the individual is a member, less



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- (e) the amount of any lump sum which accrues in the year and in relation to which section 579A of ITEPA 2003 is applied by section 636A(4ZA) of ITEPA 2003.
- (5) The individual's "threshold income" for the tax year is—
- (a) the individual's net income for the year (see Step 2 of the calculation in section 23 of ITA 2007), plus
  - (b) any amount by which what would otherwise be general earnings or specific employment income of the individual for the year has been reduced by relevant salary sacrifice arrangements or relevant flexible remuneration arrangements, less
  - (c) the amount (before any deduction under section 192(1)) of any contribution paid in the year in respect of which the individual is entitled to be given relief under section 192 (relief at source), less
  - (d) the amount of any lump sum which accrues in the year and in relation to which section 579A of ITEPA 2003 is applied by section 636A(4ZA) of ITEPA 2003.
- (6) In subsection (5)—
- "relevant salary sacrifice arrangements" means arrangements—
    - (a) under which the individual gives up the right to receive general earnings or specific employment income in return for the making of relevant pension provision, and
    - (b) which are made on or after 9 July 2015 (and whether before or after the start of the employment concerned), and
  - "relevant flexible remuneration arrangements" means arrangements—
    - (a) under which the individual and an employer of the individual agree that relevant pension provision is to be made rather than the individual receive some description of employment income, and
    - (b) which are made on or after 9 July 2015 (and whether before or after the start of the employment concerned).
- (7) In subsection (6) "relevant pension provision" means the payment of contributions (or additional contributions) to a pension scheme in respect of the individual or otherwise (by an employer of the individual or any other person) to secure an increase in the amount of the benefits to which the individual or any person who is a dependant of, or is connected with, the individual is actually or prospectively entitled under a pension scheme.
- (8) In subsection (7) "increase" includes increase from nil.
- (9) Section 993 of ITA 2007 (meaning of "connected" persons) applies for the purposes of subsection (7).

#### **Textual Amendments**

**F440** Ss. 228ZA, 228ZB inserted (with effect in accordance with Sch. 4 para. 10(2) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 10\(1\)](#)

#### **228ZB Anti-avoidance in connection with section 228ZA**

- (1) Subsection (5) applies if there are arrangements in respect of which conditions A to C are met.

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- (2) Condition A is that it is reasonable to assume that the main purpose, or one of the main purposes, of the arrangements is to reduce the amount of the reduction under section 228ZA(1) in the individual's case—
  - (a) for the tax year, or
  - (b) for two or more tax years which include the tax year.
- (3) Condition B is that the arrangements involve either or both of the following—
  - (a) reducing the individual's adjusted income for the tax year, and
  - (b) reducing the individual's threshold income for the tax year.
- (4) Condition C is that the arrangements involve the reduction within subsection (3), or any of the reductions within subsection (3), being redressed by an increase in the individual's adjusted income, or threshold income, for a different tax year.
- (5) The reduction under section 228ZA(1) in the individual's case for the tax year is to be treated as being what it would be apart from the arrangements.
- (6) In subsection (2) “reduce” includes reduce to nil.
- (7) The increase mentioned in subsection (4) may be an increase in what would be the individual's adjusted income, or threshold income, for the tax year 2015-16 if section 228ZA—
  - (a) had effect for that year, and
  - (b) did so as if the total pension input amount mentioned in section 228ZA(4)(d)
    - (i) were the sum of the total pension input amounts for the pre-alignment and post-alignment tax years (see section 228C(2)).
- (8) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).]

#### **Textual Amendments**

**F440** Ss. 228ZA, 228ZB inserted (with effect in accordance with Sch. 4 para. 10(2) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 10\(1\)](#)

#### **[<sup>F441</sup>228A Carry forward of unused annual allowance**

- (1) This section applies if the individual has unused annual allowance available for the tax year (“the current tax year”).
- (2) The annual allowance for the current tax year in the case of the individual is to be treated as increased by the amount of the unused annual allowance available for the current tax year.
- (3) The individual has unused annual allowance available for the current tax year if—
  - (a) the amount of the annual allowance (before any increase under this section) for the immediately preceding tax year exceeded the total pension input amount in the case of the individual for that tax year, or
  - (b) the amount of the annual allowance (before any such increase) for either or both of the two tax years immediately preceding that immediately preceding tax year exceeded the total pension input amount in the case of the individual

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for the tax year concerned and the excess (or, where there is an excess for both of those tax years, the excess for both tax years) has not been used up, or both.

(4) Subsection (3)—

- (a) does not apply in relation to a tax year preceding the current tax year unless the individual was a member of a registered pension scheme at some time during that tax year, but
- (b) subject to that, applies in relation to such a tax year even if the total pension input amount in the case of the individual for that tax year was nil (in which case the excess within paragraph (a) or (b) of that subsection is the whole amount of the annual allowance before any increase under this section).

(5) The amount of the unused annual allowance available for the current tax year is the aggregate of—

- (a) any excess within subsection (3)(a), and
- (b) so much of any excess within subsection (3)(b) as has not been used up.

(6) An amount of an excess within subsection (3)(b) for a tax year has been “used up” if—

- (a) for a tax year falling between that tax year and the current tax year (an “intervening tax year”), the total pension input amount in the case of the individual exceeded the annual allowance (apart from any increase under this section), and
- (b) the amount of the excess had effect by virtue of this section to reduce (or eliminate) the annual allowance charge for the intervening tax year in the case of the individual.

(7) In calculating for the purposes of subsection (6) the amount of which of the excesses for different tax years had effect to reduce or eliminate the annual allowance charge for an intervening tax year, an amount of the excess for an earlier tax year is to be taken to have done so before that for a later tax year.

[ If, for a tax year preceding the current tax year, the chargeable amount in the <sup>F442</sup>(8) individual's case was the alternative chargeable amount—

- (a) a reference in subsection (3)(a) or (b), (4)(b) or (6)(a) to the annual allowance for that preceding tax year is a reference to the alternative annual allowance for that preceding tax year (see section 227B(2)), and
- (b) a reference in subsection (3)(a) or (b), (4)(b) or (6)(a) to the total pension input amount in the case of the individual for that preceding tax year is a reference to the defined-benefit input sub-total in the case of the individual for that preceding tax year (see section 227B(3) to (5)).

(9) Subsection (3) does not apply in relation to a tax year—

- (a) preceding the current tax year, and
- (b) ending not later than 5 April 2015,

if, at any time in that preceding tax year, section 165(3A) or 167(2A) applied to an arrangement relating to the individual.]]

#### Textual Amendments

**F441** S. 228A inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 5](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F442** Ss. 228A(8)(9) inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 67(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 67\(1\)](#)

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

**C95** S. 228A applied (with modifications) (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 paras. 29, 30](#)

**[<sup>F443</sup>228B Carry forward: certain periods treated as pension input periods**

- (1) This section applies where the first pension input period for a relevant arrangement relating to an individual ends in the tax year 2011-12, 2012-13 or 2013-14.
- (2) A period is a “carry forward period” for the purposes of this section if it—
  - (a) is one of the 3 consecutive periods of 12 months immediately before the commencement date of the first pension input period, and
  - (b) is a period in which the arrangement was in existence at any time.
- (3) Any amount that would, if a carry forward period were a pension input period of the arrangement, have been unused annual allowance available to the individual for the tax year 2011-12, 2012-13 or 2013-14 is to be treated as unused annual allowance available to the individual for that tax year.
- (4) In this section “relevant arrangement” means—
  - (a) a cash balance arrangement,
  - (b) a defined benefits arrangement, or
  - (c) a hybrid arrangement the only benefits under which may be cash balance benefits or defined benefits.]

**Textual Amendments**

**F443** S. 228B inserted (28.1.2015) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **11**

**[<sup>F444</sup>228C Annual allowance for, and carry-forward from, 2015-16**

- (1) The provisions relating to the annual allowance charge (whether provisions contained in or made under this or any other Act) have effect subject to the following rules.

*2015-16 split into two tax years for annual allowance purposes*

- (2) For the purposes of those provisions but subject to subsection (3), the tax year 2015-16 is to be treated as consisting of two tax years as follows—
  - (a) one beginning with 6 April 2015 and ending with 8 July 2015 (“the pre-alignment tax year”), and
  - (b) one beginning with 9 July 2015 and ending with 5 April 2016 (“the post-alignment tax year”).
- (3) Despite subsection (2)—
  - (a) separate annual allowance charges for each of the pre-alignment and post-alignment tax years cannot arise, but a single annual allowance charge for the tax year 2015-16 arises if the individual has a chargeable amount for either or each of the pre-alignment and post-alignment tax years, and

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- (b) that single annual allowance charge is calculated as if—
  - (i) in section 227(4) the reference to the chargeable amount were a reference to the sum of the chargeable amounts for the pre-alignment and post-alignment tax years, and
  - (ii) in section 227(4A) to (4C) each reference to the tax year were to the tax year 2015-16.

*Double allowances allocated to earlier part of 2015-16*

- (4) For the pre-alignment tax year—
  - (a) the amount specified in section 228(1) (annual allowance for tax year) is treated as being £80,000, and
  - (b) in each of sections 227ZA(1)(b) and 227B(1)(b) and (2), the reference to £10,000 is treated as a reference to £20,000.

*Allowances for later part of 2015-16 limited to carried-forward allowances*

- (5) Where the individual was a member of a registered pension scheme at some time in the pre-alignment tax year then, for the post-alignment tax year—
  - (a) the amount specified in section 228(1) is treated as being nil,
  - (b) section 227B(2) (amount of alternative annual allowance) has effect as if “AA” were substituted for “AA – £10,000”,
  - (c) if the chargeable amount in the individual's case for the pre-alignment tax year is the alternative chargeable amount, the reference to £10,000 in each of sections 227ZA(1)(b) and 227B(1)(b) is treated as being a reference to nil, and
  - (d) if the chargeable amount in the individual's case for the pre-alignment tax year is the default chargeable amount, the reference to £10,000 in each of sections 227ZA(1)(b) and 227B(1)(b) is treated as being a reference—
    - (i) to nil where the money-purchase input sub-total in the individual's case for the pre-alignment tax year is £20,000 or more, or
    - (ii) to the amount equal to £20,000 minus that sub-total where that sub-total is more than £10,000 but less than £20,000.

*Limit on carry-forward of unused allowances from earlier part of 2015-16*

- (6) Where the current tax year for the purposes of section 228A (carry-forward of annual allowance) is the post-alignment tax year—
  - (a) if—
    - (i) the chargeable amount in the individual's case for the pre-alignment tax year is the default chargeable amount, and
    - (ii) the excess mentioned in section 228A(5)(a) would otherwise be more than £40,000,that excess is treated as being £40,000, and
  - (b) if—
    - (i) the chargeable amount in the individual's case for the pre-alignment tax year is the alternative chargeable amount, and
    - (ii) the excess mentioned in section 228A(5)(a) would otherwise be more than £30,000,that excess is treated as being £30,000.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

*Further provisions about carry-forward of unused allowances*

- (7) Where the current tax year for the purposes of section 228A is the post-alignment tax year or the tax year 2016-17, 2017-18 or 2018-19, section 228A applies in relation to that current tax year as if in section 228A(3)(b)—
- (a) for “either or both of the two” there were substituted “ any one or more of the three ”, and
  - (b) for “(or, where there is an excess for both of those tax years, the excess for both tax years)” there were substituted “ (or, where there is an excess for two or all three of those tax years, the excess for both or all those tax years) ”.
- (8) Where the current tax year for the purposes of section 228A is the tax year 2016-17, 2017-18 or 2018-19—
- (a) if—
    - (i) the chargeable amount in the individual's case for the pre-alignment tax year is the default chargeable amount, and
    - (ii) the excess within section 228A(3)(b) in the case of the pre-alignment tax year would otherwise be more than £40,000,
 that excess is treated as being £40,000 (and accordingly the amount aggregated under section 228A(5) in respect of that excess is so much of the £40,000 as has not been used up),
  - (b) if—
    - (i) the chargeable amount in the individual's case for the pre-alignment tax year is the alternative chargeable amount, and
    - (ii) the excess within section 228A(3)(b) in the case of the pre-alignment year would otherwise be more than £30,000,
 that excess is treated as being £30,000 (and accordingly the amount aggregated under section 228A(5) in respect of that excess is so much of the £30,000 as has not been used up), and
  - (c) in calculating for the purposes of section 228A(6) the amount of which of the excesses for different tax years had effect to reduce or eliminate the annual allowance charge for the post-alignment tax year, the amount of the excess for the pre-alignment tax year is to be taken to have done so before that for any other tax year and, subject to that, the amount of the excess for an earlier tax year is to be taken to have done so before that for a later year.

*Supplementary provision*

- (9) For the pre-alignment tax year, section 229(3) applies as if the reference to the end of the tax year were a reference to the end of the post-alignment tax year.]

**Textual Amendments**

F444 S. 228C inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 6](#)

**229 Total pension input amount**

- (1) The total pension input amount is arrived at by aggregating the pension input amounts in respect of each arrangement relating to the individual under a registered pension scheme of which the individual is a member.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (2) The pension input amount in respect of an arrangement—
- (a) is the amount arrived at under sections 230 to 232 if it is a cash balance arrangement,
  - (b) is the amount arrived at under section 233 if it is any other sort of money purchase arrangement,
  - (c) is the amount arrived at under sections 234 to [F445]236A] if it is a defined benefits arrangement, and
  - (d) is the amount arrived at under section 237 if it is a hybrid arrangement.
- (3) But there is no pension input amount in respect of an arrangement if, before the end of the tax year, the individual—
- [F446](a) satisfies the severe ill-health condition, or]
  - (b) has died.
- [F447](4) For the purposes of subsection (3)(a) the individual satisfies the severe ill-health condition if the individual—
- (a) becomes entitled to all the benefits to which the individual is entitled under the arrangement in consequence of the scheme administrator having received evidence from a registered medical practitioner that the individual is suffering from ill-health which makes the individual unlikely to be able (otherwise than to an insignificant extent) to undertake gainful work (in any capacity) before reaching pensionable age,
  - (b) becomes entitled to a serious ill-health lump sum under the arrangement, or
  - (c) is a member of the armed forces of the Crown who becomes entitled under the arrangement to a benefit on which no liability to income tax arises by virtue of section 641(1) of ITEPA 2003.]
- [F448](5) Subsection (2) is subject to section 237ZA (calculation of pension input amounts for input periods ending in 2015-16).]

#### Textual Amendments

- F445** Word in s. 229(2)(c) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 6\(2\)](#)
- F446** S. 229(3)(a) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 6\(3\)](#)
- F447** S. 229(4) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 6\(4\)](#)
- F448** S. 229(5) inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 8](#)

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

- C96** S. 229(3) modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 35 para. 4\(1\)](#)

#### Commencement Information

- I69** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### 230 Cash balance arrangements

- (1) The pension input amount in respect of a cash balance arrangement is the amount of any increase in the value of the individual's rights under the arrangement during the pension input period of the arrangement that ends in the tax year.
- (2) There is an increase in the value of the individual's rights under the arrangement during the pension input period if—
  - (a) the opening value of the individual's rights under the arrangement, is exceeded by
  - (b) the closing value of the individual's rights under the arrangement.
- (3) The amount of the increase in the value of the individual's rights under the arrangement during the pension input period is the amount of that excess.
- [<sup>F449</sup>(4) The opening value of the individual's rights under the arrangement—
  - (a) where the pension input period is the first pension input period of the arrangement, is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits immediately before that pension input period (or is nil if no such amount would be available), or
  - (b) in any other case, is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the immediately preceding pension input period.]
- (5) The closing value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the pension input period.
- [<sup>F450</sup>(5A) If, during the pension input period, minimum payments are made under—
  - (a) section 8 of the Pension Schemes Act 1993, or
  - (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993,
 in relation to the individual in connection with the arrangement, their amount is to be subtracted from what would otherwise be the pension input amount in the case of the individual in respect of the arrangement.
- [<sup>F451</sup>(5B) The pension input amount in respect of the cash balance arrangement is nil where subsection (5BA) or (5BB) applies and the value of the relevant rights of the individual under the arrangement does not increase during the pension input period by more than—
  - (a) the relevant percentage, plus
  - (b) the relevant statutory increase percentage.
- (5BA) This subsection applies where the individual—
  - (a) is, throughout the pension input period, a deferred member of the pension scheme that the arrangement is under,
  - (b) is such a deferred member for part of the pension input period and a pensioner member for the rest of it, or
  - (c) would meet the condition in paragraph (a) or (b) if the arrangement were the only arrangement under the pension scheme relating to that individual.



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

(5BB) This subsection applies where—

- (a) during the pension input period all the sums or assets held for the purposes of, or representing accrued rights under, the arrangement are transferred so as to become held for the purposes of, or to represent rights under—
  - (i) a registered pension scheme, or
  - (ii) a qualifying recognised overseas pension scheme,in connection with the individual,
- (b) the individual is a deferred member of the pension scheme that the arrangement is under from the beginning of the pension input period until the transfer (or would be if the arrangement were the only arrangement under the pension scheme relating to that individual), and
- (c) rights do not accrue under the arrangement to or in respect of the individual during so much of the pension input period as falls after the transfer.

(5BC) In determining for the purposes of this section whether or not a member of a pension scheme is a deferred member (see particularly the definition of “active member” in section 151(2)), arrangements made under the pension scheme for benefits to accrue, as a consequence of (and immediately after) a relevant inward transfer (as defined in section 232(6)) to or in respect of that member, are to be disregarded—

- (a) if condition B in section 232(6A) is met in relation to the accrual of benefits under the arrangements, or
- (b) so far as the accrual of benefits under the arrangements is to be an increase in the rights of the individual which falls to be subtracted by virtue of section 232(6A)(b).]

(5C) In this section—

“guaranteed minimum pension” has the meaning given by—

- (a) section 8(2) of the Pension Schemes Act 1993, or
- (b) section 4(2) of the Pension Schemes (Northern Ireland) Act 1993;

“predecessor arrangement”, in relation to an arrangement, means another arrangement (under the same or another registered pension scheme) from which some or all of the sums or assets held for the purposes of the arrangement directly or indirectly derive;

“predecessor registered pension scheme”, in relation to a pension scheme, means another registered pension scheme from which some or all of the sums or assets held for the purposes of the arrangement under the pension scheme directly or indirectly derive;

[<sup>F452</sup>“the relevant percentage” means—

- (a) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate which is an RPI-related rate specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 6th April 2012, that rate,
- (b) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate, other than an RPI-related rate, specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 14th October 2010, that rate, and

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- (c) in a case not falling within paragraph (a) or (b), the percentage by which the consumer prices index for a month falling within the pension input period and nominated by the scheme administrator is higher than it was for the same month in the previous period of 12 months (or nil per cent if it is not higher);]

“the relevant rights of the individual” means rights of the individual under the arrangement, other than any rights to a guaranteed minimum pension;

[<sup>F453</sup>“the relevant statutory increase percentage” in relation to a pension input period means the percentage increase in the value of the individual’s rights under the arrangement during the pension input period so far as it is attributable solely to one or more of the following—

- (a) an increase in accordance with section 15 of the Pension Schemes Act 1993 or section 11 of the Pension Schemes (Northern Ireland) Act 1993 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed);
- (b) a revaluation in accordance with section 16 of the Pension Schemes Act 1993 or section 12 of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of earning factors);
- (c) a revaluation in accordance with Chapter 2 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of accrued benefits);
- (d) a revaluation in accordance with Chapter 3 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: protection of increases in guaranteed minimum pensions);
- (e) the application of section 67 of the Equality Act 2010 (sex equality rule for occupational pension schemes);

“RPI-related rate” (in the definition of “the relevant percentage”) means—

- (a) a rate produced solely by movement in the retail prices index, or
- (b) a rate which (however expressed) is the lower of such a rate and a percentage figure;]

“specified”, in relation to an annual rate, means specified as a percentage figure or as a percentage produced by movement in an index (or a combination of the two) but does not include a percentage produced by the exercise of a discretion by any person.]

- (6) Section 231 (uprating of opening value) and section 232 (adjustments of closing value) supplement this section.

#### **Textual Amendments**

- F449** S. 230(4) substituted (with effect in accordance with art. 2(a) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **12(a)**
- F450** S. 230(5A)-(5C) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 7(3)**
- F451** S. 230(5B)-(5BC) substituted for s. 230(5B) (with effect in accordance with arts. 2(a), 3(1) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **12(b)**
- F452** Words in s. 230(5C) substituted (with effect in accordance with art. 2(a) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **12(c)(i)**

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F453** Words in s. 230(5C) inserted (with effect in accordance with art. 2(a) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **12(c)(ii)**

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

**C97** S. 230 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Restriction of Employers Relief\) Regulations 2005 \(S.I. 2005/3458\)](#), regs. 1(1), **5** (with regs. 2-4)

**C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(2)**

**C99** S. 230(1) modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(1)**

**Commencement Information**

**I70** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**231 Cash balance arrangements: uprating of opening value**

(1) This section applies for adjusting the opening value of the individual's rights as calculated under section 230(4).

(2) The opening value is to be increased by the appropriate percentage.

[<sup>F454</sup>(3) The appropriate percentage is the percentage (if any) by which the consumer prices index for the September before the start of the tax year is higher than it was for the previous September.]

**Textual Amendments**

**F454** S. 231(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 8**

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

**C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(2)**

**C100** S. 231 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **9** (as amended (with effect in accordance with reg. 1(7) of the amending S.I.) by [S.I. 2011/1751](#), regs. 1(1), **12(3)**)

**Commencement Information**

**I71** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**232 Cash balance arrangements: adjustments of closing value**

(1) This section applies for adjusting the closing value of the individual's rights under the arrangement as calculated under section 230(5).

(2) If, during the pension input period, the rights of the individual under the arrangement have been reduced by having become subject to a pension debit, the amount of [<sup>F455</sup>the reduction] is to be added.

(3) If, during the pension input period, the rights of the individual under the arrangement have been increased by the individual having become entitled to a pension credit

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

deriving from the same or another registered pension scheme, the amount of [<sup>F456</sup>the increase] is to be subtracted.

- (4) [<sup>F457</sup>In subsection (4A) “relevant outward transfer” means][<sup>F458</sup>a transfer relating to the individual of any sums or assets] held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any <sup>F459</sup>... pension scheme that is—
- (a) a registered pension scheme, or
  - (b) a qualifying recognised overseas pension scheme.

