

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

SCHEDULES

SCHEDULE 28

Sections 165 and 167

REGISTERED PENSION SCHEMES: AUTHORISED PENSIONS—SUPPLEMENTARY

Modifications etc. (not altering text)

- C1** Sch. 28 modified by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **14** (as substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2012/1795](#), regs. 1(1), **5**)

PART 1

PENSION RULES

Defined benefits and money purchase arrangements

Ill-health condition

- 1 For the purposes of this Part the ill-health condition is met if—
- (a) the scheme administrator has received evidence from a registered medical practitioner that the member is (and will continue to be) incapable of carrying on the member's occupation because of physical or mental impairment, and
 - (b) the member has in fact ceased to carry on the member's occupation.

Modifications etc. (not altering text)

- C2** Sch. 28 para. 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**

Scheme pension

- 2 ^{F1}(1)
- (2) [^{F2}A] pension payable to the member is a scheme pension for the purposes of this Part if—
- (a) it is payable by the scheme administrator or by an insurance company selected by the scheme administrator, and
 - (b) it satisfies the condition in sub-paragraph (3).
- (3) The condition is that (subject to sub-paragraph (4)—
- (a) the pension is payable (at least annually) until the member's death or until the later of the member's death and the end of a term certain not exceeding ten years, and

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- (b) the rate of pension payable [^{F3}at any time during any] relevant 12 month period is not less than the rate payable [^{F4}at the relevant time].

[^{F5}(3A) “The relevant time” is—

- (a) in the case of the first relevant 12 month period, the day on which the member becomes entitled to the pension, and
- (b) in the case of any other relevant 12 month period, immediately before the beginning of that period.]

(4) None of the following prevent the pension satisfying the condition in sub-paragraph (3)—

- [^{F6}(a) the reduction of the pension if the member became entitled to it by reason of the ill-health condition being met,]
- (b) a reduction in the rate of the pension which applies to all the scheme pensions being paid to or in respect of members of the pension scheme, ^{F7}...
- ^{F8}(c)
- [^{F9}(d) the reduction of the pension in consequence of a pension sharing order or provision,
- (e) forfeiture of entitlement to the pension in circumstances prescribed by regulations made by the Board of Inland Revenue,
- (f) the reduction of the pension in consequence of an order of a court,
- (g) if the pension is under a public service pension scheme, its reduction by abatement, or
- (h) the reduction of the pension in any other circumstances prescribed by regulations made by the Board of Inland Revenue.]

[^{F10}(4A) In sub-paragraph (4) references to the reduction of a pension include its ceasing to be payable (whether temporarily or permanently).]

^{F11}(4B)

^{F12}(5)

^{F13}(5A)

(6) A pension is payable until the end of a term certain even if it may, after the death of the member during the term, end on the pensioner—

- (a) marrying,
- [^{F14}(aa) entering into a civil partnership,]
- (b) reaching the age of 18, or
- (c) ceasing to be in full-time education.

[^{F15}(6A) The Board of Inland Revenue may by regulations provide that if—

- (a) a scheme pension payable by an insurance company selected by the scheme administrator of a registered pension scheme (“the original scheme pension”) ceases to be payable, and
- (b) in consequence of the transfer of sums or assets (or both) from the insurance company to another insurance company in connection with the original scheme pension ceasing to be payable, another scheme pension becomes payable by the other insurance company (“the new scheme pension”),

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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.]

- (7) A relevant 12 month period is any 12 month period which—
- (a) begins on or after the first anniversary of the day on which the member becomes entitled to the pension, and
 - (b) ends before the day on which the pension ceases to be payable.

[^{F16}(8) Regulations under sub-paragraph [^{F17}(4)(e) or (h) ^{F18}...] may include provision having effect in relation to times before they are made.]

Textual Amendments

- F1** Sch. 28 para. 2(1) repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 11(2), 64(1), **Sch. 11 Pt. 4**
- F2** Word in Sch. 28 para. 2(2) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(3)**, 64(1)
- F3** Words in Sch. 28 para. 2(3)(b) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(4)(a)**, 64(1)
- F4** Words in Sch. 28 para. 2(3)(b) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(4)(b)**, 64(1)
- F5** Sch. 28 para. 2(3A) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(5)**, 64(1)
- F6** Sch. 28 para. 2(4)(a) substituted (retrospectively) by Finance Act 2007 (c. 11), **Sch. 20 paras. 7(2)**, 24(3)
- F7** Word in Sch. 28 para. 2(4)(b) repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 11(6), 64(1), **Sch. 11 Pt. 4**
- F8** Sch. 28 para. 2(4)(c) omitted (with effect in accordance with s. 20(6) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 20(2)(6)**; S.I. 2016/1005, reg. 2 (with regs. 1(2), 3, 4)
- F9** Sch. 28 para. 2(4)(d)-(h) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(6)**, 64(1)
- F10** Sch. 28 para. 2(4A) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(7)**, 64(1)
- F11** Sch. 28 para. 2(4B) omitted (with effect in accordance with s. 20(6) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 20(3)(6)**; S.I. 2016/1005, reg. 2 (with regs. 1(2), 3, 4)
- F12** Sch. 28 para. 2(5) omitted (with effect in accordance with s. 20(6) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 20(3)(6)**; S.I. 2016/1005, reg. 2 (with regs. 1(2), 3, 4)
- F13** Sch. 28 para. 2(5A) omitted (with effect in accordance with s. 20(6) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 20(3)(6)**; S.I. 2016/1005, reg. 2 (with regs. 1(2), 3, 4)
- F14** Sch. 28 para. 2(6)(aa) inserted (22.2.2007) by The Tax and Civil Partnership Regulations 2007 (S.I. 2007/493), regs. 1, **2(2)**
- F15** Sch. 28 para. 2(6A) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(8)**, 64(1)
- F16** Sch. 28 para. 2(8) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 11(9)**, 64(1)
- F17** Words in Sch. 28 para. 2(8) substituted (retrospective to 6.4.2006) by Finance Act 2006 (c. 25), s. 161(2), **Sch. 23 para. 20(4)**
- F18** Words in Sch. 28 para. 2(8) omitted (with effect in accordance with s. 20(6) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 20(4)(6)**; S.I. 2016/1005, reg. 2 (with regs. 1(2), 3, 4)

[^{F19}2A(1) Where this paragraph applies in relation to a pension payable to the member, the pension scheme is to be treated as making an unauthorised payment to the member of the appropriate amount.

- (2) This paragraph applies to a pension if it fails to satisfy the condition in sub-paragraph (3) of paragraph 2—
- (a) by reason of not complying with paragraph (a) of that sub-paragraph, or

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- (b) by reason of not complying with paragraph (b) of that sub-paragraph because a substantial reduction occurs in the rate of the pension,
 or if it is a pension [^{F20}which is reduced in accordance with paragraph (a) of sub-paragraph (4) of paragraph 2, or the rate of which is reduced in accordance with paragraph (b) of that sub-paragraph, and] the reduction is part of avoidance arrangements.
- (3) For the purposes of sub-paragraph (2)(b) a substantial reduction occurs in the rate of a pension if the rate at which the pension is payable at any time during any relevant 12 month period (within the meaning of paragraph 2(7)) is less than 80% of the rate payable when the member became entitled to the pension.
- (4) For the purposes of sub-paragraph (2) “avoidance arrangements” includes schemes, arrangements and understandings of any kind (whether or not legally enforceable) the main purpose, or one of the main purposes, of which is to increase the member's entitlement to a lump sum on which there is no liability to income tax.
- (5) “The appropriate amount”, in relation to the pension, is the amount of any lump sum on which there is no liability to tax to which the member became entitled in connection with the pension.
- (6) Once this paragraph has applied in relation to the pension, it does not apply in relation to it again.
- (7) The application of this paragraph in relation to the pension does not prevent any payments of the pension themselves being unauthorised member payments.]

Textual Amendments

F19 Sch. 28 para. 2A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 12, 64\(1\)](#)

F20 Words in Sch. 28 para. 2A(2) substituted (19.7.2007) (with effect in accordance with Sch. 20 para. 24(4) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 para. 7\(3\)](#)

Money purchase arrangements

Lifetime annuity

- 3 (1) For the purposes of this Part an annuity payable to the member is a lifetime annuity if—
- (a) it is payable by an insurance company,
 - (b) the member had an opportunity to select the insurance company,
 - [^{F21}(ba) the member becomes entitled to it before 6 April 2015,]
 - (c) it is payable until the member's death or until the later of the member's death and the end of a term certain not exceeding ten years, and
 - [^{F22}(d) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.]
- [^{F23}(1A) For the purposes of this Part, but subject to any provision made under sub-paragraph (2C)(za), an annuity payable to the member is also a lifetime annuity if—
- (a) it is payable by an insurance company,
 - (b) the member becomes entitled to it on or after 6 April 2015, and
 - (c) it is payable until the member's death or until the later of the member's death and the end of a term certain.]

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- (2) An annuity is payable until the end of a term certain even if it may, after the death of the member during the term, end on the annuitant—
- (a) marrying,
 - [^{F24}(aa) entering into a civil partnership,]
 - (b) reaching the age of 18, or
 - (c) ceasing to be in full-time education.
- [^{F25}(2A) An annuity does not fail to satisfy sub-paragraph (1)(d) by reason of the operation of a pension sharing order or provision.
- (2B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a lifetime annuity payable by an insurance company (“the original lifetime annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another lifetime annuity (a “new lifetime annuity”) or a scheme pension, short-term annuity, dependants' scheme pension, dependants' annuity [^{F26}, nominees' annuity] or dependants' short-term annuity by the other insurance company, or
 - (b) sums or assets are transferred to the relevant registered pension scheme.
- (2C) The regulations may provide that—
- [in a case where—
 - [^{F27}(za) (i) a new annuity becomes payable,
 - (ii) the member becomes entitled to it on or after 6 April 2015,
 - (iii) it would be a lifetime annuity if any provision made under this paragraph were ignored,
 - (iv) the terms of the contract for it are such that there will or could be decreases in its amount other than allowed decreases (see sub-paragraph (2E)), and
 - (v) any other conditions prescribed by the regulations are met,
- the new annuity is not a lifetime annuity for the purposes of this Part.]
- (a) in a case where a new lifetime annuity becomes payable, the new lifetime annuity 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 lifetime annuity, and
 - (b) in [^{F28}a case other than one where a new lifetime annuity becomes payable], the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.
- [^{F29}(2CA)
- (2D) For the purposes of sub-paragraphs (2B) and (2C) a registered pension scheme is the relevant registered pension scheme if the original lifetime annuity was acquired using sums or assets held for the purposes of the pension scheme.]
- [^{F30}(2E) In sub-paragraph (2C)(za)(iv) “allowed decreases” means decreases from time to time allowed by regulations under sub-paragraph (1)(d); and any such regulations are to be treated as having effect for this purpose.]

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- F31(3)
- F31(4)
- F31(5)
- F31(6)

Textual Amendments

- F21** Sch. 28 para. 3(1)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 43**
- F22** Sch. 28 para. 3(1)(d) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 13(2)**, 64(1)
- F23** Sch. 28 para. 3(1A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 37**
- F24** Sch. 28 para. 3(2)(aa) inserted (22.2.2007) by [The Tax and Civil Partnership Regulations 2007 \(S.I. 2007/493\)](#), regs. 1, **2(2)**
- F25** Sch. 28 para. 3(2A)-(2D) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 13(3)**, 64(1)
- F26** Words in Sch. 28 para. 3(2B)(a) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), **Sch. 4 para. 13(2)**
- F27** Sch. 28 para. 3(2C)(za) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 44(1)(a)**
- F28** Words in Sch. 28 para. 3(2C)(b) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 44(1)(b)**
- F29** Sch. 28 para. 3(2CA) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), **s. 75(2)(d)**
- F30** Sch. 28 para. 3(2E) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 44(2)**
- F31** Sch. 28 para. 3(3)-(6) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), Sch. 10 paras. 13(4), 64(1), **Sch. 11 Pt. 4**

[^{F32}Drawdown pension]

Textual Amendments

- F32** Sch. 28 para. 4 cross-heading substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 3(2)**

- 4 “^{F33}Drawdown pension” means—
- (a) a short-term annuity, or
 - (b) income withdrawal.

Textual Amendments

- F33** Words in Sch. 28 para. 4 substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 3(1)**

- F34₅

Textual Amendments

- F34** Sch. 28 para. 5 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. 78(a)**

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Short-term annuity

- 6 (1) [^{F35}For the purposes of this Part an] annuity payable to the member is a short-term annuity if—
- (a) it is purchased by the application of sums or assets representing the whole or any part of the [^{F36}member's drawdown pension fund] in respect of an arrangement,
 - (b) it is payable by an insurance company,
 - (c) the member had an opportunity to select the insurance company,
 - [^{F37}(ca) the member becomes entitled to it before 6 April 2015,]
 - (d) it is payable for a term which does not exceed five years ^{F38} ..., and
 - [^{F39}(e) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.]
- [^{F40}(1ZA) For the purposes of this Part, but subject to any provision made under sub-paragraph (1C)(za), an annuity payable to the member is also a short-term annuity if—
- (a) it is purchased by the application of sums or assets representing the whole or any part of the member's drawdown pension fund, or of the member's flexi-access drawdown fund, in respect of an arrangement,
 - (b) it is payable by an insurance company,
 - (c) the member becomes entitled to it on or after 6 April 2015, and
 - (d) it is payable for a term which does not exceed five years.]
- [^{F41}(1A) An annuity does not fail to satisfy sub-paragraph (1)(e) by reason of the operation of a pension sharing order or provision.
- (1B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a short-term annuity payable by an insurance company (“the original short-term annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another short-term annuity (a “new short-term annuity”) or a scheme pension, lifetime annuity, dependants' scheme pension, dependants' annuity [^{F42}, nominees' annuity] or dependants' short-term annuity by the other insurance company, or
 - (b) sums or assets are transferred to the relevant registered pension scheme.
- (1C) The regulations may provide that—
- [in a case where—
 - ^{F43}(za) (i) a new annuity becomes payable,
 - (ii) the member becomes entitled to it on or after 6 April 2015,
 - (iii) it would be a short-term annuity if any provision made under this paragraph were ignored,
 - (iv) the terms of the contract for it are such that there will or could be decreases in its amount other than allowed decreases (see sub-paragraph (1E)), and
 - (v) any other conditions prescribed by the regulations are met,
- the new annuity is not a short-term annuity for the purposes of this Part,]
- (a) in a case where a new short-term annuity becomes payable, the new short-term annuity is to be treated, to such extent as is prescribed by the regulations

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and for such of the purposes of this Part as are so prescribed, as if it were the original short-term annuity, and

- (b) in [^{F44}a case other than one where a new short-term annuity becomes payable], the relevant registered pension scheme is to be treated as making an unauthorised payment to the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(1D) For the purposes of sub-paragraphs (1B) and (1C) a registered pension scheme is the relevant registered pension scheme if the original short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.]

[^{F45}(1E) In sub-paragraph (1C)(za)(iv) “allowed decreases” means decreases from time to time allowed by regulations under sub-paragraph (1)(e); and any such regulations are to be treated as having effect for this purpose.]

^{F46}(2)

Textual Amendments

- F35** Words in Sch. 28 para. 6(1) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 14\(2\)](#), 64(1)
- F36** Words in Sch. 28 para. 6(1)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 4\(a\)](#)
- F37** Sch. 28 para. 6(1)(ca) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 45](#)
- F38** Words in Sch. 28 para. 6(1)(d) 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. 4\(b\)](#)
- F39** Sch. 28 para. 6(1)(e) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 14\(3\)](#), 64(1)
- F40** Sch. 28 para. 6(1ZA) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 38](#)
- F41** Sch. 28 para. 6(1A)-(1D) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 14\(4\)](#), 64(1)
- F42** Words in Sch. 28 para. 6(1B)(a) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(3\)](#)
- F43** Sch. 28 para. 6(1C)(za) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 46\(1\)\(a\)](#)
- F44** Words in Sch. 28 para. 6(1C)(b) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 46\(1\)\(b\)](#)
- F45** Sch. 28 para. 6(1E) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 46\(2\)](#)
- F46** Sch. 28 para. 6(2) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 14\(5\)](#), 64(1), [Sch. 11 Pt. 4](#)

Modifications etc. (not altering text)

- C3** Sch. 28 para. 6 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 3\(1\)](#)
- C4** Sch. 28 para. 6 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 87](#)

Income withdrawal

[^{F47} Income withdrawal” means an amount (other than an annuity) which the member is entitled to be paid from the member's drawdown pension fund in respect of an arrangement [^{F48}or from the member's flexi-access drawdown fund in respect of an arrangement].]

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Textual Amendments

F47 Sch. 28 para. 7 substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 5**

F48 Words in Sch. 28 para. 7 inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 19**

Modifications etc. (not altering text)

C5 Sch. 28 para. 7 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 2\(1\)\(2\)\(b\)\(i\)](#) (with [Sch. 2 para. 2\(1\)](#))

[^{F49}Member's drawdown pension fund]

Textual Amendments

F49 Sch. 28 para. 8 cross-heading substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 6(6)**

8 (1) For the purposes of this Part the [^{F50}member's drawdown pension fund] in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement [^{F51}as are member-designated funds.]

[^{F52}(1A) For the purposes of this Part sums or assets held for the purposes of an arrangement are member-designated funds if ^{F53}...—

(a) [^{F54}they have, at any time before 6 April 2015, been designated] under the arrangement as available for the payment of [^{F55}drawdown pension],

[they have, at any time on or after 6 April 2015, been designated under the ^{F56}(aa) arrangement as available for the payment of drawdown pension, and—

(i) sums or assets held for the purposes of the arrangement have, at any time before 6 April 2015, been designated under the arrangement as so available, and

(ii) section 165(3A) did not apply to the arrangement immediately before 6 April 2015.] or

(b) [^{F57}they] arise, or (directly or indirectly) derive, from [^{F58}member-designated funds under paragraph (a) or (aa) or from sums or assets] which so arise or derive,

and have not been applied towards the provision of a scheme pension.]

^{F59}(2)

^{F59}(3)

[^{F60}(4) If any sums or assets representing the member's [^{F61}drawdown pension fund] in respect of an arrangement under the pension scheme would (apart from this subparagraph) come to be taken to represent another unsecured pension fund of his under the pension scheme, or a dependant's [^{F61}drawdown pension fund] of his under the pension scheme, they are to be treated as not doing so.]

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Textual Amendments

- F50** Words in Sch. 28 para. 8(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 6\(2\)](#)
- F51** Words in Sch. 28 para. 8(1) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 18\(2\)](#), 64(1)
- F52** Sch. 28 para. 8(1A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 18\(3\)](#), 64(1)
- F53** Word in Sch. 28 para. 8(1A) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 2\(a\)](#)
- F54** Words in Sch. 28 para. 8(1A)(a) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 2\(b\)](#)
- F55** Words in Sch. 28 para. 8(1A)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 6\(3\)](#)
- F56** Sch. 28 para. 8(1A)(aa) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 2\(c\)](#)
- F57** Word in Sch. 28 para. 8(1A)(b) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 2\(d\)\(i\)](#)
- F58** Words in Sch. 28 para. 8(1A)(b) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 2\(d\)\(ii\)](#)
- F59** Sch. 28 para. 8(2)(3) 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. 6\(4\)](#)
- F60** Sch. 28 para. 8(4) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 18\(5\)](#), 64(1)
- F61** Words in Sch. 28 para. 8(4) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 6\(5\)](#)

Modifications etc. (not altering text)

- C6** Sch. 28 para. 8 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [29\(1\)-\(3\)](#)
- C7** Sch. 28 para. 8 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 8\(1\)\(2\)](#)
- C8** Sch. 28 para. 8(1A) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 88](#)

F⁶²Member's flexi-access drawdown fund

Textual Amendments

- F62** Sch. 28 paras. 8A-8D and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 3(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 3\(1\)](#)

- 8A (1) For the purposes of this Part the member's flexi-access drawdown fund in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement as are newly-designated funds.
- (2) For the purposes of this Part sums or assets held for the purposes of an arrangement are newly-designated funds if—
- (a) they—
 - (i) have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of drawdown pension, and
 - (ii) are not member-designated funds, or
 - (b) they were member-designated funds immediately before 6 April 2015 and section 165(3A) applied to the arrangement at that time, or

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- (c) they have become newly-designated funds by the operation of paragraph 8B, 8C or 8D, or
 - (d) they arise, or (directly or indirectly) derive, from newly-designated funds under paragraph (a), (b) or (c) or from sums or assets which so arise or derive.
- (3) Any sums or assets that become newly-designated funds under sub-paragraph (2)(b) cease to be member-designated funds as from the start of 6 April 2015.

Conversion of certain drawdown pension funds into flexi-access drawdown funds

- 8B (1) Sub-paragraph (2) applies if—
- (a) a member's drawdown pension fund in respect of an arrangement came into being before 6 April 2015,
 - (b) section 165(3A) did not apply to the arrangement immediately before 6 April 2015, and
 - (c) at a time on or after 6 April 2015, a payment—
 - (i) of income withdrawal from the fund, or
 - (ii) of a short-term annuity purchased using sums or assets out of the fund,is made that (apart from sub-paragraph (2)) would breach the cap.
- (2) The sums and assets that make up the fund immediately before the payment is made become newly-designated funds immediately before the payment is made (so that the payment is made out of the member's flexi-access drawdown fund in respect of the arrangement and therefore is not part of the total capped by pension rule 5).
- (3) For the purposes of sub-paragraph (1)(c), a payment of drawdown pension in respect of an arrangement is one that would breach the cap if, when its amount is added to the amounts of any drawdown pension in respect of the arrangement—
- (a) paid—
 - (i) before it is made, but
 - (ii) in the same drawdown pension year in respect of the arrangement, or
 - (b) paid at the time it is made,
- the total is greater than the cap set by pension rule 5 for that drawdown pension year.
- 8C (1) Sub-paragraph (2) applies if—
- (a) a member's drawdown pension fund in respect of an arrangement came into being before 6 April 2015,
 - (b) section 165(3A) did not apply to the arrangement immediately before 6 April 2015, and
 - (c) the member notifies the [^{F63}scheme manager] that the member wishes the fund to become the member's flexi-access drawdown fund in respect of the arrangement.
- (2) At—
- (a) the time the [^{F63}scheme manager] accepts the notification, or
 - (b) the start of 6 April 2015 if that is later,
- the sums and assets that then make up that fund become newly-designated funds, if they have not previously done so by the operation of paragraph 8B.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Textual Amendments

F63 Words in Sch. 28 paras. 8C, 8D substituted by S.I. 2006/207, reg. 14(3)(ba) (as inserted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 33\(3\)\(a\)\(4\)](#) (with [Sch. 1 para. 33\(5\)](#))

- 8D (1) Sub-paragraphs (2) and (3) apply if—
- (a) there is a recognised transfer from one registered pension scheme (“the old scheme”) to another registered pension scheme (“the new scheme”) of member-designated funds held for the purposes of an arrangement under the old scheme, and
 - (b) the sums or assets transferred are, under the arrangement under the new scheme for whose purposes they are first held after the transfer, designated as available for the payment of drawdown pension.
- (2) If the member, when or before making the designation, notifies the [^{F63}scheme manager] of the new scheme that the member wishes the sums or assets to be newly-designated funds, the sums or assets become newly-designated funds and do so—
- (a) when the designation is made, or
 - (b) if later, immediately after the transfer,
- except that, if both the designation and transfer are made before 6 April 2015, the sums or assets become newly-designated funds at the start of 6 April 2015.
- (3) If sub-paragraph (2) does not provide for the sums or assets to become newly-designated funds, the sums or assets become member-designated funds and do so—
- (a) when the designation is made, or
 - (b) if later, immediately after the transfer.]