<sup>F460</sup> ...

[<sup>F461</sup>(4A) If there is a relevant outward transfer during the pension input period, then—

- (a) if condition A is met, the amount of the reduction specified in paragraph (b) of that condition is to be added;
- (b) if condition A is not met but the rights of the individual under the arrangement have been reduced by reason of the relevant outward transfer, the amount of that reduction is to be added.

Condition A is that—

- (a) the relevant outward transfer (“the transfer”) takes place within a block transfer,
- (b) the rights of the individual under the arrangement have been reduced, and the rights of the individual under the pension scheme mentioned in subsection (4) have been increased, as a consequence (whether direct or indirect) of the transfer, and
- (c) the amount of that reduction is equal (or virtually equal) to the amount of that increase.]

<sup>F462</sup>(5) .....

- (6) [<sup>F463</sup>In subsection (6A) “relevant inward transfer” means][<sup>F464</sup>a transfer relating to the individual] of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement<sup>F465</sup> ...

[<sup>F466</sup>(6A) If there is a relevant inward transfer during the pension input period, then—

- (a) if condition B is met, the amount of the increase specified in paragraph (b) of that condition is to be subtracted;
- (b) if condition B is not met but the rights of the individual under arrangement have been increased by reason of the relevant inward transfer, the amount of that increase is to be subtracted.

Condition B is that—

- (a) the relevant inward transfer (“the transfer”) takes place within a block transfer,
- (b) the rights of the individual under the arrangement have been increased, and the rights of the individual under the pension scheme mentioned in subsection (6) have been reduced, as a consequence (whether direct or indirect) of the transfer, and
- (c) the amount of that increase is equal (or virtually equal) to the amount of that reduction.

(6B) For the purposes of Condition A in subsection (4A) and Condition B in subsection (6A)

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

(6C) In subsections (4A) and (6A)—

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

[<sup>F467</sup>(6D) For the purposes of subsections (4A) and (6A), the rights of the individual under the arrangement have been reduced or increased, as the case may be, “by reason of” a transfer of sums or assets only where that reduction or increase is solely attributable to the value of those sums or assets.]

<sup>F468</sup>(7) .....

[<sup>F469</sup>(8) If, during the pension input period, the rights of the individual under the arrangement have been reduced by any surrender made, or similar action taken, pursuant to an option available to the individual under the arrangement, the amount of the reduction is to be added.

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

- (a) benefit crystallisation event 1, 2 or 4 occurs in relation to the individual and the arrangement,
- (b) benefit crystallisation event 3 occurs in relation to the individual and the arrangement otherwise than by reason of a provision contained in, or made under, any enactment,
- (c) benefit crystallisation event 6 occurs or, but for paragraph 15A of Schedule 32, would occur in relation to the individual and the arrangement by virtue of the individual becoming entitled to a pension commencement lump sum or a lifetime allowance excess lump sum, or
- (d) there is an allocation of rights of the individual under the arrangement (not falling within paragraph (a)),

the relevant amount is to be added.

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

<sup>F470</sup>(a) .....

<sup>F470</sup>(b) .....

- (c) in the case of benefit crystallisation event 6, the amount of the lump sum, and
- (d) in any other case, the amount of the reduction in the amount of the rights available for the provision of benefits to or in respect of the individual occurring by reason of the benefit crystallisation event or allocation.

(8C) If, during the pension input period, an adjustment to the individual's rights under the arrangement is made in consequence of the scheme administrator satisfying a liability

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under section 237B in respect of the individual, if and to the extent that the adjustment is reflected in the closing amount the amount of the adjustment is to be added to the closing amount.

(8D) But no amount is to be added under subsection (8C) by reason of an adjustment made in consequence of the scheme administrator satisfying a liability under section 237B <sup>F471</sup>in a case where—

- (a) the individual becomes actually entitled to all of the individual's benefits under the pension scheme or benefit crystallisation event 5, 5A or 5B occurs in relation to the individual and the pension scheme, and
- (b) the adjustment takes place after the individual becomes so entitled or the benefit crystallisation event occurs.]]

<sup>F472</sup>(9) .....

#### Textual Amendments

- F455** Words in s. 232(2) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(2\)](#)
- F456** Words in s. 232(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(3\)](#)
- F457** Words in s. 232(4) substituted (with effect in accordance with arts. 2(b), 3(3) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(a\)\(i\)](#)
- F458** Words in s. 232(4) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(4\)\(b\)](#)
- F459** Word in s. 232(4) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(4\)\(c\)](#)
- F460** Words in s. 232(4) omitted (with effect in accordance with arts. 2(b), 3(3) of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(a\)\(ii\)](#)
- F461** S. 232(4A) inserted (with effect in accordance with arts. 2(b), 3(3) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(b\)](#)
- F462** S. 232(5) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(5\)](#)
- F463** Words in s. 232(6) substituted (with effect in accordance with art. 2(b) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(c\)\(i\)](#)
- F464** Words in s. 232(6) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(6\)\(b\)](#)
- F465** Words in s. 232(6) omitted (with effect in accordance with art. 2(b) of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(c\)\(ii\)](#)
- F466** S. 232(6A)-(6C) inserted (with effect in accordance with art. 2(b) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(d\)](#)
- F467** S. 232(6D) inserted (with effect in accordance with art. 3(4) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(e\)](#)
- F468** S. 232(7) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(7\)](#)

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- F469** S. 232(8)-(8D) substituted for s. 232(8) (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(8\)](#)
- F470** S. 232(8B)(a)(b) omitted (with effect in accordance with art. 4 of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(f\)](#)
- F471** Words in s. 232(8D) substituted (with effect in accordance with art. 5 of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [13\(g\)](#)
- F472** S. 232(9) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 9\(9\)](#)

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

- C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 35 para. 5\(2\)](#)
- C101** S. 232 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Restriction of Employers Relief\) Regulations 2005 \(S.I. 2005/3458\)](#), regs. 1(1), [5](#) (with regs. 2-4)

**Commencement Information**

- I72** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**233 Other money purchase arrangements**

- (1) The pension input amount in respect of a money purchase arrangement other than a cash balance arrangement is the total of—
- (a) any relievable pension contributions paid by or on behalf of the individual under the arrangement, and
  - (b) contributions paid in respect of the individual under the arrangement by an employer of the individual,
- during the pension input period of the arrangement that ends in the tax year.

<sup>F473</sup>(2) .....

- (3) When at any time contributions paid under a pension scheme by an employer otherwise than in respect of any individual become held for the purposes of the provision under an arrangement under the pension scheme of benefits to or in respect of an individual, they are to be treated as being contributions paid at that time in respect of the individual under the arrangement.

[<sup>F474</sup>(4) References to “contributions” in subsection (1) do not include any amount which is a refund of excess contributions lump sum (see paragraph 6 of Schedule 29).]

**Textual Amendments**

- F473** S. 233(2) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [s. 52\(7\)\(10\)](#)
- F474** S. 233(4) inserted (with effect in accordance with art. 6 of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [14](#)

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

- C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 35 para. 5\(2\)](#)
- C102** S. 233 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Restriction of Employers Relief\) Regulations 2005 \(S.I. 2005/3458\)](#), regs. 1(1), [6](#) (with regs. 2-4)

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**C103** S. 233(1) modified (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 35 para. 5\(1\)](#)

#### Commencement Information

**I73** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### 234 Defined benefits arrangements

- (1) The pension input amount in respect of a defined benefits arrangement is the amount of any increase in the value of the individual's rights under the arrangement during the pension input period of the arrangement that ends in the tax year.
- (2) There is an increase in the value of the individual's rights under the arrangement during the pension input period if—
  - (a) the opening value of the individual's rights under the arrangement, is exceeded by
  - (b) the closing value of the individual's rights under the arrangement.
- (3) The amount of the increase in the value of the individual's rights under the arrangement during the pension input period is the amount of that excess.

[<sup>F475</sup>(4) The opening value of the individual's rights under the arrangement is—

$$(16 \times \text{PB}) + \text{LSB}$$

[<sup>F476</sup>where—

PB is—

- (a) if the pension input period is the first pension input period of the arrangement, the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the arrangement if the individual became entitled to payment of it immediately before that pension input period (or is nil if no such annual rate would be so payable), or
- (b) in any other case, the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of the immediately preceding pension input period, and

LSB is—

- (a) if the pension input period is the first pension input period of the arrangement, the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it immediately before that pension input period (or is nil if there is no such lump sum to which the individual would be so entitled), or
- (b) in any other case, the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at the end of the immediately preceding pension input period.]

[<sup>F477</sup>(5) The closing value of the] individual's rights under the arrangement is—

$$(16 \times \text{PE}) + \text{LSE}$$

where—



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PE is the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of the pension input period, and

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at that time.]

[<sup>F478</sup>(5A) If, during the pension input period, minimum payments are made under—

- (a) section 8 of the Pension Schemes Act 1993, or
- (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993,

in relation to the individual in connection with the arrangement, their amount is to be subtracted from what would otherwise be the pension input amount in the case of the individual in respect of the arrangement.

[<sup>F479</sup>(5B) The pension input amount in respect of the arrangement is nil where—

- (a) subsection (5BA) or (5BB) applies and the value of the relevant rights of the individual under the arrangement does not increase during the pension input period by more than—
  - (i) the relevant percentage, plus
  - (ii) the relevant statutory increase percentage, or
- (b) subsection (5BC) applies.

(5BA) This subsection applies where the individual—

- (a) is, throughout the pension input period, a deferred member of the pension scheme that the arrangement is under,
- (b) is such a deferred member for part of the pension input period and a pensioner member for the rest of it, or
- (c) would meet the condition in paragraph (a) or (b) if the arrangement were the only arrangement under the pension scheme relating to the individual.

(5BB) This subsection applies where—

- (a) during the pension input period there is a transfer of all the sums or assets held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under—
  - (i) a registered pension scheme, or
  - (ii) a qualifying recognised overseas pension scheme,in connection with the individual,
- (b) the individual is a deferred member of the pension scheme that the arrangement is under from the beginning of the pension input period until the transfer (or would be if the arrangement were the only arrangement under the pension scheme relating to that individual), and
- (c) rights do not accrue under the arrangement to or in respect of the individual during so much of the pension input period as falls after the transfer.

(5BC) This subsection applies where—

- (a) the arrangement (“the annuity arrangement”) is a defined benefits arrangement under an annuity contract which is treated as a registered pension scheme under section 153(8),

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- (b) throughout the pension input period the annuity arrangement (or a predecessor arrangement) includes provision for the relevant rights of the individual to increase at an annual rate (“the annuity rate”) which—
- (i) was specified in the contract (or in the rules of a predecessor registered pension scheme) on 14 October 2010, or
  - (ii) is the CPI percentage or the RPI percentage, and
- (c) the value of the relevant rights of the individual does not increase during the pension input period at an annual rate greater than the annuity rate plus the relevant statutory increase percentage.
- (5BD) In determining for the purposes of this section whether or not a member of a pension scheme is a deferred member (see particularly the definition of “active member” in section 151(2)), arrangements made under the pension scheme for benefits to accrue, as a consequence of (and immediately after) a relevant inward transfer (as defined in section 236(5)) to or in respect of that member, are to be disregarded—
- (a) if condition B in section 236(5A) is met in relation to the accrual of benefits under the arrangements, or
  - (b) so far as the accrual of benefits under the arrangements is to be a subtractable increase in the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the defined benefits arrangement.
- (5BE) In subsection (5BD) “subtractable increase” means an increase which falls to be subtracted from PE or LSE by virtue of section 236(5A)(b).]
- (5C) In this section—
- “<sup>F480</sup>CPI percentage” means the percentage mentioned in paragraph (c) of the definition of “the relevant percentage” (see below)]
- “guaranteed minimum pension” has the meaning given by—
- (a) section 8(2) of the Pension Schemes Act 1993, or
  - (b) section 4(2) of the Pension Schemes (Northern Ireland) Act 1993;
- “predecessor arrangement”, in relation to an arrangement, means another arrangement (under the same or another registered pension scheme) from which some or all of the sums or assets held for the purposes of the arrangement directly or indirectly derive;
- “predecessor registered pension scheme”, in relation to a pension scheme, means another registered pension scheme from which some or all of the sums or assets held for the purposes of the arrangement under the pension scheme directly or indirectly derive;
- “<sup>F481</sup>the relevant percentage” means—
- (a) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate, which is an RPI-related rate, specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 6 April 2012, that rate,
  - (b) where throughout the pension input period the arrangement (or a predecessor arrangement) includes provision for the value of the relevant rights of the individual to increase at an annual rate, other than an RPI-related rate, specified in the rules of the pension scheme (or a predecessor registered pension scheme) on 14 October 2010, that rate, and

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- (c) in a case not falling within paragraph (a) or (b), the percentage by which the consumer prices index for a month falling within the pension input period and nominated by the scheme administrator is higher than it was for the same month in the previous period of 12 months (or nil per cent if it is not higher);]

“the relevant rights of the individual” means rights of the individual under the arrangement, other than any rights to a guaranteed minimum pension;

[<sup>F482</sup>“the relevant statutory increase percentage” in relation to a pension input period means the percentage increase in the value of the individual’s rights under the arrangement during the pension input period so far as it is attributable solely to one or more of the following—

- (a) an increase in accordance with section 15 of the Pension Schemes Act 1993 or section 11 of the Pension Schemes (Northern Ireland) Act 1993 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed);
- (b) a revaluation in accordance with section 16 of the Pension Schemes Act 1993 or section 12 of the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of earning factors);
- (c) a revaluation in accordance with Chapter 2 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: revaluation of accrued benefits);
- (d) a revaluation in accordance with Chapter 3 of Part 4 of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993 (early leavers: protection of increases in guaranteed minimum pensions);
- (e) the application of section 67 of the Equality Act 2010 (sex equality rule for occupational pension schemes);

“RPI percentage” means the percentage by which the retail prices index for a month falling within the pension input period and nominated by the scheme administrator is higher than it was for the same month in the previous period of 12 months (or nil per cent if it is not higher);

“RPI-related rate” (in the definition of “the relevant percentage”) means—

- (a) a rate produced solely by movement in the retail prices index, or
- (b) a rate which (however expressed) is the lower of such a rate and a percentage figure;]

“specified”, in relation to an annual rate, means specified as a percentage figure or as a percentage produced by movement in an index (or a combination of the two) but does not include a percentage produced by the exercise of a discretion by any person.

- (6) Section 235 (uprating of opening value)<sup>F483</sup>, section 236 (adjustments of closing value) and section 236A (post-entitlement enhancements)] supplement this section.]

#### Textual Amendments

**F475** Word in s. 234(4) formula substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 10\(2\)\(a\)](#)

**F476** Words in s. 234(4) substituted (with effect in accordance with art. 2(c) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [15\(a\)](#)

**F477** Word in s. 234(5) formula substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 10\(3\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F478** S. 234(5A)-(5C) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 10(4)**
- F479** S. 234(5B)-(5BE) substituted for s. 234(5B) (with effect in accordance with arts. 2(c), 3(2) of the amending S.I.) by The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **15(b)**
- F480** Words in s. 234(5C) inserted (with effect in accordance with art. 2(c) of the amending S.I.) by The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **15(c)(i)**
- F481** Words in s. 234(5C) substituted (with effect in accordance with art. 2(c) of the amending S.I.) by The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **15(c)(ii)**
- F482** Words in s. 234(5C) inserted (with effect in accordance with art. 2(c) of the amending S.I.) by The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **15(c)(iii)**
- F483** Words in s. 234(6) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 17 para. 10(5)**

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

- C98** Ss. 230-237 modified (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 35 para. 5(2)**
- C104** S. 234 applied (with modifications) (6.4.2006) by The Registered Pension Schemes (Restriction of Employers Relief) Regulations 2005 (S.I. 2005/3458), regs. 1(1), **7** (with regs. 2-4)
- C105** S. 234 modified (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) Regulations 2015 (S.I. 2015/436), regs. 1(2), **15(2)(3)** (with reg. 15(1))
- C106** S. 234 applied (with modifications) (N.I.) (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/170), regs. 1, **14(2)**
- C107** S. 234 modified (S.) (1.4.2015) by The National Health Service Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/145), regs. 1(2), **15(2)(3)** (with reg. 15(1))
- C108** S. 234 modified (S.) (1.4.2015) by The Police Pensions (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/118), regs. 1(3), **15(2)(3)** (with reg. 15(1))
- C109** S. 234 modified (S.) (1.4.2015) by The Teachers' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/146), regs. 1(2), **15(2)(3)** (with reg. 15(1))
- C110** S. 234 modified (S.) (1.4.2015) by The Firefighters' Pension Scheme (Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/117), regs. 1(3), **14(2)(3)** (with reg. 14(1))
- C111** S. 234 modified (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations 2015 (S.I. 2015/370), regs. 1(2), **15(2)(3)**
- C112** S. 234 applied (with modifications) (1.4.2015) by The National Health Service Pension Scheme (Consequential Provisions) Regulations 2015 (S.I. 2015/432), regs. 1(2), **15(2)**
- C113** S. 234 modified (W.) (1.4.2015) by The Firefighters Pension Scheme (Wales) (Consequential Provisions) Regulations 2015 (S.I. 2015/848), regs. 1(2), **14(2)(3)** (with reg. 14(1))
- C114** S. 234 modified (1.4.2015) by The Firefighters' Pension Scheme (England) (Consequential Provisions) Regulations 2015 (S.I. 2015/319), regs. 1(2), **14(2)(3)**
- C115** S. 234 applied (with modifications) (N.I.) (1.4.2015) by The Public Service (Civil Servants and Others) Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/81), regs. 1(1), **14(2)**
- C116** S. 234 applied (with modifications) (N.I.) (1.4.2015) by The Health Service Workers (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/167), regs. 1, **14(2)**
- C117** S. 234 applied (with modifications) (N.I.) (1.4.2015) by The Police Pensions (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/156), regs. 1(2), **14(2)**
- C118** S. 234 modified (1.4.2015) by The Public Service (Civil Servants and Others) Pensions (Consequential and Amendment) Regulations 2015 (S.I. 2015/372), regs. 1(2), **15(2)(3)**
- C119** S. 234 applied (with modifications) (N.I.) (1.4.2015) by The Firefighters' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/166), regs. 1, **13(2)**

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- C120** S. 234 modified (1.4.2015) by [The Armed Forces Pension \(Consequential Provisions\) Regulations 2015 \(S.I. 2015/390\)](#), regs. 1(2), **15(2)** (with reg. 15(1))
- C121** S. 234(1) modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(1)**
- C122** S. 234(4)(5) applied (with modifications) (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 28(6)**

#### Commencement Information

- I74** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### 235 Defined benefits arrangements: uprating of opening value

- (1) This section applies for adjusting the opening value of the individual's rights as calculated under section 234(4) <sup>F484</sup> ....
- (2) The opening value is to be increased by the appropriate percentage.
- [<sup>F485</sup>(3) The appropriate percentage is the percentage (if any) by which the consumer prices index for the September before the start of the tax year is higher than it was for the previous September.]

#### Textual Amendments

- F484** Words in s. 235(1) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 11(2)**
- F485** S. 235(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 11(3)**

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

- C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(2)**
- C123** S. 235 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **10** (as amended (with effect in accordance with reg. 1(7) of the amending S.I.) by [S.I. 2011/1751](#), regs. 1(1), **12(4)**)

#### Commencement Information

- I75** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### 236 Defined benefits arrangements: adjustments of closing value

- (1) This section applies for adjusting [<sup>F486</sup>PE and LSE] under section 234(5).
- (2) If, during the pension input period, the [<sup>F487</sup>annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has] been reduced by having become subject to a pension debit, the amount of [<sup>F488</sup>the reduction] is to be added [<sup>F489</sup>to PE or LSE].
- (3) If, during the pension input period, the [<sup>F490</sup>annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has] been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of [<sup>F491</sup>the increase] is to be subtracted [<sup>F492</sup>from PE or LSE].

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

[<sup>F493</sup>(4) [<sup>F494</sup>In subsection (4A) “relevant outward transfer means] a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any pension scheme that is—

- (a) a registered pension scheme, or
- (b) a qualifying recognised overseas pension scheme,

<sup>F495</sup> ...

[<sup>F496</sup>(4A) If there is a relevant outward transfer during the pension input period, then—

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

Condition A is that—

- (a) the relevant outward transfer (“the transfer”) takes place within a block transfer,
- (b) the value of the benefits to be paid to or in respect of the individual under the arrangement has been reduced and the value of the benefits to be paid to or in respect of the individual under the pension scheme mentioned in subsection (4) has been increased, as a consequence (whether direct or indirect) of the transfer,
- (c) the amount of that reduction is equal (or virtually equal) to the amount of that increase, and
- (d) the transfer is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.]

(5) [<sup>F497</sup>In subsection (5A) “relevant inward transfer means] a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement <sup>F498</sup>....]

[<sup>F499</sup>(5A) If there is a relevant inward transfer during the pension input period, then—

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

Condition B is that-

- (a) the relevant inward transfer (“the transfer”) took place within a block transfer,

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- (b) the value of the benefits to be paid to or in respect of the individual under the arrangement has been increased, and the value of the benefits to be paid to or in respect of the individual under the pension scheme mentioned in subsection (5) has been reduced, as a consequence (whether direct or indirect) of the transfer,
- (c) the amount of that increase in value is equal (or virtually equal) to the amount of that reduction, and
- (d) the transfer is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax.

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

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

(5C) In subsections (4A) and (5A)—

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

[<sup>F500</sup>(5D) For the purposes of subsections (4A) and (5A), the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced or increased, as the case may be, “by reason of” a transfer of sums or assets only where that reduction or increase is solely attributable to the value of those sums or assets.]

[<sup>F501</sup>(8) If, during the pension input period, the annual rate of the pension, or the amount of the lump sum, to which the individual would be entitled under the arrangement has been reduced by any surrender made in return for any other entitlement, any allocation made, or any similar action taken, pursuant to an option available to the individual under the arrangement, the amount of the reduction (to the extent that it is not reflected in an amount added under subsection (8A)) is to be added to PE or LSE.

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

- (a) benefit crystallisation event 2 occurs in relation to the individual and the arrangement,
- (b) benefit crystallisation event 3 occurs in relation to the individual and the arrangement otherwise than by reason of a provision contained in, or made under, any enactment, or

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(c) benefit crystallisation event 6 occurs in relation to the individual and the arrangement by virtue of the individual becoming entitled to a pension commencement lump sum or a lifetime allowance excess lump sum, the relevant amount is to be added to PE or LSE.

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

- (a) in the case of benefit crystallisation event 2, the annual rate of the pension to which the individual became entitled,
- (b) in the case of benefit crystallisation event 3, the increase in the annual rate of the pension, and
- (c) in the case of benefit crystallisation event 6, the amount of the lump sum.

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

(8D) But no amount is to be added under subsection (8C) by reason of an adjustment made in consequence of the scheme administrator satisfying a liability under section 237B <sup>F502</sup>in a case where—

- (a) the individual becomes actually entitled to all of the individual’s benefits under the pension scheme or benefit crystallisation event 5, 5A or 5B occurs in relation to the individual and the pension scheme, and
- (b) the adjustment takes place after the individual becomes so entitled or the benefit crystallisation event occurs.]]

<sup>F503</sup>(9) .....

#### **Textual Amendments**

- F486** Words in s. 236(1) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(2\)](#)
- F487** Words in s. 236(2) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(3\)\(a\)](#)
- F488** Words in s. 236(2) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(3\)\(b\)](#)
- F489** Words in s. 236(2) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(3\)\(c\)](#)
- F490** Words in s. 236(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(4\)\(a\)](#)
- F491** Words in s. 236(3) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(4\)\(b\)](#)
- F492** Words in s. 236(3) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(4\)\(c\)](#)
- F493** S. 236(4)(5) substituted for s. 236(4)-(7) (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 12\(5\)](#)
- F494** Words in s. 236(4) substituted (with effect in accordance with arts. 2(d), 3(5) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, [16\(a\)\(i\)](#)



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F495** Words in s. 236(4) omitted (with effect in accordance with arts. 2(d), 3(5) of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(a)(ii)**
- F496** S. 236(4A) inserted (with effect in accordance with arts. 2(d), 3(5) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(b)**
- F497** Words in s. 236(5) substituted (with effect in accordance with art. 2(d) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(c)(i)**
- F498** Words in s. 236(5) omitted (with effect in accordance with art. 2(d) of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(c)(ii)**
- F499** S. 236(5A)-(5C) inserted (with effect in accordance with art. 2(d) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(d)**
- F500** S. 236(5D) inserted (with effect in accordance with art. 3(6) of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(e)**
- F501** S. 236(8)-(8D) substituted for s. 236(8) (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 12(6)**
- F502** Words in s. 236(8D) substituted (with effect in accordance with art. 7 of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **16(f)**
- F503** S. 236(9) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 12(7)**

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

- C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 5(2)**
- C124** S. 236 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Restriction of Employers Relief\) Regulations 2005 \(S.I. 2005/3458\)](#), regs. 1(1), **7** (with regs. 2-4)
- C125** S. 236 applied (with modifications) (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 35 para. 6(6)**

#### **Commencement Information**

- I76** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### **[<sup>F504</sup>236A] Post-entitlement enhancements**

- (1) This section applies in relation to the arrangement if, during the pension input period (“the affected pension input period”), the individual enters into a scheme for the making of an avoidance-inspired post-entitlement enhancement.
- (2) A “post-entitlement enhancement” is an increase in the annual rate of a scheme pension under the arrangement, at a time after the member has become entitled to the scheme pension.
- (3) A post-entitlement enhancement is “avoidance-inspired” if the main purpose, or one of the main purposes, of the individual in entering into the scheme was to avoid or reduce a liability to the annual allowance charge.
- (4) This Part has effect in relation to the arrangement and the individual, as respects the affected pension input period and all subsequent pension input periods, as if—
  - (a) section 234 were modified in accordance with subsection (5), and

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) sections 235 and 236 were omitted.
- (5) The modifications of section 234 are that—
- (a) in subsection (4), for the words after “the arrangement is” there are substituted “ such amount as, applying normal actuarial practice, is the expected cost of giving effect to the individual's rights under the arrangement at the end of the immediately preceding pension input period (or is nil if the pension input period is the first pension input period of the arrangement). ”,
  - (b) in subsection (5), for the words after “the arrangement is” there are substituted “ such amount as, applying normal actuarial practice, is the expected cost of giving effect to the individual's rights under the arrangement at the end of the pension input period. ”, and
  - (c) subsection (6) is omitted.
- (6) In this section “scheme” includes any arrangements, agreement, understanding, transaction or series of transactions (whether or not legally enforceable).]

#### Textual Amendments

**F504** S. 236A inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 13](#)

### 237 Hybrid arrangements

- (1) The pension input amount in respect of a hybrid arrangement is the greater or greatest of such of input amounts A, B and C as are relevant input amounts.
- (2) An input amount is a relevant input amount in the case of a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits of the variety mentioned in the definition of that input amount.
- (3) Input amount A is what would be the pension input amount under sections 230 to 232 if the benefits provided to or in respect of the individual under the arrangement were cash balance benefits.
- (4) Input amount B is what would be the pension input amount under section 233 if the benefits provided to or in respect of the individual under the arrangement were other money purchase benefits.
- (5) Input amount C is what would be the pension input amount under sections 234 to <sup>[F505]</sup>236A if the benefits provided to or in respect of the individual under the arrangement were defined benefits.

#### Textual Amendments

**F505** Word in s. 237(5) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 14](#)

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

**C98** Ss. 230-237 modified (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 35 para. 5\(2\)](#)

**C126** S. 237 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Restriction of Employers Relief\) Regulations 2005 \(S.I. 2005/3458\)](#), regs. 1(1), **8** (with regs. 2-4)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Commencement Information

**I77** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## [<sup>F506</sup>237ZA] Pension input amounts for input periods ending in 2015-16

- (1) This section applies where the tax year is the pre-alignment tax year or the post-alignment tax year (see section 228C(2)).

*Modified rules for cash balance, or defined benefits, arrangement*

- (2) The rules for calculating the pension input amount in respect of a cash balance arrangement, or a defined benefits arrangement, are modified as follows (and the rules for calculating the pension input amount in respect of a hybrid arrangement have effect accordingly).

*Single input amount to be calculated for combined period*

- (3) The pension input amount in respect of the arrangement is the time-apportioned percentage of any increase in the value of the individual's rights under the arrangement during the period (“the combined period”) that consists of the combination of all pension input periods of the arrangement that end—
- (a) on or after 6 April 2015 but on or before 8 July 2015, or
  - (b) on 5 April 2016.
- (4) To calculate the increase (if any) in the value of the individual's rights under the arrangement during the combined period, apply (as the case may be) sections 230 to 232 (except section 230(1)), or sections 234 to 236A (except section 234(1)), as if—
- (a) references to the pension input period were references to the combined period,
  - (b) the combined period were a pension input period of the arrangement,
  - (c) 2.5% were the appropriate percentage specified in section 231(3) or 235(3), and
  - (d) 2.5% were the percentage mentioned in paragraph (c) of the definition of “relevant percentage” given by section 230(5C) or 234(5C),
- but paragraph (d) does not have effect for the purposes of the definition of “CPI percentage” given by section 234(5C).

*Apportioning input amount for combined period to tax years*

- (5) “The time-apportioned percentage” for the post-alignment tax year is—

$$272 D \times 100$$

and “the time-apportioned percentage” for the pre-alignment tax year is—

$$D - 272 D \times 100$$

where D is the number of days in the combined period.

*Calculation and apportionment rules modified in certain cases*

- (6) Subsections (3) to (5) have effect subject to the following provisions of this section.

*Exceptions in certain cases where individual is deferred member of scheme*

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (7) Subsections (3) to (5) do not apply, and subsections (8) and (9) apply instead, if—
- (a) because of section 238ZA(2), a pension input period for the arrangement ends with 8 July 2015,
  - (b) another pension input period for the arrangement ends with a day (“the unchanged last day”) after 5 April 2015 but before 8 July 2015, and
  - (c) section 230(5B) or 234(5B), when applied separately to each of—
    - (i) the pension input period for the arrangement ending with 8 July 2015, and
    - (ii) the pension input period for the arrangement ending with 5 April 2016,
 gives the result that the pension input amount in respect of the arrangement for each of those periods is nil.
- (8) The pension input amount in respect of the arrangement for the post-alignment tax year is nil.
- (9) The pension input amount in respect of the arrangement for the pre-alignment tax year is the amount which would be the pension input amount in respect of the arrangement for the pre-alignment tax year if—
- (a) the pension input period ending with the unchanged last day were the only pension input period for the arrangement ending in the pre-alignment tax year, and
  - (b) subsections (3) to (5) were ignored.

*Modifications in some other cases where individual is deferred member of scheme*

- (10) Subsections (11) to (13) apply if—
- (a) because of section 238ZA(2), a pension input period for the arrangement ends with 8 July 2015,
  - (b) apart from section 238ZA(2), that pension input period (“the cut-short period”) would have ended with a day (“the original last day”) after 8 July 2015 but before 5 April 2016,
  - (c) at or after the beginning of the cut-short period but not later than the original last day, or in an earlier pension input period for the arrangement, the individual becomes a deferred member of the pension scheme that the arrangement is under, and
  - (d) were the period—
    - (i) beginning with the day after the original last day, and
    - (ii) ending with 5 April 2016,
 a pension input period for the arrangement, the pension input amount in respect of the arrangement for that period would be nil by virtue of section 230(5B) or 234(5B).
- (11) Subsections (3) to (5) have effect as if the original last day, and not 5 April 2016, were the last day of the combined period (so that, in particular, D in subsection (5) is the number of days in the combined period as so shortened).
- (12) If the individual becomes a deferred member of the pension scheme in a pension input period for the arrangement earlier than the cut-short period—
- (a) the time-apportioned percentage for the post-alignment tax year is treated as being nil, and

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(b) the time-apportioned percentage for the pre-alignment tax year is treated as being 100.

(13) If the individual becomes a deferred member of the pension scheme at or after the beginning of the cut-short period but not later than the original last day, subsection (5) has effect as if for “ 272 ”, in each place, there were substituted the number of days in the period beginning with 9 July 2015 and ending with the original last day.

*Modification where first input period ends with 5 April 2016*

(14) If the first pension input period for the arrangement ends with 5 April 2016—

- (a) the time-apportioned percentage for the post-alignment tax year is treated as being 100, and
- (b) the time-apportioned percentage for the pre-alignment tax year is treated as being nil.

*Modification where last input period ends before 9 July 2015*

(15) If the last pension input period for the arrangement ends after 5 April 2015 but before 9 July 2015—

- (a) the time-apportioned percentage for the post-alignment tax year is treated as being nil, and
- (b) the time-apportioned percentage for the pre-alignment tax year is treated as being 100.

*Alternative modifications where individual is deferred member of scheme*

(16) Subsections (17) and (18) apply if—

- (a) subsections (8) and (9) do not apply,
- (b) subsections (11) to (13) do not apply,
- (c) subsection (14) does not apply, and
- (d) section 230(5B) or 234(5B), when applied separately to each of—
  - (i) so much of the combined period as consists of the post-alignment tax year, and
  - (ii) the remainder of the combined period (for this purpose treating that remainder as a single pension input period if not otherwise the case),gives the result that the pension input amount in respect of the arrangement for one (but not the other) of those parts of the combined period is nil.

(17) If the nil result is for so much of the combined period as consists of the post-alignment tax year—

- (a) the time-apportioned percentage for the post-alignment tax year is treated as being nil, and
- (b) the time-apportioned percentage for the pre-alignment tax year is treated as being 100.

(18) If the nil result is for so much of the combined period as precedes 9 July 2015—

- (a) the time-apportioned percentage for the pre-alignment tax year is treated as being nil, and
- (b) the time-apportioned percentage for the post-alignment tax year is treated as being 100.]

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Textual Amendments

**F506** S. 237ZA inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), Sch. 4 para. 9

### [<sup>F507</sup>237A] Liability of individual

- (1) The individual is liable to the annual allowance charge.
- (2) The individual is liable to the annual allowance charge whether or not—
  - (a) the individual, and
  - (b) the scheme administrator of the pension scheme or pension schemes concerned,
 are resident<sup>F508</sup>... or domiciled in the United Kingdom.

#### Textual Amendments

**F507** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), Sch. 17 para. 15

**F508** Words in s. 237A(2) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 46 para. 128

### 237B Liability of scheme administrator

- (1) This section applies if—
    - (a) the amount of the individual's liability to the annual allowance charge for a tax year exceeds £2,000, and
    - (b) the pension scheme input amount in the case of the individual in relation to a registered pension scheme for the tax year exceeds the amount of the annual allowance specified in section 228(1) for the tax year.
  - (2) The pension scheme input amount in the case of the individual in relation to a pension scheme for a tax year is the aggregate of the pension input amounts for the tax year in respect of arrangements relating to the individual under the pension scheme.
- [ If the chargeable amount for the tax year in the individual's case is the alternative
- <sup>F509</sup>(2A) chargeable amount, each of the following is treated as being a reference to the amount that the annual allowance charge for the tax year would be in the individual's case if the chargeable amount were the default chargeable amount—
- (a) the reference in subsection (1)(a) to the amount of the individual's liability to the annual allowance charge for the tax year, and
  - (b) the reference in subsection (3) to the annual allowance charge arising in the case of the individual.]
- (3) The individual may give a notice to the scheme administrator of the pension scheme specifying that the individual and the scheme administrator are to be jointly and severally liable in respect of so much of the annual allowance charge arising in the case of the individual as—
    - (a) does not exceed the amount of the annual allowance charge which would be chargeable on the excess mentioned in subsection (1)(b) if it were charged at the relevant rate, and

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- (b) is specified in the notice,  
("the joint liability amount").
- (4) In subsection (3)(a) "the relevant rate" means—
- (a) in relation to so much of the excess as does not exceed the amount (if any) on which tax is chargeable in the case of the individual for the tax year at the additional rate [<sup>F510</sup>or the Scottish additional rate] by virtue of paragraph (c) of subsection (4A) of section 227, the additional rate [<sup>F511</sup>or, in the case of a Scottish taxpayer, the Scottish additional rate,]
  - (b) in relation to so much of the excess as is not within paragraph (a) and does not exceed the amount (if any) on which tax is so chargeable at the higher rate [<sup>F512</sup>or the Scottish higher rate] by virtue of paragraph (b) of that subsection, the higher rate [<sup>F513</sup>or, in the case of a Scottish taxpayer, the Scottish higher rate], and
  - (c) in relation to any remaining part of the excess, the basic rate [<sup>F514</sup>or, in the case of a Scottish taxpayer, the Scottish basic rate].
- (5) The notice—
- (a) must be given not later than 31 July in the year following that in which the tax year ends (but subject to subsection (6)),
  - (b) must be made in such manner and form, and contain such particulars, as may be prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs, and
  - (c) may be amended by giving the scheme administrator notice in accordance with provision made by regulations made by the Commissioners for Her Majesty's Revenue and Customs but may not be revoked.
- (6) [<sup>F515</sup>A notice may not be given after] the individual becomes actually entitled to all of the individual's benefits under the pension scheme <sup>F516</sup>... or benefit crystallisation event 5, 5A or 5B occurs <sup>F516</sup>... in relation to the individual and the pension scheme, <sup>F517</sup>....
- (7) On receipt by the scheme administrator of the notice the scheme administrator and the individual become jointly and severally liable to pay the joint liability amount, but subject to sections 237C and 237D and to any amendment made to the notice in accordance with regulations under subsection (5)(c).
- (8) The scheme administrator is liable under subsection (7) whether or not—
- (a) the individual, and
  - (b) the scheme administrator,
- are resident<sup>F518</sup>... or domiciled in the United Kingdom.
- (9) Where (but for this subsection) a notice could be given to a scheme administrator of a pension scheme but, before it is given, there is a transfer of all of the sums or assets—
- (a) held for the purposes of, or
  - (b) representing accrued rights under,
- [<sup>F519</sup>arrangements relating to the individual under the pension scheme] so as to become held for the purposes of, or to represent rights under, another registered pension scheme, the notice may not be given to that scheme administrator but may instead be given to the scheme administrator of that other pension scheme.
- (10) The Treasury may by regulations make provision modifying the operation of this section in other cases in which there is a transfer of any of the sums or assets—

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(a) held for the purposes of, or  
 (b) representing accrued rights under,  
 the pension scheme so as to become held for the purposes of, or to represent rights under, another registered pension scheme.

(11) The Treasury may by order amend paragraph (a) of subsection (1) so as to increase the sum for the time being specified in that paragraph.

#### **Textual Amendments**

**F507** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 15**

**F509** S. 237B(2A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 68**

**F510** Words in s. 237B(4)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **7(3)(a)(i)**

**F511** Words in s. 237B(4)(a) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **7(3)(a)(ii)**

**F512** Words in s. 237B(4)(b) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **7(3)(b)(i)**

**F513** Words in s. 237B(4)(b) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **7(3)(b)(ii)**

**F514** Words in s. 237B(4)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **7(3)(c)**

**F515** Words in s. 237B(6) substituted (with effect in accordance with art. 8 of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **17(a)(i)**

**F516** Words in s. 237B(6) omitted (with effect in accordance with art. 8 of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **17(a)(ii)**

**F517** Words in s. 237B(6) omitted (with effect in accordance with art. 8 of the amending S.I.) by virtue of [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **17(a)(iii)**

**F518** Words in s. 237B(8) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 46 para. 129**

**F519** Words in s. 237B(9) substituted (with effect in accordance with art. 9 of the amending S.I.) by [The Finance Act 2004 \(Registered Pension Schemes and Annual Allowance Charge\) \(Amendment\) Order 2015 \(S.I. 2015/80\)](#), arts. 1, **17(b)**

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

**C127** S. 237B(5)(a) applied (with modifications) (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 32**

### **237C Exceptions**

(1) The scheme administrator of a pension scheme does not become liable under section 237B if the time when the scheme administrator would become liable is during an assessment period in relation to the pension scheme; and if an assessment period in



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relation to a pension scheme begins at a time when the scheme administrator is already so liable (but has not satisfied the liability), the liability ceases when the assessment period begins.

References to an assessment period are to be construed in accordance with sections 132 and 159 of the Pensions Act 2004 and articles 116 and 143 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)).

- (2) The scheme administrator of a pension scheme is not liable under section 237B in respect of any amount if there is no power to make a consequential adjustment to the entitlement of the individual concerned to benefits under the pension scheme in respect of the amount because of section 237E(2) (inalienability of guaranteed minimum pension etc).
- (3) The Treasury may by regulations prescribe other circumstances in which a scheme administrator of a pension scheme does not become, or ceases to be, liable under section 237B.

#### **Textual Amendments**

**F507** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 15](#)

### **237D Discharge of scheme administrator's liability**

- (1) If the scheme administrator of a pension scheme is liable under section 237B, the scheme administrator may apply to an officer of Revenue and Customs for the discharge of the scheme administrator's liability on either of the following grounds.
- (2) The grounds are—
  - (a) that paying the amount to which the scheme administrator is liable would be to the substantial detriment of the interests of the members of the pension scheme, and
  - (b) that in all the circumstances of the case it would not be just and reasonable for the scheme administrator to be liable to that amount.
- (3) On receiving an application under subsection (1), an officer of Revenue and Customs must decide whether to discharge the scheme administrator's liability.
- (4) An officer of Revenue and Customs must notify the scheme administrator of the decision on the application.
- (5) The discharge of the scheme administrator's liability does not affect the liability of any other person in respect of the same amount.
- (6) The Treasury may by regulations amend this section so as to alter the grounds on which an application under subsection (1) may be made.
- (7) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision supplementing this section; and the regulations may in particular make provision as to the time limits for the making of an application.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Textual Amendments

**F507** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 15](#)

### 237E Consequential benefit adjustments to be reasonable etc

- (1) Where the scheme administrator of a pension scheme satisfies a liability under section 237B in respect of the individual, consequential adjustment must be made to the entitlement of the individual to benefits under the pension scheme on a basis that is just and reasonable having regard to normal actuarial practice.
- (2) Any power to make such consequential adjustment is subject to section 159 of the Pension Schemes Act 1993 or section 155 of the Pension Schemes (Northern Ireland) Act 1993 (inalienability of guaranteed minimum pension etc).

#### Textual Amendments

**F507** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 15](#)

### 237F Power to modify rules

The Commissioners for Her Majesty's Revenue and Customs may by regulations make any modification of the rules of registered pension schemes that appear appropriate to facilitate the operation of sections 237A to 237E.]

#### Textual Amendments

**F507** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 15](#)

### 238 Pension input period [<sup>F520</sup>: arrangement commencing before 9 July 2015]

- (1) In the case of an arrangement under a registered pension scheme [<sup>F521</sup>where the relevant commencement date is before 9 July 2015, but subject to section 238ZA,] the following are pension input periods—
  - (a) the period beginning with the relevant commencement date and ending with [<sup>F522</sup>—
    - (i) a nominated date falling before the anniversary of the relevant commencement date, or
    - (ii) if there is not such a nominated date, the first 5 April after the relevant commencement date (or, if the relevant commencement date is itself 5 April, that date), and]
  - (b) each subsequent period beginning immediately after the end of a period which is a pension input period (under paragraph (a) or this paragraph) and ending with the appropriate date.
- (2) “The relevant commencement date” means—

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- (a) in the case of a cash balance arrangement or a defined benefits arrangement, or a hybrid arrangement the only benefits under which may be cash balance benefits or defined benefits, the date on which rights under the arrangement begin to accrue to or in respect of the individual,
  - (b) in the case of a money purchase arrangement other than a cash balance arrangement, the first date on which a contribution within section 233(1) is made, and
  - (c) in the case of a hybrid arrangement not within paragraph (a), whichever is the earlier of the date mentioned in that paragraph and the date mentioned in paragraph (b).
- (3) “Nominated date” means—
- (a) in the case of a money purchase arrangement other than a cash balance arrangement, such date as the individual or scheme administrator nominates, and
  - (b) in the case of any other arrangement, such date as the scheme administrator nominates.
- (4) A nomination for the purposes of subsection (3)—
- (a) if by the individual, is to be made by notice to the scheme administrator, and
  - (b) if by the scheme administrator, is to be made by notice to the individual.
- [<sup>F523</sup>(4A) A date nominated for the purposes of subsection (3) must not be a date before that on which the nomination is made.]
- (5) If more than one date is nominated for the purposes of subsection (3)—
- (a) in relation to the period beginning with the relevant commencement date, or
  - (b) in relation to a tax year following that in which the pension input period beginning with that date ends,
- the date nominated first is the nominated date.
- (6) “The appropriate date” means <sup>F524</sup>...—
- (a) a nominated date falling in the tax year immediately after that in which the last pension input period ended, [<sup>F525</sup>or]
  - (b) [<sup>F526</sup>if there is not such a nominated date,] the anniversary of the date on which that period ended.
- (7) Once the individual has become entitled to all the benefits which may be provided to the individual under an arrangement, the last pension input period in the case of the arrangement is [<sup>F527</sup>that in which] that was first so.