Textual Amendments

F63 Words in Sch. 28 paras. 8C, 8D substituted by S.I. 2006/207, reg. 14(3)(ba) (as inserted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 33\(3\)\(a\)\(4\)](#) (with [Sch. 1 para. 33\(5\)](#))

[^{F64}Drawdown pension year and basis amount for drawdown pension year]

Textual Amendments

F64 Sch. 28 para. 9 cross-heading substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 7\(4\)](#)

- 9 (1) [^{F65}“Drawdown pension year”] means—
- (a) the period of 12 months beginning with the day on which the member first becomes entitled to [^{F66}drawdown pension] in respect of the arrangement, and
 - (b) each succeeding period of 12 months.
- [^{F67}This is subject to paragraph 10B.]
- [^{F68}(2) The drawdown pension year in which the member dies is the last drawdown pension year and ends immediately before the member's death.]

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Textual Amendments

- F65** Words in Sch. 28 para. 9(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 7\(2\)\(a\)](#)
- F66** Words in Sch. 28 para. 9(1)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 7\(2\)\(b\)](#)
- F67** Words in Sch. 28 para. 9(1) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 7\(2\)\(c\)](#)
- F68** Sch. 28 para. 9(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 7\(3\)](#)

Modifications etc. (not altering text)

- C9** Sch. 28 para. 9(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [29\(1\)\(2\)\(4\)](#)
- C10** Sch. 28 para. 9(1)(a) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 92\(2\)](#)
- C11** Sch. 28 para. 9(1)(a) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 89\(2\)](#)
- C12** Sch. 28 para. 9(1)(a) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 93\(2\)](#)
- C13** Sch. 28 para. 9(1)(a) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 92\(4\)](#)
- C14** Sch. 28 para. 9(2) modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 2\(1\)\(2\)\(b\)\(ii\)](#) (with [Sch. 2 para. 2\(1\)](#))

Unsecured pension year and basis amount for unsecured pension year

1^{F69}(A1) This paragraph applies in relation to drawdown pension years beginning on or before the member's 75th birthday.

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

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

1^{F70}(1A) Sub-paragraph (1B) applies if, at any time during a reference period (“the current reference period”), the member notifies the scheme administrator that the member wishes a new reference period to begin on the next day that is an anniversary of the reference date in relation to the current reference period.

(1B) The scheme administrator may determine—

- (a) that the current reference period is to end immediately before that day (so that sub-paragraph (1) no longer applies), and
- (b) that (subject to 1^{F71}sub-paragraph (1ZA) and] any further operation of this sub-paragraph) the period of 1^{F72}three drawdown pension years] beginning with that day, and each succeeding period of 1^{F72}three drawdown pension years], is to be a reference period.

(1C) The first day of each reference period is, in relation to that period, “the reference date”.]

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- (2) For the first [^{F73}drawdown pension year] falling within a reference period, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the [^{F74}member's drawdown pension fund] on the nominated date (but subject to sub-paragraph (5)).
- (3) “The nominated date”—
- (a) in relation to the first reference period, is the reference date, and
 - (b) in relation to any subsequent reference period, is such day, within the period of 60 days ending with the reference date, as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the reference date).
- (4) For each other [^{F75}drawdown pension year] falling within a reference period, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the [^{F76}member's drawdown pension fund]—
- (a) if there has been no recent annuity purchase^{F77}, recent additional fund designation or recent pension sharing event], on the nominated date, and
 - (b) otherwise, immediately after the last annuity purchase^{F78}, additional fund designation or pension sharing event],
- (but subject to sub-paragraph (5)).
- (5) On the occasion of each additional fund designation during [^{F79}a drawdown pension year], the basis amount for [^{F80}that drawdown pension year] is to be recalculated in accordance with sub-paragraph (6).
- (6) The basis amount for the [^{F81}drawdown pension year] is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the [^{F82}member's drawdown pension fund] immediately after the additional fund designation.
- ^{F83}(6A) But sub-paragraph (5) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.]
- (7) “Annuity purchase” means the purchase of a scheme pension or a lifetime annuity by the application of sums or assets representing the whole or part of the [^{F84}member's drawdown pension fund].
- (8) “Additional fund designation” means the designation under the arrangement of further sums or assets held for the purposes of the arrangement as available for the payment of [^{F85}drawdown pension].
- ^{F86}(8A) “Pension sharing event” means the coming into operation of a pension sharing order or provision relating to the sums and assets representing the [^{F87}member's drawdown pension fund].]
- (9) An annuity purchase^{F88}, additional fund designation or pension sharing event] is “recent” if it took place during the period—
- (a) beginning with the reference date, and
 - (b) ending with the last day of the immediately preceding [^{F89}drawdown pension year].

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

(10) Paragraph 14 defines “relevant annuity”.

^{F90}(11)

Textual Amendments

- F69** Sch. 28 para. 10(1)(1ZA)(A1) substituted for Sch. 28 para. 10(1) (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(2)**
- F70** Sch. 28 para. 10(1)-(1C) substituted (19.7.2007) for Sch. 28 para. 10(1) (with effect in accordance with Sch. 20 para. 24(5) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 20 para. 8(2)**
- F71** Words in Sch. 28 para. 10(1B)(b) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(3)(a)**
- F72** Words in Sch. 28 para. 10(1B)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(3)(b)**
- F73** Words in Sch. 28 para. 10(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(4)(a)**
- F74** Words in Sch. 28 para. 10(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(4)(b)**
- F75** Words in Sch. 28 para. 10(4) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(4)(a)**
- F76** Words in Sch. 28 para. 10(4) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(4)(b)**
- F77** Words in Sch. 28 para. 10(4)(a) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 19(2)(a), 64(1)**
- F78** Words in Sch. 28 para. 10(4)(b) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 19(2)(b), 64(1)**
- F79** Words in Sch. 28 para. 10(5) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(5)(a)**
- F80** Words in Sch. 28 para. 10(5) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(5)(b)**
- F81** Words in Sch. 28 para. 10(6) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(6)(a)**
- F82** Words in Sch. 28 para. 10(6) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(6)(b)**
- F83** Sch. 28 para. 10(6A) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(7)**
- F84** Words in Sch. 28 para. 10(7) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(8)**
- F85** Words in Sch. 28 para. 10(8) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(9)**
- F86** Sch. 28 para. 10(8A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 19(3), 64(1)**
- F87** Words in Sch. 28 para. 10(8A) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(10)**
- F88** Words in Sch. 28 para. 10(9) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 19(4), 64(1)**
- F89** Words in Sch. 28 para. 10(9)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 8(11)**
- F90** Sch. 28 para. 10(11) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(e)(i)(4)**

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Modifications etc. (not altering text)

- C15** Sch. 28 para. 10 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), 3, 5(1)(2)
- C16** Sch. 28 para. 10 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 90\(2\)\(b\)](#)
- C17** Sch. 28 para. 10(4) applied (with modifications) (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 90\(7\)](#)
- C18** Sch. 28 para. 10(7)-(8A) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 90\(8\)](#)

^{F91}10A(1) This paragraph applies in relation to drawdown pension years beginning after the member's 75th birthday.

- (2) For the first drawdown pension year beginning after the member reached the age of 75, and each succeeding drawdown pension year, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member's drawdown pension fund on the nominated date.
- (3) In a case where the member first becomes entitled to drawdown pension in respect of the arrangement after reaching the age of 75, “the nominated date”, in relation to the first drawdown pension year in respect of the arrangement, is the first day of that year.
- (4) In any other case, “the nominated date”, in relation to the first drawdown pension year beginning after the member reached the age of 75, is—
- (a) if the member and the scheme administrator so agree, the day immediately before the member's 75th birthday, or
 - (b) if they do not so agree, such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, the first day of that year).
- (5) “The nominated date”, in relation to each other drawdown pension year, is such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the first day of that year).
- (6) On the occasion of each additional fund designation during a drawdown pension year, the basis amount of that drawdown pension year is to be recalculated in accordance with sub-paragraph (7).
- (7) The basis amount for the drawdown pension year is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member's drawdown pension fund immediately after the additional fund designation.
- (8) But sub-paragraph (6) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.
- (9) “Additional fund designation” has the meaning given by paragraph 10(8).
- (10) Paragraph 14 defines “relevant annuity”.

^{F92}(11)

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Textual Amendments

- F91** Sch. 28 paras. 10A, 10B inserted (with effect in accordance with Sch. 16 paras. 85, 91(3) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 9](#)
- F92** Sch. 28 para. 10A(11) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(ii\)\(4\)](#)

- 10B (1) This paragraph applies if the member has reached the age of 75.
- (2) Sub-paragraph (3) applies if, at any time during a drawdown pension year in respect of an arrangement (“the current drawdown pension year”), the member notifies the scheme administrator that the member wishes the drawdown pension year following the current drawdown pension year to begin on the day on which the next drawdown pension year in respect of another arrangement relating to the member under the pension scheme (including any arrangement relating to that person as a dependant) will begin.
- (3) The scheme administrator may determine—
- (a) that the current drawdown pension year is to end immediately before that day, and
 - (b) that the period of 12 months beginning with that day, and each succeeding period of 12 months, is a drawdown pension year in respect of the arrangement.
- (4) The scheme administrator may not make a determination under this paragraph more than once in relation to the same arrangement.]

Textual Amendments

- F91** Sch. 28 paras. 10A, 10B inserted (with effect in accordance with Sch. 16 paras. 85, 91(3) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 9](#)

Member’s alternatively secured pension fund

^{F93}11

Textual Amendments

- F93** Sch. 28 paras. 11-13 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. 78\(b\)](#)

Alternatively secured pension year and basis amount for alternatively secured pension year

^{F93}12

Textual Amendments

- F93** Sch. 28 paras. 11-13 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. 78\(b\)](#)

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Alternatively secured pension year and basis amount for alternatively secured pension year

^{F93}13

Textual Amendments

F93 Sch. 28 paras. 11-13 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. 78\(b\)](#)

Relevant annuity

- 14 (1) A “relevant annuity” is an annuity of a description prescribed by regulations made by the Board of Inland Revenue.
- (2) The annual amount of a relevant annuity is to be ascertained in accordance with regulations made by the Board of Inland Revenue.
- (3) The regulations may in particular provide for the annual amount to be ascertained by reference to—
- (a) comparative annuity tables published by the [^{F94}Financial Conduct Authority or the Prudential Regulation Authority], or
 - (b) material published by any other person.

Textual Amendments

F94 Words in Sch. 28 para. 14(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 100](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

Minimum income requirement

^{F95}14A

Textual Amendments

F95 Sch. 28 paras. 14A-14E omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(iii\)\(4\)](#)

^{F95}14B

Textual Amendments

F95 Sch. 28 paras. 14A-14E omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(iii\)\(4\)](#)

The relevant day

^{F95}14C

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Textual Amendments

F95 Sch. 28 paras. 14A-14E omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(iii\)\(4\)](#)

Relevant contributions

F95 14D

Textual Amendments

F95 Sch. 28 paras. 14A-14E omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(iii\)\(4\)](#)

Valid and accepted declarations

F95 14E

Textual Amendments

F95 Sch. 28 paras. 14A-14E omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(iii\)\(4\)](#)

PART 2

PENSION DEATH BENEFIT RULES

Defined benefits and money purchase arrangements

Meaning of “dependant”

15 (1) A person who was married to [^{F96}, or a civil partner of,] the member at the date of the member’s death is a dependant of the member.