#### Textual Amendments

**F520** Words in s. 238 title inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), Sch. 4 para. 2(a)

**F521** Words in s. 238(1) inserted (18.11.2015) by Finance (No. 2) Act 2015 (c. 33), Sch. 4 para. 2(b)

**F522** S. 238(1)(a)(i)(ii) substituted for words (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), Sch. 17 para. 16(2)

**F523** S. 238(4A) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by Finance Act 2011 (c. 11), Sch. 17 para. 16(3)

**F524** Words in s. 238(6) omitted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by virtue of Finance Act 2011 (c. 11), Sch. 17 para. 16(4)(a)

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- F525** Word in s. 238(6) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 16\(4\)\(b\)](#)
- F526** Words in s. 238(6)(b) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 16\(4\)\(c\)](#)
- F527** Words in s. 238(7) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 16\(5\)](#)

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

- C128** S. 238(3) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)
- C129** S. 238(4) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

**Commencement Information**

- I78** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**[<sup>F528</sup>238ZA Pension input periods from 9 July 2015 for existing arrangement**

- (1) If the relevant commencement date in the case of an arrangement under a registered pension scheme is before 9 July 2015, section 238(1) and (3) to (6) apply in relation to the arrangement subject to the following.
- (2) If a pension input period for the arrangement—
  - (a) begins with 8 July 2015 or an earlier day, and
  - (b) but for this subsection would end with 9 July 2015 or a later day,
 it ends with 8 July 2015.
- (3) If a pension input period for the arrangement ends with 8 July 2015 (whether or not because of subsection (2)), the subsequent pension input periods for the arrangement are—
  - (a) the period beginning with 9 July 2015 and ending with 5 April 2016, and
  - (b) the tax year 2016-17 and each subsequent tax year.
- (4) No nominations for the purposes of section 238(3) may be made on or after 9 July 2015.
- (5) “The relevant commencement date” has the meaning given by section 238(2).

**Textual Amendments**

- F528** Ss. 238ZA, 238ZB inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 3](#)

**238ZB Pension input periods for arrangement commencing after 8 July 2015**

- (1) In the case of an arrangement under a registered pension scheme where the relevant commencement date is 9 July 2015 or later, the following are pension input periods—
  - (a) the period beginning with the relevant commencement date and ending with the first 5 April after the relevant commencement date (or, if the relevant commencement date is itself 5 April, that date), and
  - (b) each tax year beginning after the end of that period.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (2) “The relevant commencement date” has the meaning given by section 238(2).
- (3) Once the individual has become entitled to all the benefits which may be provided to the individual under the arrangement, the last pension input period in the case of the arrangement is that in which that was first so.]

#### Textual Amendments

**F528** Ss. 238ZA, 238ZB inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 3](#)

#### [<sup>F529</sup>**238A** Power to make orders about charge

- (1) The Treasury may by order make provision about the annual allowance charge.
- (2) The provision may include modifications of any of sections 227 to 238.
- (3) The provision may include provision consequential on, or supplementary or incidental to, the provision made by those sections and transitional provisions (including provision making modifications of enactments).
- (4) “Modifications” includes amendments.]

#### Textual Amendments

**F529** S. 238A inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 17](#)

### *Scheme sanction charge*

#### **239** Scheme sanction charge

- (1) A charge to income tax, to be known as the scheme sanction charge, arises where in any tax year one or more scheme chargeable payments are made by a registered pension scheme.
- (2) The person liable to the scheme sanction charge is the scheme administrator.
- (3) But<sup>F530</sup>—
  - (a) in the case of a payment treated by virtue of section 161(3) and (4) (payments under investments acquired with scheme assets) as having been made by a pension scheme which has been wound up, the person liable to the scheme sanction charge is the person who was, or each of the persons who were, the scheme administrator immediately before the pension scheme was wound up<sup>F531</sup>, and
  - (b) in the case of a payment of a lump sum to a member where the conditions in paragraphs 1(1)(b) and (d) and 1B(2)(a) to (g) of Schedule 29 are met, the person liable to the scheme sanction charge so far as relating to any part of the lump sum within the permitted maximum is the scheme administrator of the registered pension scheme to which the transfer mentioned in paragraph 1B(2)(g) of Schedule 29 is made.]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- [<sup>F532</sup>(3A) For the purposes of subsection (3)(b) “the permitted maximum”, in the case of a lump sum paid to an individual, is the amount that in accordance with paragraph 2 of Schedule 29 would be the permitted maximum for that lump sum if the individual became entitled at the time the lump sum is paid to the pension at that time expected to be the pension in connection with which the lump sum is paid.]
- (4) A person liable to the scheme sanction charge is liable whether or not—
- (a) that person, and
  - (b) any other person who is liable to the scheme sanction charge,
- are resident<sup>F533</sup> ... or domiciled in the United Kingdom.
- (5) The following sections make further provision about the scheme sanction charge—
- section 240 (amount of charge), and
- section 241 (scheme chargeable payment).
- [<sup>F534</sup>(6) This section is subject to provision made by regulations under section 273ZA (income and gains from taxable property).]

#### Textual Amendments

- F530** Words in s. 239(3) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(1\)\(a\)](#), 15
- F531** S. 239(3)(b) and preceding word inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(1\)\(b\)](#), 15
- F532** S. 239(3A) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(2\)](#), 15
- F533** Words in s. 239(4) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 130](#)
- F534** S. 239(6) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 8](#)

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

- C130** S. 239 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)
- C131** S. 239 modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [art. 18](#) (as amended (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(4\)\(5\)](#), 15)

#### Commencement Information

- I79** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 240 Amount of charge

- (1) The scheme sanction charge for any tax year is a charge at the rate of 40% in respect of the scheme chargeable payment, or the aggregate of the scheme chargeable payments, made by the pension scheme in the tax year.
- (2) But if—
- (a) the scheme chargeable payment is an unauthorised payment, or any of the scheme chargeable payments are unauthorised payments, and
  - (b) tax charged in relation to that payment, or any of those payments, under section 208 (unauthorised payments charge) has been paid,
- a deduction is to be made from the amount of tax that would otherwise be chargeable for the tax year by virtue of subsection (1).

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (3) The amount of the deduction is the lesser of—
- (a) 25% of the amount of the scheme chargeable payment, or of the aggregate amount of such of the scheme chargeable payments as are tax-paid, and
  - (b) the amount of the tax which has been paid under section 208 in relation to the scheme chargeable payment, or in relation to such of the scheme chargeable payments as are tax-paid.

[<sup>F535</sup>(3A) The Treasury—

- (a) may by order amend subsection (1) so as to vary the rate of the scheme sanction charge, and
- (b) may by order amend subsection (3)(a) so as to vary the percentage mentioned there.

(3B) An order under subsection (3A) may make provision for there to be different rates or percentages in different circumstances.]

(4) A scheme chargeable payment is “tax-paid” if the whole or any part of the tax chargeable in relation to it under section 208 has been paid.

#### Textual Amendments

**F535** S. 240(3A)(3B) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 16](#)

#### Commencement Information

**I80** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 241 Scheme chargeable payment

(1) In this Part “scheme chargeable payment”, in relation to a registered pension scheme, means—

- (a) an unauthorised payment by the pension scheme, other than one which is exempt from being scheme chargeable, and
- <sup>F536</sup>(aa) .....
- (b) a scheme chargeable payment which the pension scheme is to be treated as having made by section 183 or 185 (unauthorised borrowing)[<sup>F537</sup>, and
- (c) a scheme chargeable payment which the pension scheme is to be treated as having made by section 185A (income from taxable property) or 185F (gains from taxable property)].

(2) An unauthorised payment is exempt from being scheme chargeable if—

- (a) it is treated as having been made by section 173 (use of scheme assets to provide benefits) and the asset used to provide the benefit in question is not a wasting asset,
- (b) it is a compensation payment (see section 178),
- (c) it is made to comply with an order of a court or of a person or body with power to order the making of the payment,
- (d) it is made on the ground that a court or any such person or body is likely to order the making of the payment (or would be were it asked to do so), or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (e) it is of a description prescribed by regulations made by the Board of Inland Revenue.
- (3) “Wasting asset” has the same meaning as in section 44 of TCGA 1992.
- (4) Schedule 36 contains (in Part 3) transitional provision about scheme chargeable payments.

#### **Textual Amendments**

**F536** S. 241(1)(aa) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 74](#)

**F537** S. 241(1)(c) and word inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 9](#)

#### **Commencement Information**

**I81** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *De-registration charge*

#### **242 De-registration charge**

- (1) A charge to income tax, to be known as the de-registration charge, arises where the registration of a registered pension scheme is withdrawn.
- (2) The liability to the de-registration charge is a liability of the person who was, or each of the persons who were, the scheme administrator immediately before the registration was withdrawn.
- (3) That person, or each of those persons, is liable to the de-registration charge whether or not—
  - (a) that person, and
  - (b) any other person who is liable to the de-registration charge, are resident<sup>F538</sup> ... or domiciled in the United Kingdom.
- (4) The de-registration charge is a charge at the rate of 40% in respect of the aggregate of—
  - (a) the amount of any sums held for the purposes of the pension scheme immediately before it ceased to be a registered pension scheme, and
  - (b) the market value at that time of any assets held for the purposes of the pension scheme.
- [<sup>F539</sup>(5) The Treasury may by order amend subsection (4) so as to vary the rate of the de-registration charge.
- (6) An order under subsection (5) may make provision for there to be different rates in different circumstances.]



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Textual Amendments

**F538** Words in s. 242(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 131](#)

**F539** S. 242(5)(6) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 17](#)

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

**C132** S. 242 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [24](#)

#### Commencement Information

**I82** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## CHAPTER 6

### SCHEMES THAT ARE NOT REGISTERED PENSION SCHEMES

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

**C133** Pt. 4 Ch. 6 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [25](#)

#### *Non-UK schemes*

#### **243 Overseas pension schemes: migrant member relief**

Schedule 33 contains provision about migrant member relief in respect of contributions under overseas pension schemes.

#### Commencement Information

**I83** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### **244 Non-UK schemes: application of certain charges**

Schedule 34 contains provision applying certain charges under this Part in relation to non-UK schemes.

#### Commencement Information

**I84** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### *Employer-financed retirement benefit schemes*

#### **245 Restriction of deduction for contributions by employer**

(1) Schedule 24 to the Finance Act 2003 (c. 14) (restriction of deductions for employee benefit contributions) is amended as follows.

<sup>F540</sup>(2) . . . . .

(3) In sub-paragraph (1) of paragraph 2 (“qualifying benefits”), insert at the end “or (c) is made under an employer-financed retirement benefits scheme.”

(4) In sub-paragraph (5) of that paragraph (when qualifying benefit treated as provided), after “payment of money” insert “otherwise than under an employer-financed retirement benefits scheme”.

(5) In paragraph 8 (deductions to which Schedule does not apply), for paragraphs (b) and (c) substitute—

“(b) in respect of contributions under a registered pension scheme or a section 615(3) scheme,

(c) in respect of contributions under a qualifying overseas pension scheme in respect of an individual who is a relevant migrant member of the pension scheme in relation to the contributions.”.

(6) In sub-paragraph (1) of paragraph 9 (interpretation), in the definition of “employee benefit scheme”, after “include,” insert “present or former”.

(7) In that sub-paragraph, after the definition of “the employer” insert—

““employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 of the Income Tax (Earnings and Pensions) Act 2003 (see section 393A of that Act);”.

(8) In that sub-paragraph, after the definition of “qualifying expenses” insert—

““qualifying overseas pension scheme” has the same meaning as in Schedule 33 to the Finance Act 2004 (see paragraphs 5 and 6 of that Schedule);

“registered pension scheme” has the same meaning as in Part 4 of that Act (see section 150 of that Act);

“relevant migrant member” has the same meaning as in Schedule 33 to that Act (see paragraph 4 of that Schedule);

“section 615(3) scheme” means a superannuation fund to which section 615(3) of the Taxes Act 1988 applies;”.

#### **Textual Amendments**

**F540** S. 245(2) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(5\)](#)

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

**C134** S. 245 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), 15, 16

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### Commencement Information

**I85** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 246 Restriction of deduction for non-contributory provision

- (1) This section applies in relation to an employer's expenses of providing benefits to or in respect of present or former employees under an employer-financed retirement benefits scheme in a case where—
  - (a) the expenses do not consist of the making of contributions under the scheme, but
  - (b) in accordance with generally accepted accounting practice they are shown in the employer's accounts.
- (2) Unless the benefits are ones in respect of which a person is, on receipt, chargeable to income tax, the expenses—
  - (a) are not deductible in computing the amount of the profits of the employer for the purposes of [<sup>F541</sup>Part 2 of ITTOIA 2005][<sup>F542</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) are not expenses of management of the employer for the purposes of [<sup>F543</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), and
  - <sup>F544</sup>(c) are not to count as ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012.]
- (3) But where the benefits are ones in respect of which a person is, on receipt, chargeable to income tax—
  - (a) if the expenses are allowed to be deducted in computing the amount of the profits of the employer to be charged under [<sup>F545</sup>Part 2 of ITTOIA 2005][<sup>F546</sup>or Part 3 of CTA 2009 (trading income),] they are deductible in computing the amount of the profits for the period of account in which they are paid, and
  - (b) for the purposes of the operation [<sup>F547</sup>in relation to the employer of [<sup>F548</sup>section 76 of FA 2012] or Chapter 2 of Part 16 of CTA 2009,] the expenses are referable to the accounting period in which they are paid.
- (4) In this section “employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see section 393A of that Act).

### Textual Amendments

- F541** Words in s. 246(2)(a) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 650\(2\), Sch. 2 para. 161](#) (with Sch. 2)
- F542** Words in s. 246(2)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 578\(2\)\(a\)](#) (with Sch. 2 Pts. 1, 2)
- F543** Words in s. 246(2)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 578\(2\)\(b\)](#) (with Sch. 2 Pts. 1, 2)
- F544** S. 246(2)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 120\(2\)](#)
- F545** Words in s. 246(3)(a) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 650\(3\), Sch. 2 para. 161](#) (with Sch. 2)
- F546** Words in s. 246(3)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 578\(3\)\(a\)](#) (with Sch. 2 Pts. 1, 2)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F547** Words in s. 246(3)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 578\(3\)\(b\)](#) (with Sch. 2 Pts. 1, 2)

**F548** Words in s. 246(3)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 120\(3\)](#)

#### Commencement Information

**I86** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F549</sup>246A] **Case where no relief for provision by an employer**

- (1) An employer's expenses of providing relevant benefits to or in respect of a present or former employee (“the employee”) under an employer-financed retirement benefits scheme (whether or not by the making of contributions under the scheme) are not subject to relief if subsection (2) applies.
- (2) This subsection applies where—
  - (a) the provision of the relevant benefits results in a reduction in the benefits payable to or in respect of the employee under a registered pension scheme, or
  - (b) a reduction in the benefits payable to or in respect of the employee under a registered pension scheme results in the provision of the relevant benefits.
- (3) But if the extent to which contributions paid by the employer under the registered pension scheme in respect of the employee are subject to relief has been restricted in accordance with regulations under section 196A, the employer's expenses of providing the relevant benefits are not prevented from being subject to relief to the extent that is just and reasonable.
- (4) The references in this section to expenses of an employer being subject to relief are to—
  - (a) their being deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 [<sup>F550</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) their being expenses of management of the employer for the purposes of [<sup>F551</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), or
  - (c) their being [<sup>F552</sup>ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012 ],
 (depending on which is appropriate in relation to the employer).
- (5) In this section—
 

“employer-financed retirement benefits scheme”, and  
 “relevant benefits”,

 have the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act).]

#### Textual Amendments

**F549** S. 246A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\), Sch. 10 paras. 40, 64\(1\)](#)

**F550** Words in s. 246A(4)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 579\(a\)](#) (with Sch. 2 Pts. 1, 2)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

**F551** Words in s. 246A(4)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 579(b)** (with Sch. 2 Pts. 1, 2)

**F552** Words in s. 246A(4)(c) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 121**

## **247 Abolition of income tax charge in respect of employer payments**

In Part 6 of ITEPA 2003, omit Chapter 1 (payments by employer for the provision of benefits for an employee under certain schemes to count as employment income of employee).

### **Commencement Information**

**187** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## **248 Employer’s cost of insuring against non-payment of benefit**

(1) Section 307 of ITEPA 2003 (no liability to income tax in respect of chargeable benefit on provision made by employer for a retirement or death benefit) is amended as follows.

(2) After subsection (1) insert—

“(1A) Subsection (1) does not apply to provision made for insuring against the risk that a retirement or death benefit under an employer-financed retirement benefits scheme cannot be paid or given because of the employer’s insolvency.

(1B) In subsection (1A) “employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A).”

(3) In subsection (2), for “subsection (1)” substitute “this section”.

### **Commencement Information**

**188** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## **249 Taxation of non-pension benefits**

(1) Chapter 2 of Part 6 of ITEPA 2003 (taxation of non-pension benefits from certain pension schemes) is amended as follows.

(2) In the heading of the Chapter, for “NON-APPROVED PENSION” substitute “EMPLOYER-FINANCED RETIREMENT BENEFITS”.

(3) For section 393 substitute—

### **“393 Application of this Chapter**

(1) This Chapter applies to relevant benefits provided under an employer-financed retirement benefits scheme.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (2) Section 393A defines “employer-financed retirement benefits scheme” and section 393B defines “relevant benefits”.

### **393A Employer-financed retirement benefits scheme**

- (1) In this Chapter “employer-financed retirement benefits scheme” means a scheme for the provision of benefits consisting of or including relevant benefits to or in respect of employees or former employees of an employer.
- (2) But neither—
- (a) a registered pension scheme, nor
  - (b) a section 615(3) scheme,
- is an employer-financed retirement benefits scheme.
- (3) “Section 615(3) scheme” means a superannuation fund to which section 615(3) of ICTA applies.
- (4) “Scheme” includes a deed, agreement, series of agreements, or other arrangements.

### **393B Relevant benefits**

- (1) In this Chapter “relevant benefits” means any lump sum, gratuity or other benefit (including a non-cash benefit) provided (or to be provided)—
- (a) on or in anticipation of the retirement of an employee or former employee,
  - (b) on the death of an employee or former employee,
  - (c) after the retirement or death of an employee or former employee in connection with past service,
  - (d) on or in anticipation of, or in connection with, any change in the nature of service of an employee, or
  - (e) to any person by virtue of a pension sharing order or provision relating to an employee or former employee.
- (2) But—
- (a) benefits charged to tax under Part 9 (pension income),
  - (b) benefits chargeable to tax by virtue of Schedule 34 to FA 2004 (which applies certain charges under Part 4 of that Act in relation to non-UK schemes), and
  - (c) excluded benefits,
- are not relevant benefits.
- (3) The following are “excluded benefits”—
- (a) benefits in respect of ill-health or disablement of an employee during service,
  - (b) benefits in respect of the death by accident of an employee during service,
  - (c) benefits under a relevant life policy, and
  - (d) benefits of any description prescribed by regulations made by the Board of Inland Revenue.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (4) In subsection (3)(c) “relevant life policy” means—
- [<sup>F553</sup>(a) an excepted group life policy as defined in section 480 of ITTOIA 2005,]
  - (b) a policy of life insurance the terms of which provide for the payment of benefits on the death of a single individual and with respect to which [<sup>F554</sup>—
    - (i) condition A in section 481 of that Act would be met if paragraph (a) in that condition referred to the death, in any circumstances or except in specified circumstances, of that individual (rather than the death in any circumstances of each of the individuals insured under the policy) and if the condition did not include paragraph (b), and
    - (ii) conditions C and D in that section and conditions A and C in section 482 of that Act are met, or]
  - (c) a policy of life insurance that would be within paragraph (a) or (b) but for the fact that it provides for a benefit which is an excluded benefit under or by virtue of paragraph (a), (b) or (d) of subsection (3).
- (5) In subsection (1)(e) “pension sharing order or provision” means any such order or provision as is mentioned in section 28(1) of WRPA 1999 or Article 25(1) of WRP(NI)O 1999.”

(4) Section 394 (charge on benefit) is amended as follows.

(5) After subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to the benefit if the total amount of the benefits to which this Chapter applies received by the individual in the relevant tax year does not exceed £100.”

(6) In subsection (2), for “administrator of” substitute “person who is (or persons who are) the responsible person in relation to”.

(7) In subsection (3), for “subsections (1) and (2)” substitute “this section”.

(8) For sections 395 to 397 substitute—

#### **“395 Reduction where employee has contributed**

- (1) This section applies in relation to a relevant benefit under an employer-financed retirement benefits scheme in the form of a lump sum where, under the scheme, an employee has paid any sum or sums by way of contribution to the provision of the lump sum.
- (2) The amount which, by virtue of section 394, counts as employment income, or is chargeable to tax under [<sup>F555</sup>subsection (2) of that section], is the amount of the lump sum reduced by the sum, or the aggregate of the sums, paid by the employee by way of contribution to the provision of the lump sum.
- (3) A reduction under this section may not be claimed in respect of the same contribution in relation to more than one lump sum.
- (4) It is to be assumed, unless the contrary is shown, that no reduction is applicable under this section.”