[^{F97}(1A) If the rules of the pension scheme so provide, a person who was married to [^{F98}, or a civil partner of,] the member when the member first became entitled to a pension under the pension scheme is a dependant of the member.]

(2) A child of the member is a dependant of the member if the child—
(a) has not reached the age of 23, or
(b) has reached that age and, in the opinion of the scheme administrator, was at the date of the member’s death dependant on the member because of physical or mental impairment.

[^{F99}(2A) A child of the member is a dependant of the member if the child—
(a) has reached the age of 23, and
(b) is not within sub-paragraph (2)(b).

(2B) But this paragraph, so far as it has effect for the purpose of determining the meaning of “dependant”—

Status: Point in time view as at 16/09/2016.

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- (a) in paragraphs 16 to 17 and 27A, and
 - (b) in paragraph 18 of Schedule 29,
- has effect with the omission of sub-paragraph (2A).]
- (3) A person who was not married to ^{F100}, or a civil partner of,] the member at the date of the member’s death and is not a child of the member is a dependant of the member if, in the opinion of the scheme administrator, at the date of the member’s death—
- (a) the person was financially dependant on the member,
 - (b) the person’s financial relationship with the member was one of mutual dependence, or
 - (c) the person was dependant on the member because of physical or mental impairment.

Textual Amendments

F96 Words in Sch. 28 para. 15(1) 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), **180(a)**

F97 Sch. 28 para. 15(1A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 26, 64(1)**

F98 Words in Sch. 28 para. 15(1A) 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), 180(b)**

F99 [Sch. 28 para. 15\(2A\)\(2B\)](#) inserted (with effect in accordance with Sch. 5 para. 6(5) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 5 para. 6(2)(4)** (with [Sch. 5 para. 6\(5\)](#))

F100 Words in Sch. 28 para. 15(3) 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), **180(c)**

Modifications etc. (not altering text)

C19 Sch. 28 para. 15(2) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), **34**

C20 Sch. 28 para. 15(2)(b) 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**

C21 Sch. 28 para. 15(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**

Dependants' scheme pension

- 16 ^{F101}(1)
- (2) [^{F102}A] pension payable to a dependant is a dependants' scheme pension [^{F103} for the purposes of this Part] if—
- (a) it is payable by the scheme administrator or by an insurance company selected by the scheme administrator, ^{F104} ...
- ^{F104}(b)
- [^{F105}(2A) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' scheme pension payable to a dependant of a member of a registered pension scheme by an insurance company (“the original dependants' scheme pension”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' scheme pension (a “new dependants' scheme pension”) or a scheme pension, lifetime annuity, short-term annuity, dependants'

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annuity or dependants' short-term annuity by the other insurance company,
or

(b) sums or assets are transferred to the relevant registered pension scheme.

(2B) The regulations may provide that—

- (a) in a case where a new dependants' scheme pension becomes payable, 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, and
- (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(2C) For the purposes of sub-paragraphs (2A) and (2B) a registered pension scheme is the relevant registered pension scheme if the original dependants' scheme pension was acquired using sums or assets held for the purposes of the pension scheme.]

F106(3)

F106(4)

F106(5)

F106(6)

Textual Amendments

F101 Sch. 28 para. 16(1) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), Sch. 10 paras. 27(2), 64(1), **Sch. 11 Pt. 4**

F102 Word in Sch. 28 para. 16(2) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 27(3) (a)**, 64(1)

F103 Words in Sch. 28 para. 16(2) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), **Sch. 28 para. 5**

F104 Sch. 28 para. 16(2)(b) and word repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), Sch. 10 paras. 27(3) (b), 64(1), **Sch. 11 Pt. 4**

F105 Sch. 28 para. 16(2A)-(2C) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 27(4)**, 64(1)

F106 Sch. 28 para. 16(3)-(6) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), Sch. 10 paras. 27(5), 64(1), **Sch. 11 Pt. 4**

[^{F107}16A) Paragraphs 16B and 16C apply where—

- (a) the member dies after 5th April 2006,
- (b) he has reached the age of 75 before his death, and
- (c) at the time of his death he is actually or prospectively entitled to one or more scheme pensions under the pension scheme.

[Sub-paragraph (1) is subject to paragraphs 16AA and 16AB.]

^{F108}(1A)

(2) References in this paragraph and paragraph 16B to a scheme pension include a pension payable before 6th April 2006 which would be a scheme pension if payable after that date.

[This paragraph shall not apply to a scheme pension where the member was actually

^{F109}(3) entitled to that pension on 5th April 2006.]

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Textual Amendments

- F107** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F108** Sch. 28 para. 16A(1A) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(2\)\(6\)](#)
- F109** Sch. 28 para. 16A(3) added (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [arts. 1\(1\), 24](#)

- [Paragraphs 16B and 16C do not apply if—
- ^{F110}16AA (a) each benefit crystallisation event that has occurred in relation to the member by reference to arrangements relating to the member under the scheme is benefit crystallisation event 5B (having unused funds under a money purchase arrangement at age 75), or
- (b) paragraph 12 of Schedule 36 (enhanced protection by reference to pre-6 April 2006 rights) applies in the case of the member immediately before the member's death.

Textual Amendments

- F107** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F110** [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

- 16AB (1) Paragraph 16B does not apply if, at all times in the post-death year (as defined in that paragraph), the payable annual rate is less than the limit.
- (2) Paragraph 16C does not apply in relation to a period of 12 months within paragraph (a) or (b) of paragraph 16C(1) if, at all times in that period of 12 months, the payable annual rate is less than the limit.
- (3) “The payable annual rate”, at any time, is arrived at as follows—
- (a) identify each dependants' scheme pension payable in respect of the member under the scheme to which a dependant of the member is actually entitled at that time, and
 - (b) identify the annual rate at which each pension identified at paragraph (a) is payable at that time, and
 - (c) if only one pension is identified at paragraph (a), the payable annual rate is the annual rate identified at paragraph (b), and
 - (d) if two or more pensions are identified at paragraph (a), the payable annual rate is the total of the annual rates identified at paragraph (b).
- (4) “The limit”, at any time, is—
- (a) the general limit at that time (see paragraph 16AC), or,
 - (b) if higher, the personal limit at that time (see paragraph 16AD).

Textual Amendments

- F107** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F110** [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

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- 16AC (1) This paragraph applies for the purposes of paragraph 16AB(4).
- (2) “The general limit” at a time in the tax year 2016-17 is £25,000.
- (3) “The general limit” at a time in a later tax year (“year T”)—
- (a) is given by—
- $$G + (G \times U \%)$$
- where G is the general limit at times in the tax year (“year P”) that precedes year T, or
- (b) if the amount given by paragraph (a) is not a multiple of £100, is that amount rounded up to the nearest amount that is such a multiple.
- (4) See paragraph 16AE for the meaning of U%.

Textual Amendments

F107 Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)

F110 [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

- 16AD (1) This paragraph applies for the purposes of paragraph 16AB(4).
- (2) “The personal limit” at a time in the tax year in which the member dies is arrived at as follows—
- (a) identify each scheme pension under the scheme to which the member is actually or prospectively entitled immediately before the member's death, and
- (b) as regards each pension identified at paragraph (a)—
- (i) if it is one to which the member is actually entitled immediately before the member's death, identify the annual rate at which it is payable immediately before the member's death, or
- (ii) if it is one to which the member is prospectively entitled immediately before the member's death, identify the annual rate at which it would have been payable immediately before the member's death had the member been actually entitled to it immediately before the member's death, and
- (c) if only one pension is identified at paragraph (a), the personal limit is the annual rate identified at paragraph (b), and
- (d) if two or more pensions are identified at paragraph (a), the personal limit is the total of the annual rates identified at paragraph (b).
- (3) “The personal limit” at a time in a tax year (“year S”) later than the tax year in which the member dies—
- (a) is given by—
- $$L + (L \times U \%)$$
- where L is the personal limit at times in the tax year (“year P”) that precedes year S, or
- (b) if the amount given by paragraph (a) is not a multiple of £100, is that amount rounded up to the nearest amount that is such a multiple.

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- (4) See paragraph 16AE for the meaning of U%.
- (5) If the scheme is a public service pension scheme, ignore any abatement when identifying at sub-paragraph (2)(b) the annual rate of any scheme pension under the scheme.

Textual Amendments

F107 Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)

F110 [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

- 16AE (1) In paragraphs 16AC(3) and 16AD(3), U% means the highest of—
- (a) 5%,
 - (b) CPI% (see sub-paragraph (2)), and
 - (c) RPI% (see sub-paragraph (3)).
- (2) If the consumer prices index for September in year P is higher than the consumer prices index for September in the tax year preceding year P, CPI% is the percentage increase in the index (but is otherwise 0%).
- (3) If the retail prices index for September in year P is higher than the retail prices index for September in the tax year preceding year P, RPI% is the percentage increase in the index (but is otherwise 0%).
- (4) In this paragraph “year P” has the same meaning as in paragraph 16AC or (as the case may be) paragraph 16AD.]

Textual Amendments

F107 Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)

F110 [Sch. 28 paras. 16AA-16AE](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(3\)\(6\)](#)

- 16B (1) Where a pension is payable under the pension scheme to a dependant of the member in the period of 12 months beginning with the date of the member's death (“the post-death year”), so much of the pension as exceeds the initial member pension limit is not a dependants' scheme pension.
- (2) But if—
- (a) more than one pension is so payable to one of the dependants of the member in the post-death year, or
 - (b) pensions are so payable to more than one dependant of the member in the post-death year,
- (or both), so much of any of the pensions as exceeds the appropriate portion of the initial member pension limit is not a dependants' scheme pension.
- (3) The “initial member pension limit” is (subject to sub-paragraph (4)) the sum of—
- (a) the aggregate of the amounts of the scheme pensions to which the member is actually entitled under the pension scheme immediately before his death payable to the member in the period of 12 months ending with the date of his death (“the pre-death year”),

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- (b) the aggregate of the amounts of the scheme pensions to which the member is prospectively entitled under the pension scheme at that time which would have been so payable if he had been actually entitled to the pensions throughout the pre-death year, and
 - (c) 5% of the aggregate of the [F111]uprated amounts (see sub-paragraph (6))] of the lump sums on which there is no liability to income tax to which the member has become entitled in connection with scheme pensions under the pension scheme before his death.
- (4) But if the member became (actually) entitled to a scheme pension under the pension scheme during the pre-death year, sub-paragraph (3)(a) has effect as if the amount of that scheme pension which was payable to the member under the pension scheme in the pre-death year were the amount which would have been payable to him in the period of 12 months beginning with the date on which he became entitled to it had he not died.
- (5) The “appropriate portion” of the initial member pension limit, in relation to any pension payable under the pension scheme to a dependant of the member in the post-death year, is—

PAP

where—

P is the amount of that pension payable in the post-death year, and

AP is the aggregate of the amounts of each of the pensions payable under the pension scheme to dependants of the member in the post-death year.

[The “uprated amount” of a lump sum is the amount of the lump sum increased by F112(6) the higher of C% and R%, where—

- (a) if the consumer prices index for the month in which the member dies is higher than it was for the month in which the member became entitled to the lump sum, C% is the percentage increase in the index (but is otherwise 0%), and
- (b) if the retail prices index for the month in which the member dies is higher than it was for the month in which the member became entitled to the lump sum, R% is the percentage increase in the index (but is otherwise 0%).]

Textual Amendments

F107 Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)

F111 Words in [Sch. 28 para. 16B\(3\)\(c\)](#) substituted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(4\)\(a\)\(6\)](#)

F112 [Sch. 28 para. 16B\(6\)](#) inserted (with effect in accordance with s. 21(6)(7)(8)(a) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(4\)\(b\)\(6\)](#)

- 16C (1) Where a pension is payable under the pension scheme to a dependant of the member, otherwise than in excepted circumstances, in—
- (a) the period of 12 months beginning with the end of the post-death year, or
 - (b) any succeeding period of 12 months,
- (“the 12 months in question”), so much of the pension as exceeds the current member pension limit is not a dependants' scheme pension.