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*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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- (9) In subsection (1) of section 399 (valuation of benefit in form of loan), for “administrator of” substitute “person who is (or any of the persons who are) the responsible person in relation to”.
- (10) In subsection (2) of that section, for “administrator” substitute “responsible person”.
- (11) For section 400 substitute—

**“399A Responsible person**

- (1) The following heads specify the person who is, or persons who are, the responsible person in relation to an employer-financed retirement benefits scheme for the purposes of this Chapter.
- (2) But if a person is, or persons are, the responsible person in relation to the scheme by virtue of being specified under one head, no-one is the responsible person in relation to the scheme by virtue of being specified under a later head.

*Head 1*

If there are one or more trustees of the scheme who are resident in the United Kingdom, that trustee or each of those trustees.

*Head 2*

If there are one or more persons who control the management of the scheme, that person or each of those persons.

*Head 3*

If alive or still in existence, the employer, or any of the employers, who established the scheme and any person by whom that employer, or any of those employers, has been directly or indirectly succeeded in relation to the provision of benefits under the scheme.

*Head 4*

Any employer of employees to or in respect of whom benefits are, or are to be, provided under the scheme.

*Head 5*

If there are one or more trustees of the scheme who are not resident in the United Kingdom, that trustee or each of those trustees.

**400 Interpretation**

In this Chapter—

“employer-financed retirement benefits scheme” has the meaning given by section 393A;

“relevant benefits” has the meaning given by section 393B; and

“responsible person” has the meaning given by section 399A.”

- (12) In Part 2 of Schedule 1 to ITEPA 2003 (defined expressions), insert at the appropriate places—



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

“employer-financed retirement benefits scheme (in Chapter 2 of Part 6) section 393A”

“relevant benefits (in Chapter 2 of Part 6) section 393B”

“responsible person (in Chapter 2 of Part 6) section 399A”.

#### Textual Amendments

- F553** Words in s. 249(3) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 651\(2\)\(a\)](#), Sch. 2 para. 161 (with Sch. 2)
- F554** Words in s. 249(3) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 651\(2\)\(b\)](#), Sch. 2 para. 161 (with Sch. 2)
- F555** Words in s. 249(8) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 651\(3\)](#), Sch. 2 para. 161 (with Sch. 2)

#### Commencement Information

- I89** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## CHAPTER 7

### COMPLIANCE

#### *Information*

#### **250 Registered pension scheme return**

- (1) The Inland Revenue may, in relation to any tax year, by notice require the scheme administrator of a registered pension scheme—
- to make and deliver to the Inland Revenue a return containing any information reasonably required by the notice, and
  - to deliver with the return any accounts, statements or other documents relating to information contained in the return which may reasonably be required by the notice.
- (2) The information that may be required to be included in the return is any information relating to—
- contributions made under the pension scheme,
  - transfers of sums or assets held for the purposes of, or representing accrued rights under, another pension scheme so as to become held for the purposes of, or to represent rights under, the pension scheme,
  - income and gains derived from investments or deposits held for the purposes of the pension scheme,
  - other receipts of the pension scheme,

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- (e) the sums and other assets held for the purposes of the pension scheme,
  - (f) the liabilities of the pension scheme,
  - (g) the provision of benefits by the pension scheme,
  - (h) transfers of sums or assets held for the purposes of, or representing accrued rights under, the pension scheme so as to become held for the purposes of, or to represent rights under, another pension scheme,
  - (i) other expenditure of the pension scheme,
  - (j) the membership of the pension scheme, or
  - (k) any other matter relating to the administration of the pension scheme.
- (3) The information that may be required to be included in the return may be limited to information concerning any particular arrangement or arrangements under the pension scheme.
- (4) The notice must specify the period to be covered by the return.
- (5) The period may be—
- (a) the whole or any specified part of the tax year, or
  - (b) if audited accounts of the pension scheme have been prepared for any period or periods ending in the tax year, the period or periods covered by the accounts.
- (6) “Audited accounts” means accounts audited by a person of a description specified in regulations made by the Board of Inland Revenue.
- (7) A return relating to the whole or part of, or to a period or periods ending in, a tax year must be delivered—
- (a) where the notice requiring the return is given after the 31st October in the next tax year, before the end of the period of three months beginning with the day on which the notice is given, and
  - (b) otherwise, not later than the 31st January in the next tax year (but subject as follows).
- (8) If, in a case within paragraph (b) of subsection (7), the winding-up of the pension scheme has been completed before 31st October in the next tax year, the return must be delivered before the end of the period of three months beginning with the day on which the winding-up is completed.
- (9) But subsection (8) does not apply if the end of that period is before the end of the period of three months beginning with the day on which the notice is given; and in that case the return must be delivered before the end of that period.

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

**C135** S. 250(1) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**Commencement Information**

**I90** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

## 251 Information: general requirements

- (1) The Board of Inland Revenue may by regulations make provision requiring persons of a prescribed description—
  - (a) to provide to the Inland Revenue, in a form specified by the Board of Inland Revenue, information of a prescribed description relating to any of the matters mentioned in subsection (2), and
  - (b) to preserve for a prescribed period any documents relating to such information.
- (2) Those matters are—
  - (a) any matter relating to a registered pension scheme,
  - (b) any matter relating to a pension scheme which has ceased to be a registered pension scheme,
  - (c) any matter relating to a pension scheme in relation to which an application for registration has been made,
  - (d) any matter relating to an annuity purchased with sums or assets held for the purposes of a registered pension scheme,
  - (e) the coming into operation of an employer-financed retirement benefits scheme, and
  - (f) the provision of relevant benefits under an employer-financed retirement benefits scheme.
- (3) In subsection (2)—

“employer-financed retirement benefits scheme”, and  
“relevant benefits”,  
have the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act).
- (4) The Board of Inland Revenue may by regulations make provision—
  - (a) requiring scheme administrators of registered pension schemes or other persons of a prescribed description to provide information of a prescribed description to persons of such of the descriptions mentioned in subsection (5) as are prescribed <sup>F556</sup>or to the scheme administrators of other registered pension schemes], <sup>F557</sup>...
  - (b) requiring persons of such of the descriptions specified in subsection (5) as are prescribed to provide information of a prescribed description to the scheme administrators of registered pension schemes,
  - <sup>F558</sup>(ba) requiring, in a case where a payment (“the onwars payment”) is made directly or indirectly out of a sum on whose payment tax has been charged under section 206, the person making the onwars payment to provide information of a prescribed description to the person to whom the onwars payment is made,]
  - <sup>F559</sup>(c) requiring scheme administrators of registered pension schemes to provide information of a prescribed description to scheme managers of qualifying recognised overseas pension schemes, or
  - (d) requiring members or former members of a relevant non-UK pension scheme to provide information to the scheme administrators, or scheme managers, of registered pension schemes or other relevant non-UK pension schemes.]
- (5) Those persons are—
  - (a) members of a registered pension scheme,

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- [<sup>F560</sup>(aa) employers of members of a registered pension scheme,  
 (b) persons who have ceased to be members of a registered pension scheme,  
 (c) persons to whom benefits under a registered pension scheme are being, or have been, provided,  
 (d) the personal representatives of any person within paragraphs (a) to (c), and  
 (e) insurance companies who pay annuities purchased with sums or assets held for the purposes of registered pension schemes.
- (6) “Prescribed”, in relation to regulations, means prescribed by the regulations[<sup>F561</sup>; and “relevant non-UK scheme” has the meaning given by paragraph 1 of Schedule 34].

#### Textual Amendments

- F556** Words in s. 251(4)(a) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 47](#), 64(1)  
**F557** Word in s. 251(4)(a) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 93\(2\)\(a\)](#)  
**F558** S. 251(4)(ba) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(6\)](#)  
**F559** S. 251(4)(c)(d) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 93\(2\)\(b\)](#)  
**F560** S. 251(5)(aa) inserted (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [s. 49](#)  
**F561** Words in s. 251(6) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 93\(3\)](#)

#### Commencement Information

- I91** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### <sup>F562</sup>252 Notices requiring documents or particulars

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#### Textual Amendments

- F562** S. 252 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 13](#) (with art. 8)

### <sup>F563</sup>253 Appeal against notices

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#### Textual Amendments

- F563** S. 253 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 13](#) (with art. 8)

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*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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### *Accounting and assessment*

#### **254 Accounting for tax by scheme administrators**

- (1) A scheme administrator of a registered pension scheme must make returns to the Inland Revenue of the income tax to which the scheme administrator is liable under this Part.
  - (2) A return is to be made for each period of three months ending with 31st March, 30th June, 30th September or 31st December if tax has been charged on the scheme administrator by virtue of this Part in that period.
  - (3) A return for any period must be made before the end of the period of 45 days beginning with the day immediately following the end of that period.
  - (4) A return must—
    - (a) show the income tax to which the scheme administrator is liable, and
    - (b) include such particulars of the events or other circumstances giving rise to the liability (including particulars as to the persons to whom the events or other circumstances relate) as are required to be included in returns under this section by regulations made by the Board of Inland Revenue.
  - (5) The income tax required to be shown in a return is due at the time by which the return is to be made and is payable without the making of an assessment.
  - (6) The Board of Inland Revenue may by regulations make provision for and in connection with—
    - (a) the charging of interest on tax due under this section which is not paid on or before the due date,
    - (b) the making of amended returns by scheme administrators in the event of error in a return under this section,
    - (c) the making of assessments, repayments or adjustments in cases where the correct tax due under this section has not been paid on or before the due date, and
    - (d) otherwise for supplementing this section.
  - (7) The regulations may, in particular—
    - (a) modify the operation of any provision of the Tax Acts, or
    - (b) provide for the application of any provision of the Tax Acts (with or without modifications).
- [<sup>F564</sup>(7A) Where a scheme administrator is liable under section 237B in respect of the annual allowance charge for a tax year, for the purposes of subsection (2) the tax is to be taken to be charged on the scheme administrator in the period ending with 31 December in the year following that in which that tax year ended (or such earlier period as the scheme administrator may elect in a return for that earlier period).
- (7B) But if the notice which gave rise to the liability is amended in accordance with regulations under section 237B(5)(c), any additional tax to which the scheme administrator becomes liable is to be taken for the purposes of subsection (2) to be charged in the later of the period in which it is taken to be charged by virtue of subsection (7A) and the period in which the scheme administrator receives notice of the amendment.]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (8) References in this section to the income tax to which a scheme administrator is liable under this Part do not include any to which the scheme administrator is liable under section 239 (scheme sanction charge).
- (9) Where the registration of a registered pension scheme has been withdrawn, this section has effect as if references to the scheme administrator were to the person who was, or each of the persons who were, the scheme administrator immediately before the registration was withdrawn.

#### Textual Amendments

**F564** S. 254(7A)(7B) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 18](#)

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

**C136** S. 254 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

**C137** S. 254(7A) applied (with modifications) (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 33](#)

#### Commencement Information

**I92** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 255 Assessments under this Part

- (1) The Board of Inland Revenue may by regulations make provision for and in connection with the making of assessments in respect of—
- (a) the unauthorised payments charge,
  - (b) the unauthorised payments surcharge,
  - (c) liability to the lifetime allowance charge under section 217(2) (person to whom lump sum death benefit paid),
  - <sup>[F565]</sup>(ca) liability to the annual allowance charge by virtue of section 237B,]
  - (d) the scheme sanction charge,
  - (e) liability under section 272 (trustees etc. liable as scheme administrator),
  - <sup>[F566]</sup>(ea) liability under section 272C (former scheme administrator to retain liability in cases involving independent trustees etc),]
  - (f) liability under section 273 (member liable as scheme administrator), and
  - (g) liability under section 394 of ITEPA 2003 (benefit under employer-financed retirement benefits scheme: charge on responsible person).
- (2) The provision that may be made by the regulations includes (in particular) provision for the charging of interest on tax due under such assessments which remains unpaid.
- (3) The regulations may, in particular—
- (a) modify the operation of any provision of the Tax Acts, or
  - (b) provide for the application of any provision of the Tax Acts (with or without modification).

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Textual Amendments

**F565** S. 255(1)(ca) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 19](#)

**F566** S. 255(1)(ea) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 17](#)

#### Commencement Information

**I93** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *¶<sup>F567</sup> Payment*

#### Textual Amendments

**F567** Ss. 255A, 255B and cross-heading inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 48, 64\(1\)](#)

## **255A Electronic payment**

- (1) The Board of Inland Revenue may give directions requiring specified persons to use electronic means for the making of specified payments required to be made under or by virtue of this Part.
- (2) Directions under this section may make provision—
  - (a) as to conditions that must be complied with in connection with the use of electronic means for the making of any payment,
  - (b) for treating a payment as not having been made unless conditions imposed by the directions are satisfied, and
  - (c) for determining the time when a payment in accordance with directions under this section is to be taken to be made.
- (3) Directions under this section may also make provision (which may include provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose—
  - (a) whether any use of electronic means for making a payment is to be taken as having resulted in the payment being made,
  - (b) the time of the making of any payment for the making of which electronic means have been used, and
  - (c) any other matter for which provision may be made by directions under this section.
- (4) Directions under this section—
  - (a) may be specific or general, and
  - (b) may provide that the conditions of any authorisation or requirement imposed by the directions are to be taken to be satisfied only where the Inland Revenue is satisfied as to specified matters.
- (5) Directions under this section may—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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- (a) suspend for any period during which the use of electronic means for the making of payments is impossible or impractical, any requirements imposed by the directions relating to the use of such means,
  - (b) substitute alternative requirements for the suspended ones, and
  - (c) make any provision that is necessary in consequence of the imposition of the substituted requirements.
- (6) Directions under this section may—
- (a) make different provision for different cases,
  - (b) make such incidental, supplementary, consequential and transitional provision in connection with any provision contained in such directions as the Board of Inland Revenue thinks fit.
- (7) In this section—
- “the Inland Revenue” includes any person who for the purposes of the electronic means of payment is acting under the authority of the Board of Inland Revenue, and
- “specified” means specified in a direction under this section.

#### **255B Payments to be cleared payments**

- (1) A payment made to the Board of Inland Revenue or the Inland Revenue under or by virtue of this Part (otherwise than in cash) is to be treated as not having been made until the earliest date on or before which all the transactions that need to be completed before the whole amount of the payment becomes available to the Board are capable of being completed.
- (2) In this section “the Inland Revenue” includes any person who is acting under the authority of the Board of Inland Revenue.]

#### *Registration regulations*

#### **256 Enhanced lifetime allowance regulations**

- (1) This section applies to regulations made by the Board of Inland Revenue under—
- (a) section 220(5) (lifetime allowance enhancement: registration of pension credits),
  - (b) section 221(6) (lifetime allowance enhancement: individuals who are not always relevant UK individuals),
  - (c) section 224(9) (lifetime allowance enhancement: transfers from recognised overseas pension scheme),
  - (d) paragraph 7(1)(b) [<sup>F568</sup>or 11A(1)(c)] of Schedule 36 (lifetime allowance enhancement: primary protection),
  - (e) paragraph 12(1) [<sup>F569</sup>or 15A(1)(b)] of that Schedule (lifetime allowance: enhanced protection), and
  - (f) paragraph 18(6) of that Schedule (lifetime allowance enhancement: pre-commencement pension credits).
- (2) The regulations to which this section applies are referred to in this Part as “enhanced lifetime allowance regulations”.



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (3) Enhanced lifetime allowance regulations may include any provision that appears appropriate for securing that the correct tax is charged—
  - (a) by way of the lifetime allowance charge in respect of amounts crystallised by benefit crystallisation events, and
  - (b) in respect of the payment of lump sums by registered pension schemes.
- (4) Enhanced lifetime allowance regulations may, for that purpose, in particular contain provision—
  - (a) requiring any person to produce or make available documents, produce certificates or provide information, and
  - (b) for the review from time to time of any matter registered in accordance with the regulations.

#### Textual Amendments

**F568** Words in s. 256(1)(d) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 42\(a\)](#)

**F569** Words in s. 256(1)(e) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 42\(b\)](#)

#### Commencement Information

**I94** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Penalties*

#### **257 Registered pension scheme return**

- (1) If the scheme administrator of a registered pension scheme fails to comply with a notice under section 250 (registered pension scheme return), the scheme administrator is liable to a penalty of £100.
- (2) If the failure continues after a penalty is imposed under subsection (1), the scheme administrator is liable to a further penalty not exceeding £60 for each day on which the failure continues after the day on which that penalty was imposed (but excluding any day for which a penalty under this subsection has already been imposed).
- (3) No penalty may be imposed under subsection (1) or (2) in respect of a failure after it has been remedied.
- (4) If the scheme administrator of a registered pension scheme fraudulently or negligently—
  - (a) makes an [<sup>F570</sup>inaccurate] return required by a notice under section 250, or
  - (b) delivers any [<sup>F570</sup>inaccurate] accounts, statements or other documents with such a return,the scheme administrator is liable to a penalty not exceeding £3,000.

#### Textual Amendments

**F570** Word in s. 257(4)(a)(b) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 23\(b\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C138** S. 257 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**Commencement Information**

**I95** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**258 Information required by regulations**

- (1) In section 98 of TMA 1970 (penalties for failure to provide information and providing false information), in the second column of the Table, insert at the appropriate place — “regulations under section 251(1)(a) or (4) of the Finance Act 2004;”.
- (2) A person who fails to comply with regulations under section 251(1)(b) (preservation of documents) is liable to a penalty not exceeding £3,000.

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

**C139** S. 258(1) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**C140** S. 258(2) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**Commencement Information**

**I96** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

<sup>F571</sup>**259 Documents and particulars required by notice**

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**Textual Amendments**

**F571** S. 259 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 13** (with art. 8)

**260 Accounting return**

- <sup>F572</sup>(1) .....
- <sup>F572</sup>(2) .....
- <sup>F572</sup>(3) .....
- <sup>F572</sup>(4) .....
- <sup>F572</sup>(5) .....
- <sup>F573</sup>(6) .....

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

F573(7) .....

#### Textual Amendments

**F572** S. 260(1)-(5) omitted (1.4.2011) by virtue of [The Finance Act 2009, Schedules 55 and 56 \(Income Tax Self Assessment and Pension Schemes\) \(Appointed Days and Consequential and Savings Provisions\) Order 2011 \(S.I. 2011/702\)](#), arts. 1(1), 14 (with arts. 1(2), 21)

**F573** S. 260(6)(7) omitted (1.6.2013) by virtue of [The Pension Schemes \(Miscellaneous Amendments\) Order 2013 \(S.I. 2013/1114\)](#), arts. 1(1), 5

## 261 Enhanced lifetime allowance regulations: documents and information

- (1) This section applies where an individual fraudulently or negligently—
  - (a) produces or makes available an [<sup>F574</sup>inaccurate] document, or produces an [<sup>F574</sup>inaccurate] certificate, in connection with any matter registered in accordance with enhanced lifetime allowance regulations, or
  - (b) provides false information in connection with any such matter, and the condition in subsection (2) is met.
- (2) The condition is that—
  - (a) the amount of the individual's lifetime allowance at the time which is relevant for the purposes of this paragraph, or
  - (b) the amount of the pension commencement lump sums to which the individual may be entitled at the time which is relevant for the purposes of this paragraph, would be greater than it actually is were the document or certificate correct or the information true.
- (3) The individual is liable to a penalty not exceeding 25% of the relevant excess.
- (4) In a case within paragraph (a) of subsection (2), the relevant excess is the difference between what would be the amount of the individual's lifetime allowance at the time which is relevant for the purposes of that paragraph (were the document or certificate correct or the information true) and whichever is the higher of—
  - (a) the actual amount of the individual's lifetime allowance at that time, and
  - (b) the standard lifetime allowance at that time.
- (5) The time which is relevant for the purposes of paragraph (a) of subsection (2)—
  - (a) where a benefit crystallisation event has occurred in relation to the individual since the document was produced or made available, the certificate produced or the information provided (but before a penalty under this section is imposed), is the time when the benefit crystallisation event occurred, and
  - (b) otherwise, is the time when the document was produced or made available, the certificate produced or the information provided.
- (6) In a case within paragraph (b) of subsection (2), the relevant excess is the difference between—
  - (a) what would be the amount of the pension commencement lump sums to which the individual may be entitled at the time which is relevant for the purposes of that paragraph (were the document or certificate correct or the information true), and

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- (b) the actual amount at that time of the pension commencement lump sums to which the individual may be entitled.
- (7) The time which is relevant for the purposes of paragraph (b) of subsection (2) is the time when the document was produced or made available, the certificate produced or the information provided.

**Textual Amendments**

**F574** Word in s. 261(1)(a) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 para. 23(c)**

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

**C141** S. 261 applied (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), **11(2)**

**Commencement Information**

**I97** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**262 Enhanced lifetime allowance regulations: failures to comply**

An individual who fails—

- (a) to produce or make available any document required to be produced by enhanced lifetime allowance regulations,
- (b) to produce any certificate required to be produced by enhanced lifetime allowance regulations, or
- (c) to provide any information required to be provided by enhanced lifetime allowance regulations,

is liable to a penalty not exceeding £3,000.

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

**C142** S. 262 applied (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), **11(2)**

**Commencement Information**

**I98** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**263 Lifetime allowance enhanced protection: benefit accrual**

(1) This section applies where—

- (a) paragraph 12 of Schedule 36 (lifetime allowance charge: enhanced protection) applies in relation to an individual, and
- (b) relevant benefit accrual occurs in relation to the individual (as to which see paragraph 13 of that Schedule).

(2) If the individual fails to notify the Inland Revenue of the relevant benefit accrual within the period of 90 days beginning with the day on which it occurs, the individual is liable to a penalty not exceeding £3,000.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C143** S. 263 applied (with modifications) (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. 1(1), **5-11**

#### **Commencement Information**

**I99** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### **264 False statements etc**

- (1) A person who fraudulently or negligently makes a false statement or representation is liable to a penalty not exceeding £3,000 if, in consequence of the statement or representation—
  - (a) that person or any other person obtains relief from, or repayment of, tax chargeable under this Part, or
  - (b) a registered pension scheme makes a payment which is an unauthorised payment.
- (2) A person who assists in or induces the preparation of any document which the person knows—
  - (a) is [<sup>F575</sup>inaccurate], and
  - (b) will, or is likely to, cause a registered pension scheme to make an unauthorised payment,is liable to a penalty not exceeding £3,000.