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- (2) But if—
- (a) more than one pension is so payable to one of the dependants in the 12 months in question, or
 - (b) pensions are so payable to more than one dependant of the member in the 12 months in question,
- (or both), so much of any of the pensions as exceeds the appropriate portion of the current member pension limit is not a dependants' scheme pension.
- (3) “Excepted circumstances” means—
- (a) that at the beginning of the ^{F113}... 12 months in question there are at least 50 pensioner members of the pension scheme, and
 - (b) that the condition in [^{F114}sub-paragraph] (4) is met.
- [^{F115}(4) The condition is that if the annual rate of a pension payable under the pension scheme to a dependant of the member is increased at any time in the period of 12 months in question—
- (a) the dependant is at that time one of a group of at least 20 pensioner members of the pension scheme, and
 - (b) all the pensions being paid under the pension scheme to pensioner members of that group are at that time increased at the same rate.]
- (6) The “current member pension limit”, in relation to the 12 [^{F116}months] in question, is the initial member pension limit increased by [^{F117}the permitted margin.]
- (7) The “permitted margin” is the amount by which the initial member pension limit would be greater if it had been increased by whichever of calculation A and calculation B gives the greater amount.
- (8) Calculation A involves increasing the initial member pension limit by the relevant annual percentage rate for the whole of the period—
- (a) beginning with the first month beginning after the [^{F118}member's death] (“the opening month”), and
 - (b) ending with the first month [^{F119}ending after the start] of the 12 months in question (“the closing month”).
- (9) The relevant annual percentage rate is—
- (a) if the relevant valuation factor in relation to the pension scheme is a number greater than 20, the annual rate agreed by the Inland Revenue and the scheme administrator, and
 - (b) otherwise, 5% per annum.
- (10) Calculation B involves increasing the initial member pension limit by the relevant indexation percentage.
- (11) If the retail prices index for the closing month is higher than it was for the [^{F120}month in which the member died], the relevant indexation percentage is the percentage increase in the retail prices index.
- (12) If it is not, the relevant indexation percentage is 0%.
- ^{F121}(13)
- ^{F121}(14)

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- (15) The “appropriate portion” of the current member pension limit, in relation to any pension payable under the pension scheme to a dependant of the member in the 12 months in question, is—

PAP

where—

P is the amount of that pension payable in the 12 months in question, and

AP is the aggregate of the amounts of each of the pensions payable under the pension scheme to one or more dependants of the member in the 12 months in question.]

Textual Amendments

- F107** Sch. 28 paras. 16A-16C inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 28, 64\(1\)](#)
- F113** Words in Sch. 28 para. 16C(3)(a) omitted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(a\)\(6\)](#)
- F114** Word in Sch. 28 para. 16C(3)(b) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(b\)\(6\)](#)
- F115** Sch. 28 para. 16C(4) substituted for Sch. 28 para. 16C(4)(5) (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(c\)\(6\)](#)
- F116** Word in Sch. 28 para. 16C(6) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(d\)\(i\)\(6\)](#)
- F117** Words in Sch. 28 para. 16C(6) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(d\)\(ii\)\(6\)](#)
- F118** Words in Sch. 28 para. 16C(8)(a) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(e\)\(6\)](#)
- F119** Words in Sch. 28 para. 16C(8)(b) inserted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(f\)\(6\)](#)
- F120** Words in Sch. 28 para. 16C(11) substituted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(g\)\(6\)](#)
- F121** Sch. 28 para. 16C(13)(14) omitted (with effect in accordance with s. 21(6)(8)(b) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 21\(5\)\(h\)\(6\)](#)

Money purchase arrangements

Dependants' annuity

- 17 (1) [^{F122}For the purposes of this Part an] annuity payable to a dependant is a dependants' annuity if—
- [^{F123}(za) either—
- (i) it is purchased together with a lifetime annuity payable to the member and the member becomes entitled to that lifetime annuity before 6 April 2015, or
 - (ii) it is purchased after the member's death and the dependant becomes entitled to it before 6 April 2015,]
- (a) it is payable by an insurance company,
 - (b) the member or dependant had an opportunity to select the insurance company,
- [^{F124}(c) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue,]

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- (d) where the dependant is not the member's child, it is payable until the dependant's death or until the earlier of the dependant's marrying^[F125], entering into a civil partnership] or dying, and
- (e) where the dependant is the member's child, it is payable until the earlier of the dependant's ceasing to be a dependant or dying, or until the earliest of the dependant's marrying^[F126], entering into a civil partnership], ceasing to be a dependant or dying.
- [^{F127}(1ZA) For the purposes of this Part, but subject to any provision made under sub-paragraph (4)(za), an annuity payable to a dependant is also a dependants' annuity if—
- (a) either—
- (i) it is purchased together with a lifetime annuity payable to the member and the member becomes entitled to that lifetime annuity on or after 6 April 2015, or
- (ii) it is purchased after the member's death and the dependant becomes entitled to it on or after 6 April 2015,
- (b) it is payable by an insurance company,
- (c) where the dependant is not the member's child, it is payable until the dependant's death or until the earliest of the dependant's marrying, entering into a civil partnership or dying, and
- (d) where the dependant is the member's child, it is payable until the earlier of the dependant's ceasing to be a dependant or dying, or until the earliest of the dependant's marrying, entering into a civil partnership, ceasing to be a dependant or dying.]
- [^{F128}(1A) For the purposes of [^{F129}sub-paragraphs (1)(za) and (1ZA)(a)] a dependants' annuity is purchased together with a lifetime annuity if the dependant's annuity is related to the lifetime annuity.]
- [^{F130}(2) An annuity does not fail to satisfy sub-paragraph (1)(c) by reason of the operation of a pension sharing order or provision.
- (3) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' annuity payable to a person (“the original dependants' annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' annuity (a “new dependants' annuity”) or a scheme pension, lifetime annuity, short-term annuity, dependants' scheme pension or dependants' short-term annuity by the other insurance company, or
- (b) sums or assets are transferred to the relevant registered pension scheme.
- (4) The regulations may provide that—
- [^{F131}(za) in a case where—
- (i) a new annuity becomes payable,
- (ii) the dependant becomes entitled to it on or after 6 April 2015,
- (iii) it would be a dependants' annuity if any provision made under this paragraph were ignored,
- (iv) the terms of the contract for it are such that there will or could be decreases in its amount other than allowed decreases (see sub-paragraph (6)), and

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- (v) any other conditions prescribed by the regulations are met,
the new annuity is not a dependants' annuity for the purposes of this Part.]
- (a) in a case where a new dependants' annuity becomes payable, the new dependants' annuity 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' annuity, and
- (b) in [^{F132}a case other than one where a new dependants' annuity becomes payable], the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

^{F133}(4A)

(5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original dependants' annuity was acquired using sums or assets held for the purposes of the pension scheme.]

[^{F134}(6) In sub-paragraph (4)(za)(iv) “allowed decreases” means decreases from time to time allowed by regulations under sub-paragraph (1)(c); and any such regulations are to be treated as having effect for this purpose.]

Textual Amendments

- F122** Words in Sch. 28 para. 17(1) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 15\(2\), 64\(1\)](#)
- F123** Sch. 28 para. 17(1)(za) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 47](#)
- F124** Sch. 28 para. 17(1)(c) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 15\(3\), 64\(1\)](#)
- F125** Words in Sch. 28 para. 17(1)(d) inserted (22.2.2007) by [The Tax and Civil Partnership Regulations 2007 \(S.I. 2007/493\)](#), [regs. 1, 2\(3\)](#)
- F126** Words in Sch. 28 para. 17(1)(e) inserted (22.2.2007) by [The Tax and Civil Partnership Regulations 2007 \(S.I. 2007/493\)](#), [regs. 1, 2\(3\)](#)
- F127** Sch. 28 para. 17(1ZA) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 39](#)
- F128** Sch. 28 para. 17(1A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 29\(3\), 64\(1\)](#)
- F129** Words in Sch. 28 para. 17(1A) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 48](#)
- F130** Sch. 28 para. 17(2)-(5) substituted for Sch. 28 para. 17(2) (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 15\(4\), 64\(1\)](#)
- F131** Sch. 28 para. 17(4)(za) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 49\(1\)\(a\)](#)
- F132** Words in Sch. 28 para. 17(4)(b) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 49\(1\)\(b\)](#)
- F133** Sch. 28 para. 17(4A) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [s. 75\(2\)\(d\)](#)
- F134** Sch. 28 para. 17(6) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 49\(2\)](#)

[^{F135}Dependants' drawdown pension]

Textual Amendments

- F135** Sch. 28 para. 18 cross-heading substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 13\(2\)](#)

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- 18 [F136“Dependants' drawdown pension”] means—
- (a) a dependants' short-term annuity, or
 - (b) dependants' income withdrawal.

Textual Amendments

F136 Words in Sch. 28 para. 18 substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 13(1)**

F137 19

Textual Amendments

F137 Sch. 28 para. 19 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. 78(c)**

Dependants' short-term annuity

- 20 (1) [F138For the purposes of this Part an] annuity payable to a dependant is a dependants' short-term annuity if—
- (a) it is purchased by the application of sums or assets representing the whole or any part of the [F139dependant's drawdown pension fund] in respect of an arrangement,
 - (b) it is payable by an insurance company,
 - (c) the dependant had an opportunity to select the insurance company,
 - [F140(ca) the dependant becomes entitled to it before 6 April 2015.]
 - (d) it is payable for a term which does not exceed five years and ends before the dependant F141... dies, and
 - [F142(e) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.]

- [F143(1ZA) For the purposes of this Part, but subject to any provision made under sub-paragraph (1C)(za), an annuity payable to a dependant is also a dependants' short-term annuity if—
- (a) it is purchased by the application of sums or assets representing the whole or any part of the dependant's drawdown pension fund, or of the dependant's flexi-access drawdown fund, in respect of an arrangement,
 - (b) it is payable by an insurance company,
 - (c) the dependant becomes entitled to it on or after 6 April 2015, and
 - (d) it is payable for a term which does not exceed five years and ends before the dependant dies.]

[F144(1A) An annuity does not fail to satisfy sub-paragraph (1)(e) by reason of the operation of a pension sharing order or provision.

- (1B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' short-term annuity payable to a person (“the original dependants' short-term annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' short-term annuity (a “new dependants' short-

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term annuity”) or a scheme pension, lifetime annuity, short-term annuity, dependants' scheme pension or dependants' annuity by the other insurance company, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(1C) The regulations may provide that—

- [in a case where—
- ^{F145}(za) (i) a new annuity becomes payable,
(ii) the dependant becomes entitled to it on or after 6 April 2015,
(iii) it would be a dependants' short-term annuity if any provision made under this paragraph were ignored,
(iv) the terms of the contract for it are such that there will or could be decreases in its amount other than allowed decreases (see sub-paragraph (1E)), and
(v) any other conditions prescribed by the regulations are met,
the new annuity is not a dependants' short-term annuity for the purposes of this Part,]
- (a) in a case where a new dependants' short-term annuity becomes payable, the new dependants' short-term annuity 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' short-term annuity, and
- (b) in [^{F146}a case other than one where a new dependants' short-term annuity becomes payable], the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(1D) For the purposes of sub-paragraphs (1B) and (1C) a registered pension scheme is the relevant registered pension scheme if the original dependants' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.]

[^{F147}(1E) In sub-paragraph (1C)(za)(iv) “allowed decreases” means decreases from time to time allowed by regulations under sub-paragraph (1)(e); and any such regulations are to be treated as having effect for this purpose.]

^{F148}(2)

Textual Amendments

- F138** Words in Sch. 28 para. 20(1) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 16\(2\), 64\(1\)](#)
- F139** Words in Sch. 28 para. 20(1)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 14\(a\)](#)
- F140** Sch. 28 para. 20(1)(ca) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 50](#)
- F141** Words in Sch. 28 para. 20(1)(d) 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. 14\(b\)](#)
- F142** Sch. 28 para. 20(1)(e) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 16\(3\), 64\(1\)](#)
- F143** Sch. 28 para. 20(1ZA) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 40](#)
- F144** Sch. 28 para. 20(1A)-(1D) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 16\(4\), 64\(1\)](#)
- F145** Sch. 28 para. 20(1C)(za) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 51\(1\)\(a\)](#)

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F146 Words in Sch. 28 para. 20(1C)(b) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 51\(1\)\(b\)](#)

F147 Sch. 28 para. 20(1E) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 51\(2\)](#)

F148 Sch. 28 para. 20(2) repealed (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 16\(5\), 64\(1\)](#), [Sch. 11 Pt. 4](#)

Modifications etc. (not altering text)

C22 Sch. 28 para. 20 modified (with effect in accordance with [Sch. 16 para. 85](#) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 95](#)

Dependants' income withdrawal

[^{F149}21 Dependants' income withdrawal" means an amount (other than an annuity) which the dependant is entitled to be paid from the dependant's drawdown pension fund in respect of an arrangement [^{F150}or from the dependant's flexi-access drawdown fund in respect of an arrangement].]

Textual Amendments

F149 Sch. 28 para. 21 substituted (with effect in accordance with [Sch. 16 para. 85](#) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 15](#)

F150 Words in Sch. 28 para. 21 inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 20](#)

[^{F151}Dependant's drawdown pension fund]

Textual Amendments

F151 Sch. 28 para. 22 cross-heading substituted (with effect in accordance with [Sch. 16 para. 85](#) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 16\(5\)](#)

22 (1) For the purposes of this Part a [^{F152}dependant's drawdown pension fund] in respect of an arrangement consists of such of the sums and assets held for the purposes of the arrangement—

- [^{F153}(a) as are dependant-designated funds, and
- (b) have not been applied towards the provision of a dependants' scheme pension.]

[^{F154}(2) For the purposes of this Part sums or assets held for the purposes of an arrangement are dependant-designated funds if ^{F155}...—

- (a) [^{F156}they have, at any time before 6 April 2015, been designated] under the arrangement as available for the payment of [^{F157}dependants' drawdown pension]^{F158} ...,
- [^{F159}(aa) they have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of dependants' drawdown pension ^{F158} ..., and—
- (i) sums or assets held for the purposes of the arrangement have, at any time before 6 April 2015, been designated under the arrangement as so available, and
- (ii) section 167(2A) did not apply to the arrangement immediately before 6 April 2015.] or

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- (b) [^{F160}they] arise, or (directly or indirectly) derive, from [^{F161}dependant-designated funds under paragraph (a) or (aa) or from sums or assets] which so arise or derive.
- (3) If any sums or assets representing a [^{F162}person's][^{F163}dependant's drawdown pension fund] in respect of an arrangement under the pension scheme would (apart from this sub-paragraph)—
- (a) come to be taken to represent another [^{F163}dependant's drawdown pension fund] of his under the pension scheme, or [^{F164}a drawdown pension fund] of his under the pension scheme, or
- (b) are applied towards the provision of a scheme pension or a lifetime annuity, they are to be treated as not doing so.]

Textual Amendments

- F152** Words in Sch. 28 para. 22(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 16(2)**
- F153** Sch. 28 para. 22(1)(a)(b) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 21(2)**, 64(1)
- F154** Sch. 28 para. 22(2)(3) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 21(3)**, 64(1)
- F155** Word in Sch. 28 para. 22(2) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 21(a)**
- F156** Words in Sch. 28 para. 22(2)(a) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 21(b)**
- F157** Words in Sch. 28 para. 22(2)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 16(3)**
- F158** Words in Sch. 28 para. 22(2)(a)(aa) omitted (16.9.2016) by virtue of [Finance Act 2016 \(c. 24\)](#), **Sch. 5 para. 6(3)(a)(4)**
- F159** Sch. 28 para. 22(2)(aa) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 21(c)**
- F160** Word in Sch. 28 para. 22(2)(b) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 21(d)(i)**
- F161** Words in Sch. 28 para. 22(2)(b) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 21(d)(ii)**
- F162** Word in Sch. 28 para. 22(3) inserted (16.9.2016) by [Finance Act 2016 \(c. 24\)](#), **Sch. 5 para. 6(3)(b)(4)**
- F163** Words in Sch. 28 para. 22(3) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 16(4)(a)**
- F164** Words in Sch. 28 para. 22(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. 16(4)(b)**

Modifications etc. (not altering text)

- C23** Sch. 28 para. 22 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), **30(1)-(3)**
- C24** Sch. 28 para. 22(2) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 96**

^{F165}*Dependant's flexi-access drawdown fund*

Textual Amendments

- F165** Sch. 28 paras. 22A-22D and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 4(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 4(1)**

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- 22A (1) For the purposes of this Part a dependant's flexi-access drawdown fund in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement as are newly-designated dependant funds.
- (2) For the purposes of this Part sums or assets held for the purposes of an arrangement are newly-designated dependant funds if—
- (a) they—
 - (i) have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of dependants' drawdown pension, and
 - (ii) are not dependant-designated funds, or
 - (b) they were dependant-designated funds immediately before 6 April 2015 and section 167(2A) applied to the arrangement at that time, or
 - (c) they have become newly-designated dependant funds by the operation of paragraph 22B, 22C or 22D, or
 - (d) they arise, or (directly or indirectly) derive, from newly-designated dependant funds under paragraph (a), (b) or (c) or from sums or assets which so arise or derive.
- (3) Any sums or assets that become newly-designated dependant funds under sub-paragraph (2)(b) cease to be dependant-designated funds as from the start of 6 April 2015.

Textual Amendments

F165 Sch. 28 paras. 22A-22D and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 4(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 4\(1\)](#)

Conversion of certain dependants' drawdown funds into flexi-access drawdown funds

- 22B (1) Sub-paragraph (2) applies if—
- (a) a dependant's drawdown pension fund in respect of an arrangement came into being before 6 April 2015,
 - (b) section 167(2A) did not apply to the arrangement immediately before 6 April 2015, and
 - (c) at a time on or after 6 April 2015, a payment—
 - (i) of dependants' income withdrawal from the fund, or
 - (ii) of a dependants' short-term annuity purchased using sums or assets out of the fund,
 is made that (apart from sub-paragraph (2)) would breach the cap.
- (2) The sums and assets that make up the fund immediately before the payment is made become newly-designated dependant funds immediately before the payment is made (so that the payment is made out of the dependant's flexi-access drawdown fund in respect of the arrangement and therefore is not part of the total capped by pension death benefit rule 4).
- (3) For the purposes of sub-paragraph (1)(c), a payment of dependants' drawdown pension in respect of an arrangement is one that would breach the cap if, when its amount is added to the amounts of any dependants' drawdown pension in respect of the arrangement—
- (a) paid—

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- (i) before it is made, but
 - (ii) in the same drawdown pension year in respect of the arrangement, or
- (b) paid at the time it is made,
the total is greater than the cap set by pension death benefit rule 4 for that drawdown pension year.

Textual Amendments

F165 Sch. 28 paras. 22A-22D and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 4(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 4\(1\)](#)

- 22C (1) Sub-paragraph (2) applies if—
- (a) a dependant's drawdown pension fund in respect of an arrangement came into being before 6 April 2015,
 - (b) section 167(2A) did not apply to the arrangement immediately before 6 April 2015, and
 - (c) the dependant notifies the [^{F166}scheme manager] that the dependant wishes the fund to become the dependant's flexi-access drawdown fund in respect of the arrangement.
- (2) At—
- (a) the time the [^{F166}scheme manager] accepts the notification, or
 - (b) the start of 6 April 2015 if that is later,
- the sums and assets that then make up that fund become newly-designated dependant funds, if they have not previously done so by the operation of paragraph 22B.

Textual Amendments

F165 Sch. 28 paras. 22A-22D and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 4(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 4\(1\)](#)

F166 Words in Sch. 28 paras. 22C, 22D substituted by S.I. 2006/207, reg. 14(3)(ea) (as inserted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 33\(3\)\(c\)\(4\)](#) (with [Sch. 1 para. 33\(5\)](#))

- 22D (1) Sub-paragraphs (2) and (3) apply if—
- (a) there is a recognised transfer from one registered pension scheme (“the old scheme”) to another registered pension scheme (“the new scheme”) of dependant-designated funds held for the purposes of an arrangement under the old scheme, and
 - (b) the sums or assets transferred are, under the arrangement under the new scheme for whose purposes they are first held after the transfer, designated as available for the payment of drawdown pension.
- (2) If the dependant, when or before the designation is made, notifies the [^{F166}scheme manager] of the new scheme that the dependant wishes the sums or assets to be newly-designated dependant funds, the sums or assets become newly-designated dependant funds and do so—
- (a) when the designation is made, or
 - (b) if later, immediately after the transfer,
- except that, if both the designation and transfer are made before 6 April 2015, the sums or assets become newly-designated dependant funds at the start of 6 April 2015.

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- (3) If sub-paragraph (2) does not provide for the sums or assets to become newly-designated dependant funds, the sums or assets become dependant-designated funds and do so—
- (a) when the designation is made, or
 - (b) if later, immediately after the transfer.]

Textual Amendments

F165 Sch. 28 paras. 22A-22D and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 4(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 4\(1\)](#)

F166 Words in Sch. 28 paras. 22C, 22D substituted by S.I. 2006/207, reg. 14(3)(ea) (as inserted (6.4.2015) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 33\(3\)\(c\)\(4\)](#) (with [Sch. 1 para. 33\(5\)](#))

[^{F167}*Drawdown pension year and basis amount for drawdown pension year*]

Textual Amendments

F167 Sch. 28 para. 23 cross-heading substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 17\(4\)](#)

- 23 (1) [^{F168}“Drawdown pension year”] means—
- (a) the period of 12 months beginning with the day on which the dependant first becomes entitled to [^{F169}dependants' drawdown pension] in respect of the arrangement, and
 - (b) each succeeding period of 12 months.

[^{F170}This is subject to paragraph 24B.]

- [^{F171}(2) The drawdown pension year in which the dependant dies is the last drawdown pension year and ends immediately before the dependant's death.]