#### **Textual Amendments**

**F575** Word in s. 264(2)(a) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 7 para. 23(d)**

#### **Commencement Information**

**I100** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### **265 Winding-up to facilitate payment of lump sums**

- (1) This section applies where the winding-up of a registered pension scheme has begun and the Inland Revenue considers the pension scheme is being wound up wholly or mainly for the purpose specified in subsection (2).
- (2) That purpose is facilitating the payment of winding-up lump sums or winding-up lump sum death benefits (or both) under the pension scheme.
- (3) The scheme administrator is liable to a penalty not exceeding the relevant amount.
- (4) The relevant amount is £3,000 in respect of—
  - (a) each member to whom a winding-up lump sum is paid under the pension scheme, and
  - (b) each member in respect of whom a winding-up lump sum death benefit is paid under the pension scheme.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C144** S. 265(3) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**Commencement Information**

**I101** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**266 Transfers to insured schemes**

- (1) This section applies where sums held for the purposes of, or representing accrued rights under, a registered pension scheme (“the transferor scheme”) are transferred so as to become held for the purposes of, or to represent rights under, a registered pension scheme that is an insured scheme (“the transferee scheme”).
- (2) The scheme administrator of the transferor scheme is liable to a penalty not exceeding £3,000 unless the sums are transferred either to the scheme administrator of the transferee scheme or to a relevant insurance company.
- (3) In this section—
  - “insured scheme” means a pension scheme all the income and other assets of which are invested in policies of insurance, and
  - “relevant insurance company” means an insurance company that issued any of the policies of insurance.

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

**C145** S. 266(2) modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**Commencement Information**

**I102** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

*[<sup>F576</sup>Relief from liability in respect of returned unauthorised member payments*

**Textual Amendments**

**F576** Ss. 266A, 266B and cross-heading inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 4, 64(1)**

**266A Member's liability**

- (1) This section applies where—
  - (a) a liability to the unauthorised payments charge, or to both the unauthorised payments charge and the unauthorised payments surcharge, has arisen in respect of an unauthorised member payment, and

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to [<sup>F577</sup>a relevant order] as a result of the unauthorised member payment.
- (2) The member of the registered pension scheme to or in respect of whom the unauthorised member payment was made (or, if it was paid after his death, the recipient) may claim relief from—
- (a) the relevant proportion of the unauthorised payments charge, and
- (b) if a liability to the unauthorised payments surcharge has arisen and subsection (4) is satisfied, the relevant proportion of the unauthorised payments surcharge.
- (3) The claim must be made within the period of one year beginning with the day on which the property or money is transferred, or the sum paid.
- (4) This subsection is satisfied if no part of the unauthorised member payment and no asset or sum representing it—
- (a) has been received by (or on behalf of) the member or a person connected with the member, or
- (b) has been held for more than 180 days by a person or succession of persons, other than the member or a person connected with the member, involved in any transaction by which the unauthorised member payment was made.
- (5) The relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is—

ASOUMP

where—

ASO is the amount subject to the [<sup>F578</sup>relevant] order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the [<sup>F579</sup>relevant order] in respect of the unauthorised member payment, and

UMP is the amount of the unauthorised member payment.

- (6) But if ASO is greater than UMP, the relevant proportion of the unauthorised payments charge or the unauthorised payments surcharge is the whole of it.

[ In this section “relevant order” means an order under any of the following—

- <sup>F580</sup>(6A) (a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or
- (b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland).]

[<sup>F581</sup>(7) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

#### Textual Amendments

**F577** Words in s. 266A(1)(b) substituted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(2\)](#)

**F578** Word in s. 266A(5) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(3\)\(a\)](#)

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- F579** Words in s. 266A(5) substituted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(3\)\(b\)](#)
- F580** S. 266A(6A) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 14\(4\)](#)
- F581** S. 266A(7) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 477](#) (with [Sch. 2](#))

## 266B Scheme's liability

- (1) This section applies where—
- (a) the scheme administrator of a registered pension scheme has become liable to the scheme sanction charge in respect of an unauthorised member payment, and
  - (b) property or money is transferred, or a sum paid, towards a registered pension scheme pursuant to [<sup>F582</sup>a relevant order] as a result of the unauthorised member payment.
- (2) The scheme administrator may, within the period of one year beginning with the day on which the property or money is transferred, or the sum paid, claim relief from the relevant proportion of the scheme sanction charge.
- (3) The relevant proportion of the scheme sanction charge is—
- ASOUMP
- where—
- ASO is the amount subject to the [<sup>F583</sup>relevant] order, that is the aggregate of the market value of any property and the amount of any money transferred, or the amount of the sum paid, towards a registered pension scheme pursuant to the [<sup>F584</sup>relevant order] in respect of the unauthorised member payment, and
- UMP is the amount of the unauthorised member payment.
- (4) But if ASO is greater than UMP, the relevant proportion of the scheme sanction charge is the whole of it.
- [ In this section “relevant order” means an order under any of the following—
- <sup>F585</sup>(5) (a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or
- (b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland).]]

### Textual Amendments

- F582** Words in s. 266B(1)(b) substituted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 15\(2\)](#)
- F583** Word in s. 266B(3) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 15\(3\)\(a\)](#)
- F584** Words in s. 266B(3) substituted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 15\(3\)\(b\)](#)
- F585** S. 266B(5) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 15\(4\)](#)



*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C146** S. 266B modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

*Discharge of tax liability: good faith*

**267 Lifetime allowance charge**

- (1) This section applies where the scheme administrator of a registered pension scheme is liable to the lifetime allowance charge in respect of a benefit crystallisation event.
- (2) The scheme administrator may apply to the Inland Revenue for the discharge of the scheme administrator's liability to the lifetime allowance charge in respect of the benefit crystallisation event on the ground mentioned in subsection (3).
- (3) The ground is that—
  - (a) the scheme administrator reasonably believed that there was no liability to the lifetime allowance charge in respect of the benefit crystallisation event, and
  - (b) in all the circumstances of the case, it would not be just and reasonable for the scheme administrator to be liable to the lifetime allowance charge in respect of the benefit crystallisation event.
- (4) On receiving an application under subsection (2), the Inland Revenue must decide whether to discharge the scheme administrator's liability to the lifetime allowance charge in respect of the benefit crystallisation event.
- (5) The scheme administrator may apply to the Inland Revenue for the discharge of part of the scheme administrator's liability to the lifetime allowance charge in respect of the benefit crystallisation event on the ground mentioned in subsection (6).
- (6) The ground is that—
  - (a) the scheme administrator reasonably believed that the amount of the lifetime allowance charge in respect of the benefit crystallisation event was less than the actual amount, and
  - (b) in all the circumstances of the case, it would not be just and reasonable for the scheme administrator to be liable to an amount (“the excess amount”) equal to the difference between the amount which the scheme administrator believed to be the amount of the charge and the actual amount.
- (7) On receiving an application under subsection (5), the Inland Revenue must decide whether to discharge the scheme administrator's liability to the lifetime allowance charge in respect of the excess amount (or part of the excess amount).
- (8) The discharge of the scheme administrator's liability to the lifetime allowance charge (or to the excess amount or part of the excess amount) does not affect the liability of any other person to the lifetime allowance charge.
- (9) The Inland Revenue must notify the scheme administrator of the decision on an application under this section.
- (10) Regulations made by the Board of Inland Revenue may make provision supplementing this section; and the regulations may in particular make provision as to the time limits for the making of an application.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

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

**C147** S. 267 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**Commencement Information**

**I103** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**268 Unauthorised payments surcharge and scheme sanction charge**

- (1) This section applies where—
  - (a) a person is liable to the unauthorised payments surcharge in respect of an unauthorised payment, or
  - (b) the scheme administrator of a registered pension scheme is liable to the scheme sanction charge in respect of a scheme chargeable payment.
- (2) The person liable to the unauthorised payments surcharge may apply to the Inland Revenue for the discharge of the person's liability to the unauthorised payments surcharge in respect of the unauthorised payment on the ground mentioned in subsection (3).
- (3) The ground is that in all the circumstances of the case, it would not be just and reasonable for the person to be liable to the unauthorised payments surcharge in respect of the payment.
- (4) On receiving an application by a person under subsection (2) the Inland Revenue must decide whether to discharge the person's liability to the unauthorised payments surcharge in respect of the payment.
- (5) The scheme administrator may apply to the Inland Revenue for the discharge of the scheme administrator's liability to the scheme sanction charge in respect of a scheme chargeable payment on the ground mentioned in subsection (6) or (7).
- (6) In the case of a scheme chargeable payment which is treated as being an unauthorised member payment by section 172<sup>F586</sup>, 172A, 172B, <sup>F587</sup>... 172C or 172D <sup>F588</sup>..., the ground is that, in all the circumstances of the case, it would not be just and reasonable for the scheme administrator to be liable to the scheme sanction charge.
- (7) In any other case, the ground is that—
  - (a) the scheme administrator reasonably believed that the unauthorised payment was not a scheme chargeable payment, and
  - (b) in all the circumstances of the case, it would not be just and reasonable for the scheme administrator to be liable to the scheme sanction charge in respect of the unauthorised payment.

<sup>F589</sup>(7A) Subsection (7) applies with the omission of its paragraph (a) if the scheme chargeable payment is a payment of a lump sum where the conditions in paragraph 1B(2)(a) to (g) of Schedule 29 are met.]

- (8) On receiving an application under subsection (5), the Inland Revenue must decide whether to discharge the scheme administrator's liability to the scheme sanction charge in respect of the unauthorised payment.

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (9) The Inland Revenue must notify the applicant of the decision on an application under this section.
- (10) Regulations made by the Board of Inland Revenue may make provision supplementing this section; and the regulations may in particular make provision as to the time limits for the making of an application.

#### Textual Amendments

- F586** Words in s. 268(6) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 paras. 1729\(7\)](#)
- F587** Word in s. 268(6) omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 75\(a\)](#)
- F588** Words in s. 268(6) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 75\(b\)](#)
- F589** S. 268(7A) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(3\), 15](#)

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

- C148** S. 268 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

#### Commencement Information

- I104** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 269 Appeal against decision on discharge of liability

- (1) This section applies where the Inland Revenue—
  - (a) decides to refuse an application under [<sup>F590</sup>section 237D (discharge of scheme administrator's liability to annual allowance charge),] section 267(2) (discharge of liability to lifetime allowance charge) or section 268 (discharge of liability to unauthorised payments surcharge or scheme sanction charge), or
  - (b) on an application under section 267(5), decides to refuse the application or to discharge the applicant's liability to the lifetime allowance charge in respect of part only of the excess amount.
- (2) The applicant may appeal against the decision.
- <sup>F591</sup>(3) .....
- <sup>F591</sup>(4) .....
- (5) An appeal under this section against a decision must be brought within the period of 30 days beginning with the day on which the applicant was given notification of the decision.
- (6) [<sup>F592</sup>On an appeal under subsection (1)(a) that is notified to the tribunal, the tribunal] must consider whether the applicant's liability to the lifetime allowance charge, unauthorised payments surcharge or scheme sanction charge ought to have been discharged.
- (7) If [<sup>F593</sup>the tribunal considers] that the applicant's liability ought not to have been discharged, [<sup>F594</sup>the tribunal must] dismiss the appeal.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (8) If [<sup>F593</sup>the tribunal considers] that the applicant’s liability ought to have been discharged, [<sup>F594</sup>the tribunal must] grant the application.
- (9) [<sup>F595</sup>On an appeal under subsection (1)(b) that is notified to the tribunal, the tribunal] must consider whether the applicant’s liability to the lifetime allowance charge ought to have been discharged in respect of the excess amount or a greater part of the excess amount.
- (10) If [<sup>F596</sup>the tribunal considers] that the applicant’s liability ought not to have been discharged in respect of the excess amount or a greater part of the excess amount, [<sup>F597</sup>the tribunal must] dismiss the appeal.
- (11) If [<sup>F596</sup>the tribunal considers] that the applicant’s liability ought to have been discharged in respect of the excess amount or a greater part of the excess amount, [<sup>F597</sup>the tribunal must] discharge the applicant’s liability in respect of the excess amount or that part of the excess amount.

#### Textual Amendments

- F590** Words in s. 269(1)(a) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 17 para. 20**
- F591** S. 269(3)(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(2)**
- F592** Words in s. 269(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(3)**
- F593** Words in s. 269(7)(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(4)(a)**
- F594** Words in s. 269(7)(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(4)(b)**
- F595** Words in s. 269(9) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(5)**
- F596** Words in s. 269(10)(11) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(6)(a)**
- F597** Words in s. 269(10)(11) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 427(6)(b)**

#### Commencement Information

- I105** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### *Scheme administrator*

#### 270 Meaning of “scheme administrator”

- (1) References in this Part to the scheme administrator, in relation to a pension scheme, are to the person who is, or persons who are, appointed in accordance with the rules of the pension scheme to be responsible for the discharge of the functions conferred or imposed on the scheme administrator of the pension scheme by and under this Part.
- (2) But a person cannot be the person who is, or one of the persons who are, the scheme administrator of a pension scheme unless the person—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (a) is resident in the United Kingdom or another state which is a member State or a non-member EEA State,<sup>F598</sup> ...
  - (b) has made the required declaration to the Inland Revenue<sup>F599</sup>, and
  - (c) has made to an officer of Revenue and Customs any other declarations which are reasonably required by Her Majesty's Revenue and Customs.]
- (3) “The required declaration” is a declaration that the person—
- (a) understands that the person will be responsible for discharging the functions conferred or imposed on the scheme administrator of the pension scheme by and under this Part, and
  - (b) intends to discharge those functions at all times, whether resident in the United Kingdom or another state which is a member State or a non-member EEA State.
- (4) “Non-member EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as adjusted by the Protocol signed at Brussels on 17th March 1993) but which is not a member State.

#### Textual Amendments

**F598** Word in s. 270(2) omitted (with effect in accordance with Sch. 7 para. 9(2) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 9\(1\)\(a\)](#)

**F599** S. 270(2)(c) and preceding word inserted (with effect in accordance with Sch. 7 para. 9(2) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 9\(1\)\(b\)](#)

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

**C149** S. 270(2) applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [3\(4\)](#)

**C150** S. 270(3) applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [3\(4\)](#)

#### Commencement Information

**I106** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 271 Liability of scheme administrator

- (1) Any liability of a person who is, or of any of the persons who are, the scheme administrator of a registered pension scheme ceases to be a liability of that person on the person ceasing to be, or to be one of the persons who is, the scheme administrator of the pension scheme.

This subsection does not apply to a liability to pay a penalty and is subject to subsection (4).

- (2) Where a person becomes, or becomes one of the persons who is, the scheme administrator of a registered pension scheme, the person assumes any existing liabilities of the scheme administrator of the pension scheme, other than any liability to pay a penalty.
- (3) Subsection (4) applies where, on the person who is or the persons who are the scheme administrator of a registered pension scheme ceasing to be the scheme administrator, there is no scheme administrator of the pension scheme.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

- (4) Any liability of the person or persons as scheme administrator remains a liability of that person or those persons as if still the scheme administrator (unless dead or having ceased to exist) until another person becomes, or other persons become, the scheme administrator of the pension scheme.
- (5) But a person who retains, or persons who retain, any liability by virtue of subsection (4) may apply to the Inland Revenue to be released from the liability.
- (6) On receipt of the application the Inland Revenue must decide whether or not to release the applicant or applicants from the liability and must notify the applicant, or each of the applicants, of the decision.
- (7) If the decision is not to release the applicant or applicants from the liability the applicant or applicants may appeal against the decision.
- <sup>F600</sup>(8) .....
- (9) The appeal must be brought within the period of 30 days beginning with the day on which the applicant was notified of the decision.
- <sup>F601</sup>(10) .....
- (11) [<sup>F602</sup>On an appeal that is notified to the tribunal, the tribunal] must consider whether the applicant or applicants ought to have been released from the liability.
- (12) If [<sup>F603</sup>the tribunal decides] that the applicant or applicants ought not to have been released from the liability, [<sup>F604</sup>the tribunal must] dismiss the appeal.
- (13) If [<sup>F605</sup>the tribunal decides] that the applicant or applicants ought to have been released from the liability, the applicant is, or applicants are, to be treated as having been released from the liability (but subject to any further appeal <sup>F606</sup>...).

#### Textual Amendments

- F600** S. 271(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(2)**
- F601** S. 271(10) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(2)**
- F602** Words in s. 271(11) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(3)**
- F603** Words in s. 271(12) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(4)(a)**
- F604** Words in s. 271(12) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(4)(b)**
- F605** Words in s. 271(13) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(5)(a)**
- F606** Words in s. 271(13) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 428(5)(b)**

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

- C151** S. 271 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

### **Commencement Information**

**I107** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## **272 Trustees etc. liable as scheme administrator**

- (1) This section applies in relation to a registered pension scheme if—
- (a) there is no scheme administrator of the pension scheme and no-one who remains subject to the liabilities of the scheme administrator by virtue of section 271(4) (continuation of liability where no scheme administrator),
  - (b) the person who is, or all the persons who are, the scheme administrator of the pension scheme or remain so subject cannot be traced, or
  - (c) the person who is, or all the persons who are, the scheme administrator of the pension scheme or remain so subject are in serious default.
- (2) Any person who assumes liability by reason of this section applying in relation to the pension scheme—
- (a) is liable to pay any tax (and any interest on tax) due from the scheme administrator of the pension scheme by virtue of this Part, and
  - (b) is responsible for the discharge of all other obligations imposed on the scheme administrator of the pension scheme by or under this Part.
- (3) In subsection (2)—
- (a) the references in paragraph (a) to tax, and interest on tax, include any that has become due before this section applied in relation to the pension scheme and remains unpaid, and
  - (b) the reference in paragraph (b) to obligations includes any that have become due before this section applied in relation to the pension scheme and remain unsatisfied, other than any liability to pay a penalty which has become due before this section so applied.
- (4) The following heads specify the persons who assume liability by reason of this section applying in relation to the pension scheme [<sup>F607</sup>or by reason of section 272C(7) applying in relation to a liability]; but if—
- (a) a person assumes, or persons assume, liability by virtue of being specified under one head, and
  - (b) that person, or any of those persons, can be traced and is not in default, no-one assumes liability by virtue of being specified under a later head.

### *Head 1*

If there are one or more trustees of the pension scheme who are resident in the United Kingdom, that trustee or each of those trustees.

### *Head 2*

If there are one or more persons who control the management of the pension scheme, that person or each of those persons.

### *Head 3*

If alive or still in existence, the person, or any of the persons, who established the pension scheme and any person by whom that person, or any of those persons, has

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

been directly or indirectly succeeded in relation to the provision of benefits under the pension scheme.

#### *Head 4*

If the pension scheme is an occupational pension scheme, any sponsoring employer.

#### *Head 5*

If there are one or more trustees of the pension scheme who are not resident in the United Kingdom, that trustee or each of those trustees.

- (5) Where a person assumes liability by reason of this section applying in relation to the pension scheme, the Inland Revenue must, as soon as is reasonably practicable, notify the person of that fact; but failure to do so does not affect the person's liability.
- (6) For the purposes of this section a person is in default if the person—
- (a) has failed to pay all or any of the tax (or interest on tax) due from the person by virtue of this Part, or
  - (b) has failed to discharge any other obligation imposed on the person by or under this Part,

and a person in default is in serious default if the Inland Revenue considers the failure to be of a serious nature.

#### **Textual Amendments**

**F607** Words in s. 272(4) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 18](#)

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

- C152** S. 272 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [3\(5\)](#)
- C153** S. 272 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)
- C154** S. 272(4) modified (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [27\(2\)](#)

#### **Commencement Information**

**I108** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### **[<sup>F608</sup>272A] Liabilities of independent trustee**

- (1) This section applies in relation to a person (“P”) who is an independent trustee of a registered pension scheme.
- (2) For the purposes of this section and section 272B an “independent trustee” is a trustee of a pension scheme—
  - (a) who is appointed by, or otherwise pursuant to, an order made—
    - (i) by the Pensions Regulator under section 7 of the Pensions Act 1995 or Article 7 of the Pensions (Northern Ireland) Order 1995 (appointment of trustees by the Pensions Regulator), or
    - (ii) by a court on an application made by the Pensions Regulator, and
  - (b) who is not a trustee of the pension scheme at any time before—



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- (i) the day on which the trustee's appointment as mentioned in paragraph (a) takes effect, or
  - (ii) if the trustee is appointed as mentioned in paragraph (a) on more than one occasion, the day on which the first appointment takes effect.
- (3) In this section “the relevant day” means—
  - (a) the day on which P's appointment as trustee of the pension scheme as mentioned in subsection (2)(a) takes effect, or
  - (b) if P is appointed as trustee of the pension scheme as mentioned in subsection (2)(a) on more than one occasion, the day on which P's first appointment takes effect.
- (4) If P is, or is one of the persons who are, the scheme administrator, P does not assume any liability falling within subsection (7) which P would otherwise assume (including by reason of section 272C(3) or (4)).
- (5) Subsection (4) does not apply if P is, or is one of the persons who are, the scheme administrator at any time before the relevant day.
- (6) In relation to any liability falling within subsection (7), in section 272(4) references to trustees or to persons who control the management of the pension scheme do not include P.
- (7) The liabilities falling within this subsection are—
  - (a) liabilities for the following in respect of payments made (or treated as having been made) by the pension scheme on or before the relevant day—
    - (i) the short service refund lump sum charge;
    - <sup>F609</sup>(ii) . . . . .
    - (iii) the special lump sum death benefits charge;
    - (iv) the authorised surplus payments charge;
    - (v) the scheme sanction charge in respect of scheme chargeable payments falling within section 241(1)(a) or (b);
  - (b) liabilities for the lifetime allowance charge in respect of benefit crystallisation events occurring on or before the relevant day;
  - (c) liabilities for the scheme sanction charge in respect of scheme chargeable payments treated under section 185A or 185F as having been made by the pension scheme in tax years earlier than the one in which the relevant day falls;
  - (d) any liability for the scheme sanction charge in respect of the relevant fraction of any scheme chargeable payment treated under section 185A as having been made by the pension scheme in the tax year in which the relevant day falls;
  - (e) where the pension scheme is treated under section 185F as having made a scheme chargeable payment in the tax year in which the relevant day falls and there is a relevant net gain, any liability for the scheme sanction charge in respect of the relevant amount;
  - (f) any liability to pay interest in respect of a liability mentioned in paragraphs (a) to (e) arising at any time.
- (8) For the purposes of subsection (7)(d) “the relevant fraction” is—

A B

where—

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A is the number of days in the tax year up to (and including) the relevant day, and  
 B is the number of days in the tax year.