Textual Amendments

F168 Words in Sch. 28 para. 23(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 17\(2\)\(a\)](#)

F169 Words in Sch. 28 para. 23(1)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 17\(2\)\(b\)](#)

F170 Words in Sch. 28 para. 23(1) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 17\(2\)\(c\)](#)

F171 Sch. 28 para. 23(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 17\(3\)](#)

Modifications etc. (not altering text)

C25 Sch. 28 para. 23(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [30\(1\)\(2\)\(4\)](#)

C26 Sch. 28 para. 23(1)(a) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 100\(2\)](#)

C27 Sch. 28 para. 23(1)(a) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 97\(2\)](#)

C28 Sch. 28 para. 23(2) modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 2\(1\)\(2\)\(d\)\(ii\)](#) (with [Sch. 2 para. 2\(1\)](#))

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- ^{F172}(A1) This paragraph applies in relation to drawdown pension years beginning on or before the dependant's 75th birthday.
- (1) Subject as follows, the period of three drawdown pension years beginning with the first drawdown pension year, and each succeeding period of three drawdown pension years, is a “reference period”.
- (1ZA) But the reference period in which the dependant reaches the age of 75 ends with the drawdown pension year in which the dependant reaches that age.]
- ^{F173}(1A) Sub-paragraph (1B) applies if, at any time during a reference period (“the current reference period”), the dependant notifies the scheme administrator that the dependant wishes a new reference period to begin on the next day that is an anniversary of the reference date in relation to the current reference period.
- (1B) The scheme administrator may determine—
- (a) that the current reference period is to end immediately before that day (so that sub-paragraph (1) no longer applies), and
- (b) that (subject to ^{F174}sub-paragraph (1ZA) and] any further operation of this sub-paragraph) the period of ^{F175}three drawdown pension years] beginning with that day, and each succeeding period of ^{F175}three drawdown pension years], is to be a reference period.
- (1C) The first day of each reference period is, in relation to that period, “the reference date”.]
- (2) For the first ^{F176}drawdown pension year] falling within a reference period, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the ^{F177}dependant's drawdown pension fund] on the nominated date (but subject to sub-paragraph (5)).
- (3) “The nominated date” —
- (a) in relation to the first reference period, is the reference date, and
- (b) in relation to any subsequent reference period, is such day, within the period of 60 days ending with the reference date, as is nominated by the scheme administrator (or if no day is nominated by the scheme administrator, is the reference date).
- (4) For each other ^{F178}drawdown pension year] falling within a reference period, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the ^{F179}dependant's drawdown pension fund]—
- (a) if there has been no recent annuity purchase^{F180}, recent additional fund designation or recent pension sharing event], on the nominated date, and
- (b) otherwise, immediately after the last annuity purchase^{F181}, additional fund designation or pension sharing event],
- (but subject to sub-paragraph (5)).
- (5) On the occasion of each additional fund designation during ^{F182}a drawdown pension year], the basis amount for ^{F183}that drawdown pension year] is to be recalculated in accordance with sub-paragraph (6).

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- (6) The basis amount for the [^{F184}drawdown pension year] is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the [^{F185}dependant's drawdown pension fund] immediately after the additional fund designation.
- [^{F186}(6A) But sub-paragraph (5) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.]
- (7) “Annuity purchase” means the purchase of a dependants' scheme pension or dependants' annuity by the application of sums or assets representing the whole or part of the [^{F187}dependant's drawdown pension fund].
- (8) “Additional fund designation” means the designation under the arrangement of further [^{F188}sums or assets] held for the purposes of the arrangement as available for the payment of [^{F189}dependants' drawdown pension] to the dependant.
- [^{F190}(8A) “Pension sharing event” means the coming into operation of a pension sharing order or provision relating to the sums and assets representing the [^{F191}dependant's drawdown pension fund].]
- (9) An annuity purchase[^{F192}, additional fund designation or pension sharing event] is “recent” if it took place during the period—
- (a) beginning with the reference date, and
 - (b) ending with the last day of the immediately preceding [^{F193}drawdown pension year].
- (10) Paragraph 14 defines “relevant annuity”.
- [^{F194}(11)]

Textual Amendments

- F172** Sch. 28 para. 24(1)(1ZA)(A1) substituted for Sch. 28 para. 24(1) (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(2\)](#)
- F173** Sch. 28 para. 24(1)-(1C) substituted (19.7.2007) for Sch. 28 para. 24(1) (with effect in accordance with Sch. 20 para. 24(5) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 para. 8\(3\)](#)
- F174** Words in Sch. 28 para. 24(1B)(b) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(3\)\(a\)](#)
- F175** Words in Sch. 28 para. 24(1B)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(3\)\(b\)](#)
- F176** Words in Sch. 28 para. 24(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(4\)\(a\)](#)
- F177** Words in Sch. 28 para. 24(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(4\)\(b\)](#)
- F178** Words in Sch. 28 para. 24(4) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(4\)\(a\)](#)
- F179** Words in Sch. 28 para. 24(4) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(4\)\(b\)](#)
- F180** Words in Sch. 28 para. 24(4)(a) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 22\(2\)\(a\)](#), [64\(1\)](#)
- F181** Words in Sch. 28 para. 24(4)(b) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 22\(2\)\(b\)](#), [64\(1\)](#)

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- F182** Words in Sch. 28 para. 24(5) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(5\)\(a\)](#)
- F183** Words in Sch. 28 para. 24(5) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(5\)\(b\)](#)
- F184** Words in Sch. 28 para. 24(6) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(6\)\(a\)](#)
- F185** Words in Sch. 28 para. 24(6) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(6\)\(b\)](#)
- F186** Sch. 28 para. 24(6A) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(7\)](#)
- F187** Words in Sch. 28 para. 24(7) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(8\)](#)
- F188** Words in Sch. 28 para. 24(8) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(9\)\(a\)](#)
- F189** Words in Sch. 28 para. 24(8) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(9\)\(b\)](#)
- F190** Sch. 28 para. 24(8A) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 22\(3\)](#), 64(1)
- F191** Words in Sch. 28 para. 24(8A) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(10\)](#)
- F192** Words in Sch. 28 para. 24(9) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 22\(4\)](#), 64(1)
- F193** Words in Sch. 28 para. 24(9)(b) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 18\(11\)](#)
- F194** Sch. 28 para. 24(11) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(iv\)\(4\)](#)

Modifications etc. (not altering text)

- C29** Sch. 28 para. 24 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), 3, 5(1)(3)
- C30** Sch. 28 para. 24 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 98\(2\)\(b\)](#)
- C31** Sch. 28 para. 24(4) applied (with modifications) (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 98\(7\)](#)
- C32** Sch. 28 para. 24(7)-(8A) modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 98\(8\)](#)

[^{F195}24(1)] This paragraph applies in relation to drawdown pension years beginning after the dependant's 75th birthday.

- (2) For each drawdown pension year beginning after the dependant reached the age of 75, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's drawdown pension fund on the nominated date.
- (3) “The nominated date” is such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the first day of that year).
- (4) On the occasion of each additional fund designation during a drawdown pension year, the basis amount of that drawdown pension year is to be recalculated in accordance with sub-paragraph (5).
- (5) The basis amount for the drawdown pension year is the annual amount of the relevant annuity which could have been purchased by the application of the sums

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and assets representing the dependant's drawdown pension fund immediately after the additional fund designation.

(6) But sub-paragraph (4) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.

(7) “Additional fund designation” has the meaning given by paragraph 24(8).

(8) Paragraph 14 defines “relevant annuity”.

^{F196}(9)

Textual Amendments
F195 Sch. 28 paras. 24A, 24B inserted (with effect in accordance with Sch. 16 paras. 85, 99(3) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 19**
F196 Sch. 28 para. 24A(9) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(e)(v)(4)**

- 24B (1) This paragraph applies if the dependant has reached the age of 75.
- (2) Sub-paragraph (3) applies if, at any time during a drawdown pension year in respect of an arrangement (“the current drawdown pension year”), the dependant notifies the scheme administrator that the dependant wishes the drawdown pension year following the current drawdown pension year to begin on the day on which the next drawdown pension year in respect of another arrangement relating to the dependant under the pension scheme (including any arrangement relating to that person as a member of the scheme) will begin.
- (3) The scheme administrator may determine—
- (a) that the current drawdown pension year is to end immediately before that day, and
 - (b) that the period of 12 months beginning with that day, and each succeeding period of 12 months, is a drawdown pension year in respect of the arrangement.
- (4) The scheme administrator may not make a determination under this paragraph more than once in relation to the same arrangement.]

Textual Amendments
F195 Sch. 28 paras. 24A, 24B inserted (with effect in accordance with Sch. 16 paras. 85, 99(3) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 19**

Minimum income requirement

^{F197}24C

Textual Amendments
F197 Sch. 28 paras. 24C-24G omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(e)(vi)(4)**

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F197^{24D}

Textual Amendments

F197 Sch. 28 paras. 24C-24G omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(vi\)\(4\)](#)

The relevant day

F197^{24E}

Textual Amendments

F197 Sch. 28 paras. 24C-24G omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(vi\)\(4\)](#)

Relevant contributions

F197^{24F}

Textual Amendments

F197 Sch. 28 paras. 24C-24G omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(vi\)\(4\)](#)

Valid and accepted declarations

F197^{24G}

Textual Amendments

F197 Sch. 28 paras. 24C-24G omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(e\)\(vi\)\(4\)](#)

Dependant's alternatively secured pension fund

F198²⁵

Textual Amendments

F198 Sch. 28 paras. 25-27 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. 78\(d\)](#)

Alternatively secured pension year and basis amount for alternatively secured pension year

F198²⁶

Textual Amendments

F198 Sch. 28 paras. 25-27 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. 78\(d\)](#)

F198²⁷

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Textual Amendments

F198 Sch. 28 paras. 25-27 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. 78\(d\)](#)

F¹⁹⁹ Meaning of “nominee”

Textual Amendments

F199 Sch. 28 paras. 27A-27K and cross-headings inserted (17.12.2014) (with effect in accordance with Sch. 2 para. 3(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 3\(1\)](#)

- 27A (1) “Nominee of the member” means an individual—
- (a) nominated by the member, or
 - (b) nominated by the scheme administrator,
- who is not a dependant of the member, but see sub-paragraph (2).
- (2) In relation to any particular benefits under an arrangement, no individual nominated by the scheme administrator counts as a nominee of the member at any time when there is—
- (a) a dependant of the member, or
 - (b) an individual, or charity, nominated by the member in relation to the benefits.
- (3) The reference in sub-paragraph (2)(b) to being nominated in relation to particular benefits under an arrangement includes—
- (a) a reference to being nominated in relation to the scheme,
 - (b) a reference to being nominated in relation to arrangements that include the arrangement,
 - (c) a reference to being nominated in relation to the arrangement, and
 - (d) a reference to being nominated in relation to benefits that include the particular benefits.

F²⁰⁰ Nominees' annuity

Textual Amendments

F200 Sch. 28 para. 27AA and cross-heading inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 3\(2\)](#) (with [Sch. 4 para. 3\(4\)](#))

- 27AA (1) For the purposes of this Part an annuity payable to a nominee is a nominees' annuity if—
- (a) either—
 - (i) it is purchased together with a lifetime annuity payable to the member and the member becomes entitled to that lifetime annuity on or after 6 April 2015, or
 - (ii) it is purchased after the member's death, the member dies on or after 3 December 2014 and the nominee becomes entitled to the annuity on or after 6 April 2015,

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- (b) it is payable by an insurance company, and
 - (c) it is payable until the nominee's death or until the earliest of the nominee's marrying, entering into a civil partnership or dying.
- (2) For the purposes of sub-paragraph (1)(a) a nominees' annuity is purchased together with a lifetime annuity if the nominees' annuity is related to the lifetime annuity.
- (3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a nominees' annuity payable to a person (“the original nominees' annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—
 - (i) towards the provision of another nominees' annuity (a “new nominees' annuity”) by the other insurance company, or
 - (ii) otherwise, or
 - (b) sums or assets are transferred to the relevant registered pension scheme.
- (4) The regulations may provide that—
- (a) in a case where a new nominees' annuity becomes payable, the new nominees' annuity 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 nominees' annuity, and
 - (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.
- (5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original nominees' annuity was acquired using sums or assets held for the purposes of the pension scheme.]

Nominees' drawdown pension

- 27B “Nominees' drawdown pension” means—
- (a) a nominees' short-term annuity, or
 - (b) nominees' income withdrawal.

Nominees' short-term annuity

- 27C (1) For the purposes of this Part an annuity payable to a nominee is a nominees' short-term annuity if—
- (a) it is purchased by the application of sums or assets representing the whole or any part of the nominee's flexi-access drawdown fund in respect of an arrangement,
 - (b) it is payable by an insurance company,
 - (c) the nominee becomes entitled to it on or after 6 April 2015, and
 - (d) it is payable for a term which does not exceed five years and ends before the nominee dies.
- (2) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a nominees' short-term annuity payable

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to a person (“the original nominees' short-term annuity”) ceases to be payable and in consequence of that—

- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—
 - (i) towards the provision of another nominees' short-term annuity (a “new nominees' short-term annuity”) by the other insurance company, or
 - (ii) otherwise, or
 - (b) sums or assets are transferred to the relevant registered pension scheme.
- (3) The regulations may provide that—
- (a) in a case where a new nominees' short-term annuity becomes payable, the new nominees' short-term annuity 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 nominees' short-term annuity, and
 - (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.
- (4) For the purposes of sub-paragraphs (2) and (3) a registered pension scheme is the relevant registered pension scheme if the original nominees' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.

Nominees' income withdrawal

27D “Nominees' income withdrawal” means an amount (other than an annuity) which the nominee is entitled to be paid from the nominee's flexi-access drawdown fund in respect of an arrangement.

Nominee's flexi-access drawdown fund

- 27E (1) For the purposes of this Part a nominee's flexi-access drawdown fund in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement as are newly-designated nominee funds.
- (2) For the purposes of this Part sums or assets held for the purposes of an arrangement are newly-designated nominee funds if—
- (a) they—
 - (i) have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of nominees' drawdown pension, and
 - (ii) were, immediately before being so designated, unused drawdown funds or unused uncrystallised funds, or
 - (b) they arise, or (directly or indirectly) derive, from newly-designated nominee funds under paragraph (a) or from sums or assets which so arise or derive.
- (3) Sums or assets held for the purposes of an arrangement after the member's death are unused drawdown funds if—
- (a) immediately before the member's death, they were held for the purposes of the arrangement and represented (whether alone or with other sums or assets)

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- the member's flexi-access drawdown fund, or drawdown pension fund, in respect of the arrangement, or
- (b) they arise, or (directly or indirectly) derive, from unused drawdown funds under paragraph (a) or from sums or assets which so arise or [^{F201}derive.]
- [^{F202}and since the member's death they have not been designated as available for the payment of dependants' drawdown pension, not been designated as available for the payment of nominees' drawdown pension, not been applied towards the provision of a dependants' annuity, not been applied towards the provision of a nominees' annuity and not been applied towards the provision of a dependants' scheme pension.]
- (4) In the case of a cash balance arrangement, sums or assets held for the purposes of the arrangement after the member's death are unused uncrystallised funds if—
- (a) they represent the whole or any part of the sum that would have been available immediately before the member's death for the provision of benefits to or in respect of the member if entitlement had arisen immediately before the member's death to all benefits under the arrangement to which entitlement had not previously arisen, and
- (b) since the member's death they have not been designated as available for the payment of dependants' drawdown pension, not been designated as available for the payment of nominees' drawdown pension, not been applied towards the provision of a dependants' annuity [^{F203}, not been applied towards the provision of a nominees' annuity] and not been applied towards the provision of a dependants' scheme pension.
- (5) In the case of any other money purchase arrangement, sums or assets held for the purposes of the arrangement after the member's death are unused uncrystallised funds if—
- (a) immediately before the member's death they were held for the purposes of the arrangement and at that time—
- (i) were not member-designated funds,
- (ii) were not newly-designated funds,
- (iii) had not been applied towards the provision of a scheme pension, and
- (iv) had not been applied towards the provision of a dependants' scheme pension, or
- (b) they arise, or (directly or indirectly) derive, from unused uncrystallised funds under paragraph (a) or from sums or assets which so arise or derive,
- and since the member's death they have not been designated as available for the payment of dependants' drawdown pension, not been designated as available for the payment of nominees' drawdown pension, not been applied toward the provision of a dependants' annuity [^{F204}, not been applied towards the provision of a nominees' annuity] and not been applied toward the provision of a dependants' scheme pension.

Textual Amendments

F201 Word in Sch. 28 para. 27E(3)(b) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(4\)\(a\)](#)

F202 Words in Sch. 28 para. 27E(3) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(4\)\(b\)](#)

F203 Words in Sch. 28 para. 27E(4)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(5\)](#)

F204 Words in Sch. 28 para. 27E(5) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(5\)](#)

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Modifications etc. (not altering text)

- C33** Sch. 28 paras. 27E(3)-(5) applied by 2003 c. 1, s. 646B(5) (as inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 17\(1\)](#))
- C34** Sch. 28 paras. 27E(3)-(5) applied by 2003 c. 1, s. 646D(5) (as inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 17\(1\)](#))
- C35** Sch. 28 para. 27E(4)(5) applied by 2003 c. 1, s. 646C(9) (as inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 17\(1\)](#))
- C36** Sch. 28 paras. 27E(4) applied (17.12.2014) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#), [s. 579CZA\(9\)](#) (as inserted (with effect in accordance with Sch. 2 para. 25(7)) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 25\(5\)](#))
- C37** Sch. 28 paras. 27E(5) applied (17.12.2014) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c.1\)](#), [s. 579CZA\(9\)](#) (as inserted (with effect in accordance with Sch. 2 para. 25(7)) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 25\(5\)](#))

Meaning of “successor”

- 27F (1) “Successor of the member” means an individual—
- (a) nominated by a dependant of the member,
 - (b) nominated by a nominee of the member,
 - (c) nominated by a successor of the member, or
 - (d) nominated by the scheme administrator,
- but see sub-paragraph (2).
- (2) In relation to any particular benefits under an arrangement relating to a dependant, nominee or successor of the member (“the beneficiary”) in that capacity, no individual nominated by the scheme administrator counts as a successor of the member at any time after the beneficiary's death when there is an individual, or charity, nominated by the beneficiary in relation to the benefits.
- (3) A reference in sub-paragraph (2) to being nominated in relation to particular benefits under an arrangement includes—
- (a) a reference to being nominated in relation to the scheme,
 - (b) a reference to being nominated in relation to arrangements that include the arrangement,
 - (c) a reference to being nominated in relation to the arrangement, and
 - (d) a reference to being nominated in relation to benefits that include the particular benefits.
- (4) Where a successor of the member is an individual who is also a dependant of the member, the individual in the capacity of a successor of the member is to be treated as not also being a dependant of the member.

^{F205}Successors' annuity

Textual Amendments

- F205** Sch. 28 para. 27FA and cross-heading inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 3\(3\)](#) (with [Sch. 4 para. 3\(4\)](#))

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Modifications etc. (not altering text)

- C38** Sch. 28 para. 27FA(2) applied by 2003 c. 1, s. 646D(6) (as inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by Finance Act 2015 (c. 11), Sch. 4 para. 17(1))
- C39** Sch. 28 para. 27FA(2) applied by 2003 c. 1, s. 646B(6) (as inserted (with effect in accordance with Sch. 4 para. 17(2) of the amending Act) by Finance Act 2015 (c. 11), Sch. 4 para. 17(1))

- 27FA (1) For the purposes of this Part an annuity payable to a successor is a successors' annuity if—
- (a) the successor becomes entitled to it on or after 6 April 2015,
 - (b) it is payable by an insurance company,
 - (c) it is payable until the successor's death or until the earliest of the successor's marrying, entering into a civil partnership or dying,
 - (d) it is purchased after the death of a dependant, nominee or successor of the member (“the beneficiary”),
 - (e) it is purchased using undrawn funds, and
 - (f) the beneficiary dies on or after 3 December 2014.
- (2) For the purposes of sub-paragraph (1)(e), sums or assets held for the purposes of an arrangement after the beneficiary's death are undrawn funds if—
- (a) immediately before the beneficiary's death, they were held for the purposes of the arrangement and, as the case may be, represented (alone or with other sums or assets) the beneficiary's—
 - (i) dependant's flexi-access drawdown fund,
 - (ii) dependant's drawdown pension fund,
 - (iii) nominee's flexi-access drawdown fund, or
 - (iv) successor's flexi-access drawdown fund,in respect of the arrangement, or
 - (b) they arise, or (directly or indirectly) derive, from undrawn funds under paragraph (a) or from sums or assets which so arise or derive.
- (3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a successors' annuity payable to a person (“the original successors' annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—
 - (i) towards the provision of another successors' annuity (a “new successors' annuity”) by the other insurance company, or
 - (ii) otherwise, or
 - (b) sums or assets are transferred to the relevant registered pension scheme.
- (4) The regulations may provide that—
- (a) in a case where a new successors' annuity becomes payable, the new successors' annuity 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 successors' annuity, and
 - (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

- (5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original successors' annuity was acquired using sums or assets held for the purposes of the pension scheme.]

Successors' drawdown pension

- 27G “Successors' drawdown pension” means—
- (a) a successors' short-term annuity, or
 - (b) successors' income withdrawal.

Successors' short-term annuity

- 27H (1) For the purposes of this Part an annuity payable to a successor is a successors' short-term annuity if—
- (a) it is purchased by the application of sums or assets representing the whole or any part of the successor's flexi-access drawdown fund in respect of an arrangement,
 - (b) it is payable by an insurance company,
 - (c) the successor becomes entitled to it on or after 6 April 2015, and
 - (d) it is payable for a term which does not exceed five years and ends before the successor dies.
- (2) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision in relation to cases in which a successors' short-term annuity payable to a person (“the original successors' short-term annuity”) ceases to be payable and in consequence of that—
- (a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied—
 - (i) towards the provision of another successors' short-term annuity (a “new successors' short-term annuity”) by the other insurance company, or
 - (ii) otherwise, or
 - (b) sums or assets are transferred to the relevant registered pension scheme.
- (3) The regulations may provide that—
- (a) in a case where a new successors' short-term annuity becomes payable, the new successors' short-term annuity 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 successors' short-term annuity, and
 - (b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the sums, and the market value of the assets, transferred.
- (4) For the purposes of sub-paragraphs (2) and (3) a registered pension scheme is the relevant registered pension scheme if the original successors' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.

Status: Point in time view as at 16/09/2016.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28. (See end of Document for details)

Successors' income withdrawal

- 27J “Successors' income withdrawal” means an amount (other than an annuity) which the successor is entitled to be paid from the successor's flexi-access drawdown fund in respect of an arrangement.

Successor's flexi-access drawdown fund

- 27K (1) For the purposes of this Part a successor's flexi-access drawdown fund in respect of an arrangement consists of such of the sums or assets held for the purposes of the arrangement as are newly-designated successor funds.
- (2) For the purposes of this Part sums or assets held for the purposes of an arrangement are newly-designated successor funds if—
- (a) they—
- (i) have, at any time on or after 6 April 2015, been designated under the arrangement as available for the payment of successors' drawdown pension, and
- (ii) were, immediately before being so designated, unused drawdown funds of the same deceased dependant, nominee or successor of the member, or
- (b) they arise, or (directly or indirectly) derive, from newly-designated successor funds under paragraph (a) or from sums or assets which so arise or derive.
- (3) Sums or assets held for the purposes of an arrangement after the death of a dependant, nominee or successor (“the beneficiary”) are unused drawdown funds of the beneficiary's if—
- (a) immediately before the beneficiary's death, they were held for the purposes of the arrangement and represented (whether alone or with other sums or assets) the beneficiary's—
- (i) dependant's flexi-access drawdown fund,
- (ii) dependant's drawdown pension fund,
- (iii) nominee's flexi-access drawdown fund, or
- (iv) successor's flexi-access drawdown fund,
- in respect of the arrangement, or
- (b) they arise, or (directly or indirectly) derive, from unused drawdown funds of the beneficiary's under paragraph (a) or from sums or assets which so arise or [^{F206}derive,]
- [^{F207}and since the beneficiary's death they have not been designated as available for the payment of successors' drawdown pension and not been applied towards the provision of a successors' annuity.]

Textual Amendments

F206 Word in Sch. 28 para. 27K(3)(b) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(6\)](#)
(a)

F207 Words in Sch. 28 para. 27K(3) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 13\(6\)\(b\)](#)

Status:

Point in time view as at 16/09/2016.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, SCHEDULE 28.