- (9) For the purposes of subsection (7)(e)—
- (a) there is a “relevant net gain” if—
    - (i) the total amount of any gains treated under section 185F as accruing in the tax year on or before the relevant day, exceeds
    - (ii) the total amount of any losses treated under section 185F as so accruing, and
  - (b) “the relevant amount” is—
    - (i) the scheme chargeable payment, or
    - (ii) if that payment is greater than the excess of gains over losses mentioned in paragraph (a), the amount of that excess.
- (10) Subsection (11) applies if—
- (a) apart from that subsection, losses in relation to which section 185G(10) applies would be included in the total amount mentioned in subsection (9)(a)(ii), and
  - (b) the losses exceed the gains—
    - (i) which are included in the total amount mentioned in subsection (9)(a)(i), and
    - (ii) from which the losses can be deducted in accordance with section 185G(10).
- (11) The losses are not to be included in the total amount mentioned in subsection (9)(a)(ii) so far as they exceed the gains.

#### **Textual Amendments**

**F608** Ss. 272A-272C inserted (with effect in accordance with Sch. 7 para. 22 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 19](#)

**F609** S. 272A(7)(a)(ii) omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 5 para. 3\(1\)\(b\)](#)

#### **272B Liabilities of scheme administrator appointed by independent trustee etc**

- (1) This section applies in relation to a person (“Q”) who is, or is one of the persons who are, the scheme administrator of a registered pension scheme where Q's appointment as such takes effect at a time when the pension scheme has one or more independent trustees.
- (2) Q does not assume any liability falling within section 272A(7) which Q would otherwise assume.
- (3) In relation to any liability falling within section 272A(7), in section 272(4) references to persons who control the management of the pension scheme do not include Q.
- (4) Subsections (2) and (3) do not apply if Q is, or is one of the persons who are, the scheme administrator at any time before the relevant day.

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- (5) In this section, and in section 272A as it applies for the purposes of this section, “the relevant day” means the first day on which the pension scheme has an independent trustee (whether or not there are days between that day and the day on which Q’s appointment takes effect on which the pension scheme has no independent trustees).

#### Textual Amendments

**F608** Ss. 272A-272C inserted (with effect in accordance with Sch. 7 para. 22 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 19](#)

### 272C Former scheme administrator etc to retain liability

- (1) This section applies in relation to a liability which, by reason of section 272A(4), is not assumed by P (in which case “the relevant day” is to be read in accordance with section 272A(3)).
- (2) This section also applies in relation to a liability which, by reason of section 272B(2), is not assumed by Q (in which case “the relevant day” is to be read in accordance with section 272B(5)).
- (3) The liability is to be retained or assumed by the person who is, or the persons who are, the scheme administrator immediately before the relevant day (unless dead or having ceased to exist).
- (4) If there is no scheme administrator immediately before the relevant day, the liability is to be retained or assumed by the person who was, or the persons who were, the scheme administrator when there last was a scheme administrator before the relevant day (unless dead or having ceased to exist).
- (5) Nothing in section 271 prevents a person from having (and continuing to have) the liability by reason of subsection (3) or (4).
- (6) Subsection (7) applies if—
- no-one has the liability by reason of subsection (3) or (4),
  - no-one who has the liability by reason of subsection (3) or (4) can be traced, or
  - the person who has, or all the persons who have, the liability by reason of subsection (3) or (4) are in serious default (as determined in accordance with section 272(6)).
- (7) The liability is to be assumed by the person or persons determined in accordance with section 272(4).
- (8) Section 272(5) applies in relation to a person who assumes the liability by reason of subsection (7) as it applies in relation to a person who assumes a liability by reason of section 272.
- (9) Nothing in this section prevents any person from being subject to the liability apart from this section (in addition to any person who is subject to the liability by reason of this section), and in particular the liability continues to be a liability of the scheme administrator for the purposes of section 271(2).
- (10) If a person assumes the liability under section 271(2) at a time after P or Q’s appointment as, or as one of the persons who are, the scheme administrator has ceased,

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the person who has, or the persons who have, the liability by reason of subsection (3) or (4) is, or are, released from the liability.

- (11) A person who has, or persons who have, the liability by reason of subsection (3) or (4) may apply to an officer of Revenue and Customs to be released from the liability.
- (12) Section 271(6) to (13) applies in relation to an application under subsection (11) as it applies in relation to an application under section 271(5).]

#### Textual Amendments

**F608** Ss. 272A-272C inserted (with effect in accordance with Sch. 7 para. 22 of the amending Act) by Finance Act 2014 (c. 26), **Sch. 7 para. 19**

### 273 Members liable as scheme administrator

- (1) This section applies in relation to a registered pension scheme if—
- (a) a person has, or persons have, assumed liability by reason of section 272 (trustees etc.) applying in relation to the pension scheme,
  - (b) the person has, or the persons have, become liable to pay tax (or interest on tax) which became due by virtue of section 239 (scheme sanction charge) or section 242 (de-registration charge) before section 272 applied in relation to the pension scheme,
  - (c) that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and
  - (d) that person, or each of those persons, has either died or ceased to exist or is a person in whose case the Inland Revenue considers the person's failure to satisfy the liability to be of a serious nature.

[<sup>F610</sup>(1A) This section also applies in relation to a registered pension scheme if—

- (a) a person has, or persons have, by reason of section 272C(7) assumed a liability to pay tax (or interest on tax) by virtue of section 239 (scheme sanction charge) in respect of the whole or a part of a scheme chargeable payment falling within section 241(1)(b) or (c) made (or treated as having been made) by the pension scheme,
  - (b) that person, or each of those persons, has failed (in whole or in part) to satisfy the liability, and
  - (c) that person, or each of those persons, has either died or ceased to exist or is a person in whose case an officer of Revenue and Customs considers the person's failure to satisfy the liability to be of a serious nature.]
- (2) Any person who was a member of the pension scheme at any time during the relevant three-year period is liable to pay the appropriate share of the unpaid amount if—
- (a) any of the conditions in subsection (5) is met, and
  - (b) the Inland Revenue notifies the person of the person's liability to do so.
- (3) “The relevant three-year period” is the period of three years ending with the date on which the liability to pay the tax arose.
- (4) The “appropriate share of the unpaid amount”, in the case of a person, is—

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$$\frac{AAP}{AA} \times UT$$

where—

AA is an amount equal to aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme at the time when the liability to pay the tax arose,

AAP is an amount equal to so much of AA as is held for the purposes of such of the arrangements under the pension scheme as relate to the person or a person connected with the person, and

UT is so much of the tax (and any interest on it) as remains unpaid.

- (5) The conditions referred to in subsection (2)(a) are—
- (a) that the pension scheme <sup>F611</sup>... was not an occupational pension scheme,
  - (b) that at any time during the relevant three-year period the pension scheme received a transfer value in which there were represented relevant personal pension contributions made by or in respect of the person,
  - (c) that the pension scheme was an occupational pension scheme and at any time during the relevant three-year period the person was a controlling director of a company that was a sponsoring employer, and
  - (d) that at any time during the relevant three-year period the pension scheme received a transfer value in which there were represented relevant controlling director contributions made by or in respect of the person.
- (6) A notification under subsection (2)(b) may be included in an assessment in respect of a liability under this section; and such an assessment made in relation to an amount is not out of time if made within the period of three years beginning with the date on which the person assessed first became liable to pay the amount.
- (7) “Relevant personal pension contributions” means contributions under a pension scheme (whether or not the pension scheme from which the transfer value was received) which <sup>F612</sup>... was not an occupational pension scheme.
- (8) “Relevant controlling director contributions” means contributions under an occupational pension scheme (whether or not the pension scheme from which the transfer value was received) made by reference to service (or remuneration in respect of service) as a controlling director of a company that was a sponsoring employer.
- (9) A person is a “controlling director” of a company if the person is a director of the company and is within [<sup>F613</sup>section 452(2)(b) of the Corporation Tax Act 2010] (director able to control 20% of ordinary share capital) in relation to the company.
- (10) References to receipt of a transfer value by the pension scheme are to the transfer, so as to become held for the purposes of or to represent rights under the pension scheme, of any sums or assets held for the purposes of or representing accrued rights under any other pension scheme.
- [<sup>F614</sup>(11) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Textual Amendments

- F610** S. 273(1A) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 20](#)
- F611** Words in s. 273(5)(a) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 4\(a\)24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)
- F612** Words in s. 273(7) repealed (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 4\(b\)24\(1\)](#), [Sch. 27 Pt. 3\(2\)](#)
- F613** Words in s. 273(9) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 428](#) (with [Sch. 2](#))
- F614** S. 273(11) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 478](#) (with [Sch. 2](#))

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

- C155** S. 273 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), [regs. 1\(1\), 3\(1\)\(2\)](#), [Sch. 3 Pt. 1](#)
- C156** S. 273 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), [regs. 1, 28](#)
- C157** S. 273 applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), [regs. 1\(1\), 3\(6\)](#)

#### Commencement Information

- I109** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F615</sup>273ZA] **Income and gains from taxable property**

- (1) The Treasury may make regulations in relation to cases where—
  - (a) an investment-regulated pension scheme holds an interest in taxable property,
  - (b) the pension scheme is non-UK resident, and
  - (c) the property is not located in the United Kingdom.
- (2) The regulations may make provision for a member of the pension scheme for the purposes of whose arrangement the interest is held to be liable to the scheme sanction charge so far as relating to a scheme chargeable payment treated as made by the pension scheme—
  - (a) under section 185A (income from taxable property) by virtue of the pension scheme holding the interest in the property, or
  - (b) under section 185F (gains from taxable property) by virtue of a gain treated as accruing to the pension scheme in respect of the interest in the property.
- (3) The regulations may make provision—
  - (a) for the member to be liable to all of the scheme sanction charge arising by virtue of the scheme chargeable payment or to the charge to such extent as the regulations may provide,
  - (b) for the charge to be apportioned between members of the pension scheme where the interest in the property is held for the purposes of more than one arrangement under the pension scheme, and
  - (c) for the scheme administrator not to be liable to the scheme sanction charge or not to be liable to the charge to such extent as the regulations may provide.
- (4) The regulations may make provision for cases where—

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- (a) a member of a pension scheme would otherwise be liable to the scheme sanction charge arising by virtue of a scheme chargeable payment treated as made by the pension scheme under section 185F in a tax year,
  - (b) the member does not meet such conditions as to residence in the tax year as the regulations may prescribe,
  - (c) the member meets those conditions in a subsequent tax year, and
  - (d) such other conditions as the regulations may prescribe are met.
- (5) The regulations may make provision for the member—
- (a) not to be liable to the scheme sanction charge in the tax year in which the scheme chargeable payment is treated as made, but
  - (b) to be liable in a subsequent tax year to such extent as the regulations may provide to the scheme sanction charge arising by virtue of the payment.
- (6) The regulations may—
- (a) amend this Part (apart from this section),
  - (b) include provision having effect in relation to times before they are made,
  - (c) contain transitional provisions and savings, and
  - (d) make different provision for different cases.
- (7) For the purposes of this section a pension scheme is non-UK resident if it is established in a country or territory outside the United Kingdom.]

#### Textual Amendments

**F615** S. 273ZA inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 10](#)

#### [<sup>F616</sup>273A] Insurance company liable as scheme administrator

- (1) The Board of Inland Revenue may make regulations in relation to cases where an insurance company makes a payment of—
- (a) a pension protection lump sum death benefit,
  - (b) an annuity protection lump sum death benefit, <sup>F617</sup>...
  - [<sup>F618</sup>(c) a drawdown pension fund lump sum death benefit,][<sup>F619</sup>or
  - (d) a flexi-access drawdown fund lump sum death benefit,]
- which (by virtue of section 161(3) and (4)) is treated for the purposes of Chapter 3 as made by a registered pension scheme.
- (2) The regulations may provide that the insurance company—
- (a) is to be treated as the scheme administrator for the purposes of the operation of section 206 in relation to the lump sum death benefit, and
  - (b) is responsible for the discharge of all obligations imposed on the scheme administrator by or under this Part so far as related to the liability imposed by that section to pay tax in respect of it.
- (3) Where an insurance company is liable to pay any tax or interest, or is responsible for the discharge of any other obligation, by virtue of regulations under this section, no other person is liable to pay that tax, or responsible for the discharge of that obligation, under sections 270 to 273.]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

#### Textual Amendments

- F616** S. 273A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 49\(1\)](#), 64(1)
- F617** Word in s. 273A(1)(b) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 17\(a\)](#)
- F618** S. 273A(1)(c) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 76](#)
- F619** S. 273A(1)(d) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 17\(b\)](#)

#### [<sup>F620</sup>273B] Power of trustees or managers to make certain payments

- (1) Subsection (2) applies to a payment by a registered pension scheme to or in respect of a person who is or has been a member of the scheme if it is paid in respect of a money purchase arrangement and is—
- (a) a payment of drawdown pension,
  - (b) paid to purchase a short-term annuity,
  - (c) a payment of dependants' drawdown pension,
  - (d) paid to purchase a dependants' short-term annuity,
  - (e) a payment of nominees' drawdown pension,
  - (f) paid to purchase a nominees' short-term annuity,
  - [<sup>F621</sup>(fa) paid to purchase a nominees' annuity,
  - (fb) paid to purchase a successors' annuity,]
  - (g) a payment of successors' drawdown pension,
  - (h) paid to purchase a successors' short-term annuity,
  - (i) an uncrystallised funds pension lump sum,
  - (j) a flexi-access drawdown fund lump sum death benefit,
  - (k) a pension commencement lump sum where the person becomes entitled to it in connection with becoming entitled to income withdrawal (or where the person dies after becoming entitled to it but before becoming entitled to the income withdrawal in connection with which it was expected that the person would become entitled to the lump sum), or
  - (l) a trivial commutation lump sum death benefit where condition B in paragraph 20(1B) of Schedule 29 is met.
- (2) The trustees or managers of the scheme may make the payment despite any provision of the rules of the scheme (however framed) prohibiting the making of the payment.]

#### Textual Amendments

- F620** S. 273B inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 79](#)
- F621** S. 273B(1)(fa)(fb) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 11](#)

#### 274 Supplementary

- (1) The fact that any person is liable to pay any tax or interest, or is responsible for the discharge of any other obligation, under section 272 (trustees etc.) [<sup>F622</sup>,



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section 272C(7)] or section 273 (members) does not relieve any other person of any liability to pay the tax or interest, or any obligation to discharge the obligation, arising—

- (a) by reason of that other person being, or being one of the persons who is, the scheme administrator of the pension scheme, or
  - (b) under section 271(4) (continuation of liability where no scheme administrator)<sup>[F623]</sup>, section 272C(3) or (4)].
- (2) Where a liability imposed on the scheme administrator of a registered pension scheme falls to be satisfied by two or more persons (whether or not they constitute the scheme administrator), they are jointly and severally liable.
- (3) No liability to pay tax or interest, or other obligation, of any person in relation to a registered pension scheme arising—
- (a) by reason of the person being, or being one of the persons who is, the scheme administrator of the pension scheme concerned, or
  - (b) under section 271(4), 272<sup>[F624]</sup>, 272C] or 273 <sup>[F625]</sup>or regulations under section 273A],

is affected by the termination of the pension scheme or by its ceasing to be a registered pension scheme.

#### Textual Amendments

**F622** Word in s. 274(1) inserted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 7 para. 21(2)(a)**

**F623** Words in s. 274(1)(b) inserted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 7 para. 21(2)(b)**

**F624** Word in s. 274(3)(b) inserted (17.7.2014) by Finance Act 2014 (c. 26), **Sch. 7 para. 21(3)**

**F625** Words in s. 274(3)(b) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 49(2), 64(1)**

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

**C158** S. 274 modified (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

**C159** S. 274(2) applied (with modifications) (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), **3(7)**

#### Commencement Information

**I110** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## CHAPTER 8

### SUPPLEMENTARY

#### *Interpretation*

#### <sup>[F626]</sup>**274A Power to split schemes**

- (1) The Board of Inland Revenue may make regulations for and in connection with treating registered pension schemes to which this section applies as if they were a number of separate registered pension schemes for such of the purposes of this Part and of provision made under it as are prescribed by the regulations.

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*Changes to legislation: There are currently no known outstanding effects  
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- (2) This section applies to pension schemes prescribed, or of a description prescribed, by the regulations.
- (3) The provision that may be made by the regulations may, in particular, include—
- (a) provision as to who is to be treated as the scheme administrator in relation to each of the separate pension schemes, and
  - (b) any such other modifications of the provision made by and under this Part as appears appropriate in consequence of, or otherwise in connection with, provision made under subsection (1) (including provision so made by virtue of paragraph (a) of this subsection).
- (4) The regulations may make different provision for different cases.]

#### Textual Amendments

**F626** S. 274A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 50, 64\(1\)](#)

### 275 Insurance company

- (1) In this Part “insurance company” means—
- (a) a person who has permission under Part 4 of FISMA 2000 to effect or carry out contracts of long-term insurance, or
  - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to FISMA 2000 (certain direct insurance undertakings) which 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.
- (2) “Contracts of long-term insurance” means contracts which fall within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544).

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

**C160** S. 275 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **11**

### 276 Relevant valuation factor

- (1) For the purposes of this Part the relevant valuation factor in relation to any registered pension scheme, or any arrangement under a registered pension scheme, is 20.
- (2) But the Inland Revenue and the scheme administrator of any registered pension scheme may agree that the relevant valuation factor in relation to the pension scheme, or any arrangement under the pension scheme, is to be a number greater than 20.

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

**C161** S. 276 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **12**

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## 277 Valuation assumptions

For the purposes of this Part the valuation assumptions in relation to a person, benefits and a date are—

- (a) if the person has not reached such age (if any) as must have been reached to avoid any reduction in the benefits on account of age, that the person reached that age on the date, and
- (b) that the person’s right to receive the benefits had not been occasioned by physical or mental impairment.

## 278 Market value

- (1) For the purposes of this Part the market value of an asset held for the purposes of a pension scheme is to be determined in accordance with section 272 of TCGA 1992.
  - (2) Where an asset held for the purposes of a pension scheme is a right or interest in respect of any money lent (directly or indirectly) to any relevant associated person, the value of the asset is to be treated as being the amount owing (including any unpaid interest) on the money lent.
  - (3) The following are “relevant associated persons”—
    - (a) any employer who has at any time (whether or not before the making of the loan) made contributions under the pension scheme,
    - (b) any company connected (at the time of the making of the loan or subsequently) with any such employer,
    - (c) any person who has at any time (whether or not before the making of the loan) been a member of the pension scheme, and
    - (d) any person connected (at the time of the making of the loan or subsequently) with any such person.
- [<sup>F627</sup>(3A) For the purposes of this Part the market value of taxable property, or of an interest in taxable property, is to be determined in accordance with section 272 of TCGA 1992.
- (3B) Subsection (3A) is subject to any provision made by regulations under paragraph 36(2) of Schedule 29A.]
- [<sup>F628</sup>(4) For the purposes of this section whether a person is connected with another person is determined in accordance with section 993 of ITA 2007.]

### Textual Amendments

**F627** S. 278(3A)(3B) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 158\(2\), Sch. 21 para. 11](#)

**F628** S. 278(4) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 479](#) (with [Sch. 2](#))

## 279 Other definitions

- (1) In this Part—

[<sup>F629</sup>“abatement”, in relation to a scheme pension [<sup>F630</sup>to which a person has become entitled] under a public service pension scheme, means the reduction

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of the pension (including its reduction to nil) in accordance with the rules of the pension scheme by reason of [<sup>F631</sup>the person's employment] in public service,]

“the Board of Inland Revenue” means the Commissioners of Inland Revenue,

[<sup>F632</sup>“consumer prices index” means—

- (a) the general index for consumer prices published by the Statistics Board, or
- (b) if that index is not published for a relevant month, any substituted index or index figures published by the Statistics Board,]

<sup>F633</sup>

...

“employee” and “employer” have the same meaning as in the employment income Parts of ITEPA 2003 (see sections 4 and 5 of that Act) but include (respectively) a former employee and a former employer (and “employment” is to be read accordingly),

“the Inland Revenue” means any officer of the Board of Inland Revenue,

“normal minimum pension age” means—

- (a) before 6th April 2010, 50, and
- (b) on and after that date, 55,

“pension credit” and “pension debit” have the same meaning as in Chapter 1 of Part 4 of WRPA (see section 46(1) of that Act) or Chapter 1 of Part 5 of WRP(NI)O 1999 (see Article 43(1) of that Order), [<sup>F634</sup>and]

“pension sharing order or provision” means any order or provision mentioned in section 28(1) of WRPA 1999 or Article 25(1) of WRP(NI)O 1999,

[<sup>F632</sup>“pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995 or paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995,]

<sup>F635</sup>

...

[<sup>F636</sup>(1A) In this Part, so far as it forms part of the Corporation Tax Acts, expressions which are defined for the purposes of the Income Tax Acts are to be given the same meaning as they have in the Income Tax Acts.]

- (2) In this Part references to payments made, or benefits provided, by a pension scheme are to payments made or benefits provided from sums or assets held for the purposes of the pension scheme.
- (3) For the purposes of this Part the sums and assets held for the purposes of an arrangement under a pension scheme are so much of the sums and assets held for the purposes of the pension scheme under which the arrangement is made as are properly attributable, in accordance with the provisions of the pension scheme and any just and reasonable apportionment, to the arrangement.

#### Textual Amendments

**F629** Words in s. 279(1) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 9](#), 64(1)

**F630** Words in s. 279(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 33\(a\)](#)

**F631** Words in s. 279(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 33\(b\)](#)

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- F632** Words in s. 279(1) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 21](#)
- F633** Words in s. 279(1) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 480\(2\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F634** Word in s. 279(1) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 480\(2\)\(b\)](#) (with [Sch. 2](#))
- F635** Words in s. 279(1) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 480\(2\)\(c\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F636** S. 279(1A) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 480\(3\)](#) (with [Sch. 2](#))

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

- C162** S. 279 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), [13](#)

## 280 Abbreviations and general index

(1) In this Part—

- “NIA 1965” means the National Insurance Act 1965 (c. 51),
- “NIA(NI) 1966” means the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)),
- “TMA 1970” means the Taxes Management Act 1970 (c. 9),
- “ICTA 1970” means the Income and Corporation Taxes Act 1970 (c. 10),
- “ICTA” means the Income and Corporation Taxes Act 1988 (c. 1),
- “SSCBA 1992” means the Social Security Contributions and Benefits Act 1992 (c. 4),
- “SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7),
- “TCGA 1992” means the Taxation of Chargeable Gains Act 1992 (c. 12),
- “WRPA 1999” means the Welfare Reform and Pensions Act 1999 (c. 30),
- “WRP(NI)O 1999” means the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/ 3147 (N.I. 11)),
- “FISMA 2000” means the Financial Services and Markets Act 2000 (c. 8),  
<sup>F637</sup> ...
- “ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003 (c. 1),  
<sup>F638</sup> ...
- [<sup>F639</sup> “ITTOIA 2005” means the Income Tax (Trading and Other Income Act) 2005]  
<sup>F640</sup> ...
- [<sup>F641</sup> “ITA 2007” means the Income Tax Act 2007],
- [<sup>F642</sup> “FA 2008” means the Finance Act 2008, ]  
<sup>F643</sup> ...
- [<sup>F644</sup> “CTA 2009” means the Corporation Tax Act 2009]  
<sup>F645</sup> and  
“CTA 2010” means the Corporation Tax Act 2010]
- [<sup>F646</sup> “FA 2012” means the Finance Act 2012]

(2) In this Part the following expressions are defined or otherwise explained by the provisions indicated—

[<sup>F647</sup> abatement

section 279(1)]

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accounting period	section 834(1) of ICTA
[ <sup>F648</sup> acquiring an interest in property (for the purposes of the taxable property provisions)]	paragraphs 12 and 27 to 29 of Schedule 29A]
active member (of a pension scheme)	section 151(2)
active membership period (insections 221 to 223)	section 221(4) and (5)
[ <sup>F649</sup> additional rate	section 6(2) of ITA 2007 (as applied by section 989 of that Act)]
amount crystallised	section 216
annual allowance	section 228
annual allowance charge	section 227(1)
annuity protection lump sum death benefit	paragraph 16 of Schedule 29
arrangement	section 152(1)
authorised surplus payment	section 177
available (in relation to a person's lifetime allowance)	section 219
basic rate	[ <sup>F650</sup> section 6(2) of ITA 2007 (as applied by section 989 of that Act)]
basic rate limit	[ <sup>F651</sup> section [ <sup>F652</sup> 10] of ITA 2007 (as applied by section 989 of that Act)]
benefits (provided by pension scheme)	section 279(2)
benefit crystallisation event	section 216
the Board of Inland Revenue	section 279(1)
borrowing (in Chapter 3)	section 163
[ <sup>F648</sup> building (for the purposes of the taxable property provisions)]	paragraph 7(2) of Schedule 29A]
cash balance arrangement	section 152(3)
cash balance benefits	section 152(5)
chargeable gain	[ <sup>F653</sup> section 989 of ITA 2007]
charity	[ <sup>F654</sup> section 989 of ITA 2007]
company	[ <sup>F655</sup> section 992 of ITA 2007]
compensation payment	section 178
[ <sup>F656</sup> consumer prices index	section 279(1)]
contribution	sections188(4) to (6) and 195
defined benefits	section 152(7)
defined benefits arrangement	section 152(6)

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2004, Part 4. (See end of Document for details)*

defined benefits lump sum death benefit F657	paragraph 13 of Schedule 29 F657
. . .	. . .
[ <sup>F658</sup> dependant (of a member of a registered pension scheme)	paragraph 15 of Schedule 28]
[ <sup>F659</sup> dependants' annuity	paragraph 17 of Schedule 28]
[ <sup>F660</sup> dependant's flexi-access drawdown fund	paragraph 22A of Schedule 28]
dependants' scheme pension	paragraph 16 of Schedule 28
[ <sup>F659</sup> dependants' short-term annuity F661	paragraph 20 of Schedule 28] F661
. . .	. . .
[ <sup>F662</sup> dependant's drawdown pension fund	paragraph 22 of Schedule 28]
[ <sup>F663</sup> drawdown pension fund lump sum death benefit	paragraph 17 of Schedule 29]
employee and employer (and employment)	section 279(1)
employment income	section 7(2) of ITEPA 2003
enhanced lifetime allowance regulations	section 256(2)
entitled (in relation to a lump sum)	section 166(2)
entitled (in relation to a pension)	section 165(3)
[ <sup>F660</sup> flexi-access drawdown fund lump sum death benefit	paragraph 17A of Schedule 29]
higher rate	[ <sup>F664</sup> section 6(2) of ITA 2007 (as applied by section 989 of that Act)]
[ <sup>F665</sup> higher rate limit	section 10 of ITA 2007]
[ <sup>F648</sup> holding an interest in a person (for the purposes of the taxable property provisions)	paragraph 16(2) to (4) of Schedule 29A]
[ <sup>F648</sup> holding an interest in property (for the purposes of the taxable property provisions)	paragraph 13 of Schedule 29A]
[ <sup>F648</sup> holding directly an interest in a vehicle (for the purposes of the taxable property provisions)	paragraph 20(3) of Schedule 29A]
[ <sup>F648</sup> holding directly an interest in property (for the purposes of the taxable property provisions)	paragraphs 14 and 15 of Schedule 29A]
[ <sup>F648</sup> holding indirectly an interest in a vehicle (for the purposes of the taxable property provisions)	paragraph 20(4) of Schedule 29A]

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[ <sup>F648</sup> holding indirectly an interest in property (for the purposes of the taxable property provisions)	paragraph 16(1) of Schedule 29A]
hybrid arrangement	section 152(8)
ill-health condition	paragraph 1 of Schedule 28
the individual (in sections 215 to 219)	section 214(5)
the Inland Revenue	section 279(1)
insurance company	section 275
[ <sup>F648</sup> investment-regulated pension scheme (for the purposes of the taxable property provisions)	paragraphs 1 to 3 of Schedule 29A]
investments (in relation to a pension scheme)	section 186(3) and (4)
liability (in Chapter 3)	section 163
lifetime allowance (in relation to a person)	section 218
lifetime allowance charge	section 214(1)
lifetime allowance enhancement factors	section 218(5)
lifetime allowance excess lump sum	paragraph 11 of Schedule 29
lifetime annuity	paragraph 3 of Schedule 28
loan (in Chapter 3)	section 162
lump sum death benefit	section 168(2)
market value	section 278
member (of a pension scheme)	section 151(1)
<sup>F657</sup>	<sup>F657</sup>
...	...
[ <sup>F662</sup> member's drawdown pension fund	paragraph 8 of Schedule 28]
[ <sup>F660</sup> member's flexi-access drawdown fund	paragraph 8A of Schedule 28]
member's unsecured pension fund	paragraph 8 of Schedule 28
money purchase arrangement	section 152(2)
money purchase benefits	section 152(4)
[ <sup>F666</sup> net income	section 23 of ITA 2007 (as applied by section 989 of that Act),]
net pay pension scheme	section 191(9)
[ <sup>F658</sup> nominee (of a member of a registered pension scheme)	paragraph 27A of Schedule 28]
[ <sup>F667</sup> nominees' annuity	paragraph 27AA of Schedule 28]



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

[ <sup>F658</sup> nominees' drawdown pension	paragraph 27B of Schedule 28]
[ <sup>F658</sup> nominee's flexi-access drawdown fund	paragraph 27E of Schedule 28]
[ <sup>F658</sup> nominees' income withdrawal	paragraph 27D of Schedule 28]
[ <sup>F658</sup> nominees' short-term annuity	paragraph 27C of Schedule 28]
normal minimum pension age	section 279(1)
occupational pension scheme	section 150(5)
overseas arrangement active membership period (in sections 224 to 226)	section 224(7) and (8)
overseas pension scheme	section 150(7)
payment (in Chapter 3)	section 161
payments (made by pension scheme)	section 279(2)
pension	section 165(2)
[ <sup>F656</sup> pensionable age	section 279(1)]
pension commencement lump sum	paragraph 1 of Schedule 29
pension credit and pension debit	section 279(1)
[ <sup>F668</sup> pension death benefit	section 167(2)]
pension input amount	section 229
pension input period	[ <sup>F669</sup> sections 238 to 238ZB]
pension protection lump sum death benefit	paragraph 14 of Schedule 29
pension scheme	section 150(1)
the pension scheme (in sections 215 to 219)	section 214(5)
pension sharing order or provision	section 279(1)
pensioner member (of a pension scheme)	section 151(3)
period of account	[ <sup>F670</sup> section 989 of ITA 2007]
personal representatives	[ <sup>F671</sup> section 989 of ITA 2007]
property investment LLP	[ <sup>F672</sup> section 1004 of ITA 2007]
public service pension scheme	section 150(3)
qualifying recognised overseas pension scheme	section 169(2)
recognised overseas pension scheme	section 150(8)
recognised overseas scheme arrangement (in sections 224 to 226)	section 224(2) and (3)
registered pension scheme	section 150(2)

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[ <sup>F673</sup> related dependants' annuity	paragraph 3(4A) of Schedule 29]
[ <sup>F667</sup> related nominees' annuity	paragraph 3(4B) of Schedule 29 ]
[ <sup>F674</sup> related dependants' scheme pension	paragraph 3(7C) of Schedule 29]
relevant overseas individual	section 221(3)
relevant UK earnings	section 189(2)
relevant UK individual	section 189
relevant valuation factor	section 276
relievable pension contributions	section 188(2) and (3)
[ <sup>F648</sup> residential property (for the purposes of the taxable property provisions)	paragraphs 7(1), 8 and 9 of Schedule 29A]
retail prices index	[ <sup>F675</sup> section 989 of ITA 2007]
scheme administrator	section 270 (but see also sections 271 to 274)
scheme chargeable payment	section 241
[ <sup>F648</sup> scheme-held taxable property	section 185B(3)]
scheme manager	section 169(3)
scheme pension	paragraph 2 of Schedule 28
scheme sanction charge	section 239(1)
[ <sup>F676</sup> Scottish additional rate	section 6A of ITA 2007 (as applied by section 989 of that Act)
Scottish basic rate	section 6A of ITA 2007 (as applied by section 989 of that Act)
Scottish higher rate	section 6A of ITA 2007 (as applied by section 989 of that Act)
Scottish taxpayer	section 989 of ITA 2007]
serious ill-health lump sum	paragraph 4 of Schedule 29
<sup>F677</sup>	<sup>F677</sup>
...	...
short service refund lump sum	paragraph 5 of Schedule 29
short service refund lump sum charge	section 205(1)
[ <sup>F659</sup> short-term annuity	paragraph 6 of Schedule 28]
special lump sum death benefits charge	section [ <sup>F678</sup> 206]
sponsoring employer	section 150(6)
standard lifetime allowance	section 218(2) [ <sup>F679</sup> to (2C)]
[ <sup>F658</sup> successor (of a member of a registered pension scheme)	paragraph 27F of Schedule 28]
[ <sup>F667</sup> successors' annuity	paragraph 27FA of Schedule 28]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

[ <sup>F658</sup> successors' drawdown pension	paragraph 27G of Schedule 28]
[ <sup>F658</sup> successor's flexi-access drawdown fund	paragraph 27K of Schedule 28]
[ <sup>F658</sup> successors' income withdrawal	paragraph 27J of Schedule 28]
[ <sup>F658</sup> successors' short-term annuity sums and assets held for the purposes of an arrangement	paragraph 27H of Schedule 28] section 279(3)
[ <sup>F648</sup> sums and assets held for the purposes of an arrangement (for the purposes of the taxable property provisions)	paragraph 5 of Schedule 29A]
[ <sup>F648</sup> taxable property (for the purposes of the taxable property provisions)	paragraphs 6, 10 and 11 of Schedule 29A]
[ <sup>F648</sup> the taxable property provisions tax year	paragraph 1(3) of Schedule 29A] [ <sup>F680</sup> section 4(2) of ITA 2007 (as applied by section 989 of that Act)]
the tax year 2006-07 etc.	[ <sup>F681</sup> section 4(4) of ITA 2007 (as applied by section 989 of that Act)]
total income	[ <sup>F682</sup> section 23 of ITA 2007 (as applied by section 989 of that Act)]
total pension input amount	section 229
<sup>F683</sup>	<sup>F683</sup>
...	...
[ <sup>F684</sup> transitional 2013/14 lump sum	paragraph 11A of Schedule 29]
trivial commutation lump sum	paragraph 7 of Schedule 29
unauthorised employer payment	section 160(4)
unauthorised member payment	section 160(2)
unauthorised payment	section 160(5)
unauthorised payments charge	section 208(1)
unauthorised payments surcharge	section 209(1)
uncrystallised funds lump sum death benefit	paragraph 15 of Schedule 29
[ <sup>F685</sup> uncrystallised funds pension lump sum	paragraph 4A of Schedule 29]
<sup>F686</sup>	<sup>F686</sup>
...	...
valuation assumptions (in relation to a person)	section 277
[ <sup>F648</sup> vehicle (in the taxable property provisions)	paragraph 20(2) of Schedule 29A]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 4. (See end of Document for details)*

winding-up lump sum	paragraph 10 of Schedule 29
winding-up lump sum death benefit	paragraph 21 of Schedule 29

### Textual Amendments

- F637** Word in s. 280(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 652](#), [Sch. 3](#) (with [Sch. 2](#))
- F638** Word in s. 280(1) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(2\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F639** Words in s. 280(1) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 652](#) (with [Sch. 2](#))
- F640** Word in s. 280(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 580\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F641** Words in s. 280(1) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(2\)](#) (with [Sch. 2](#))
- F642** Words in s. 280(1) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), s. 53(8)
- F643** Word in s. 280(1) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 122\(a\)](#); same word omitted (with effect in accordance with [Sch. 13 para. 17](#) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 16\(a\)](#) (with [Sch. 13 Pt. 4](#)) (and see also [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 2\(a\)](#))
- F644** Words in s. 280(1) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 580\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F645** Words in s. 280(1) inserted (with effect in accordance with [Sch. 13 para. 17](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 16\(b\)](#) (with [Sch. 13 Pt. 4](#)) (and see also [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 2\(b\)](#))
- F646** Words in s. 280(1) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 122\(b\)](#)
- F647** Words in s. 280(2) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 10](#), 64(1)
- F648** Words in s. 280(2) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 12](#)
- F649** Words in s. 280(2) inserted (with effect in accordance with s. 68(5) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), s. 68(2)
- F650** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(a\)](#) (with [Sch. 2](#))
- F651** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(b\)](#) (with [Sch. 2](#))
- F652** Word in s. 280(2) substituted (with effect in accordance with s. 68(6) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), s. 68(3)
- F653** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(c\)](#) (with [Sch. 2](#))
- F654** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(d\)](#) (with [Sch. 2](#))
- F655** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(e\)](#) (with [Sch. 2](#))
- F656** Words in s. 280(2) inserted (with effect in accordance with [Sch. 17 Pt. 2](#) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 22](#)
- F657** S. 280(2) entries omitted (with effect in accordance with [Sch. 16 para. 85](#) of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 77\(2\)](#)
- F658** Words in s. 280(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 14](#)
- F659** Words in s. 280(2) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 17](#), 64(1)
- F660** Words in s. 280(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 18](#)
- F661** S. 280(2) entries omitted (with effect in accordance with [Sch. 16 para. 85](#) of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 77\(3\)](#)

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- F662** S. 280(2) entries inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 77\(3\)](#)
- F663** S. 280(2) entry inserted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 77\(5\)](#)
- F664** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(f\)](#) (with Sch. 2)
- F665** Words in s. 280(2) inserted (with effect in accordance with s. 68(5) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [s. 68\(4\)](#)
- F666** Words in s. 280(2) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(g\)](#) (with Sch. 2)
- F667** Words in s. 280(2) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 12](#)
- F668** Words in s. 280(2) inserted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 22\(2\), 24\(3\)](#)
- F669** Words in s. 280(2) Table substituted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 4 para. 5](#)
- F670** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(h\)](#) (with Sch. 2)
- F671** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(i\)](#) (with Sch. 2)
- F672** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(j\)](#) (with Sch. 2)
- F673** Words in s. 280(2) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 33, 64\(1\)](#)
- F674** Words in s. 280(2) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 26](#)
- F675** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(k\)](#) (with Sch. 2)
- F676** Words in s. 280(2) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), 7(4)
- F677** Words in s. 280(2) Table omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 5 para. 3\(1\)\(c\)](#)
- F678** Word in s. 280(2) entry substituted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 paras. 18, 20](#)
- F679** Words in s. 280(2) Table substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 19\(6\)](#)
- F680** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(l\)](#) (with Sch. 2)
- F681** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(m\)](#) (with Sch. 2)
- F682** Words in s. 280(2) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 481\(3\)\(n\)](#) (with Sch. 2)
- F683** S. 280(2) entry repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), Sch. 19 para. 8, [Sch. 27 Pt. 3\(1\)](#)
- F684** Words in s. 280(2) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 5\(4\), 15](#)
- F685** Words in s. 280(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 56](#)
- F686** S. 280(2) entry omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 77\(5\)](#)

### *Other supplementary provisions*

## **281 Minor and consequential amendments**

- (1) Schedule 35 contains minor and consequential amendments of enactments in consequence of, or otherwise in connection with, this Part.

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- (2) The Treasury may by order make such other amendments (including repeals and revocations) as may appear appropriate in consequence of, or otherwise in connection with, this Part—
- (a) in any enactment contained in an Act passed before 6th April 2006 or in the Session in which that date falls, and
  - (b) in any instrument made before that date or in the Session in which that date falls.
- [<sup>F687</sup>(2A) The Treasury may by order make in any relevant enactment such amendments (including repeals and revocations) as may appear appropriate in consequence of, or otherwise in connection with, any amendment (or repeal or revocation) made in this Part by any enactment contained in an Act passed after this Act (an “amending Act”).
- (2B) For this purpose a relevant enactment is—
- (a) an enactment contained in an Act passed, or
  - (b) an instrument made,
- before the passing of the amending Act or in the Session in which the amending Act is passed.]
- (3) An order under subsection (2) [<sup>F688</sup>or (2A)] may include any transitional provisions or savings appearing to the Treasury to be appropriate.
- <sup>F689</sup>(4) .....

#### Textual Amendments

**F687** S. 281(2A)(2B) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 34\(2\)](#)

**F688** Words in s. 281(3) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 34\(3\)](#)

**F689** S. 281(4) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 75(2)(b)

#### Commencement Information

**I111** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## 282 Orders and regulations

- [<sup>F690</sup>(A1) Any order or regulations made by the Treasury or the Commissioners for Her Majesty's Revenue and Customs under this Part may include provision having effect in relation to times before the order is, or regulations are, made if that provision does not increase any person's liability to tax.
- (A2) Subsection (A1) does not limit any specific power to make provision by an order or regulations in relation to times before the order is, or regulations are, made.]
- (1) Any power of the Treasury or the [<sup>F691</sup>Commissioners for Her Majesty's Revenue and Customs] to make any order or regulations under this Part is exercisable by statutory instrument.
- [<sup>F692</sup>(1A) No order may be made under section 208(6), 209(7), 215(2A), [<sup>F693</sup>237B(11),] 240(3A) or 242(5)[<sup>F694</sup>, no order may be made under section 228(2) which specifies an amount

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for any tax year less than the annual allowance for the immediately preceding tax year and no order may be made under section 238A which increases any person's liability to tax] unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.]

- (2) Any statutory instrument containing any order or regulations made by the Treasury or the <sup>F691</sup>Commissioners for Her Majesty's Revenue and Customs] under this Part <sup>F695</sup>, if made without a draft having been approved by a resolution of the House of Commons,] is subject to annulment in pursuance of a resolution of the House of Commons.

- <sup>F696</sup>(3) Subsection (2) does not apply to an instrument containing only regulations under section 218(2D).]

#### Textual Amendments

- F690** S. 282(A1)(A2) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 75\(1\)](#)  
**F691** Words in s. 282(1)(2) substituted (19.3.2014) by [Finance Act 2014 \(c. 26\), Sch. 5 paras. 14, 15](#)  
**F692** S. 282(1A) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 2 para. 18\(2\)](#)  
**F693** Word in s. 282(1A) substituted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 23\(a\)](#)  
**F694** Words in s. 282(1A) inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 17 para. 23\(b\)](#)  
**F695** Words in s. 282(2) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 2 para. 18\(3\)](#)  
**F696** S. 282(3) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 19\(7\)](#)

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

- C163** S. 282 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 16 para. 108\(2\)](#)

## 283 Transitionals and savings

- (1) Schedule 36 contains miscellaneous transitional provisions and savings.
- (2) The Treasury may by order make any other transitional provision which may appear appropriate in consequence of, or otherwise in connection with, this Part or the repeals made by this Act in consequence of this Part.
- (3) An order under subsection (2) may, in particular, include savings from the effect of any amendment made by this Part or any repeal made by this Act in consequence of this Part.

<sup>F697</sup>(3A) The Treasury may by order make any transitional provision which may appear appropriate in consequence of, or otherwise in connection with, any amendment (or repeal or revocation) made in this Part by any enactment contained in an Act passed after this Act (an “amending Act”).

(3B) An order under subsection (3A) may, in particular, include savings from the effect of any amendment (or repeal or revocation) made by the amending Act.

<sup>F698</sup>(3C) . . . . .]

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- (4) Nothing in Schedule 36 limits the power conferred by subsection (2) [<sup>F699</sup>or (3A)].
- (5) Nothing in that Schedule or in any provision made by virtue of subsection (2) [<sup>F700</sup>or (3A)] prejudices the operation of sections 16 and 17 of the Interpretation Act 1978 (c. 30) (effect of repeals).

#### Textual Amendments

**F697** S. 283(3A)-(3C) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 35\(2\)](#)

**F698** S. 283(3C) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 75(2)(c)

**F699** Words in s. 283(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 35\(3\)](#)

**F700** Words in s. 283(5) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 35\(3\)](#)

#### 284 Commencement

- (1) Chapters 3 to 7 and section 281 (with Schedule 35) do not come into force until 6th April 2006.
- (2) But any power to make an order or regulations under any of those provisions may be exercised at any time after this Act is passed.



**Status:**

Point in time view as at 15/09/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2004, Part 4.