

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

SCHEDULES

SCHEDULE 36

PENSION SCHEMES ETC: TRANSITIONAL PROVISIONS AND SAVINGS

Modifications etc. (not altering text)

- C1** Sch. 36 modified by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), art. 23D (as inserted (1.6.2009) by S.I. 2009/1172, arts. 1, 3)
- C2** Sch. 36 applied (1.6.2018) by The Local Government Pension Scheme (Scotland) Regulations 2018 (S.S.I. 2018/141), regs. 1(1), **48(2)**

PART 3

PRE-COMMENCEMENT BENEFIT RIGHTS

Modifications etc. (not altering text)

- C3** Sch. 36 Pt. 3 modified (6.4.2006) by The Pension Protection Fund (Tax) Regulations 2006 (S.I. 2006/575), regs. 1, **31(1)**

Rights to take [^{F1}benefit] before normal minimum pension age

Textual Amendments

- F1** Word in Sch. 36 para. 21 heading substituted (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. **54(3)**, 64(1)

- 21 (1) If paragraph 22 [^{F2}, 23 or 23ZB] applies in relation to a registered pension scheme and a member of the pension scheme, this Part of this Act (except for section 218(6) and paragraph 19) has effect in relation to the member and the pension scheme as if references to normal minimum pension age were to the member's protected pension age.

- (2) Paragraphs 22(8) [^{F3}, 23(8) and 23ZB(7)] define the member's protected pension age.

Textual Amendments

- F2** Words in Sch. 36 para. 21(1) substituted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(4)(a)
- F3** Words in Sch. 36 para. 21(2) substituted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(4)(b)

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

[^{F4}Protected pension age: scheme rights existing before 6 April 2006]

Textual Amendments

F4 Sch. 36 para. 22 cross-heading inserted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(6)(a)

- 22 (1) This paragraph applies in relation to a registered pension scheme and a member of the pension scheme if—
- (a) the pension scheme is a protected pension scheme, and
 - (b) the retirement condition is met in relation to the member and the pension scheme.
- (2) A pension scheme is a protected pension scheme if condition A or condition B is met.
- (3) Condition A is met if—
- (a) the pension scheme was within any of paragraphs (a) to (e) of paragraph 1(1), and
 - (b) the entitlement condition is met in relation to the member and the pension scheme.
- (4) The entitlement condition is met in relation to the member and the pension scheme if—
- (a) on 5th April 2006 the member had an actual or prospective right under the pension scheme to [^{F5}any benefit] from an age of less than 55,
 - (b) the rules of the pension scheme on 10th December 2003 included provision conferring such a right on some or all of the persons who were then members of the pension scheme, and
 - (c) such a right either was then conferred on the member or would have been had the member been a member of the scheme on that date.
- (5) Condition B is met if the member is a member of the pension scheme [^{F6}(“a transferee pension scheme”) as a result of—
- (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.]
- (6) A transfer is a block transfer if—
- (a) it involves the transfer in a single transaction of all the sums and assets held for the purposes of, or representing accrued rights under, the arrangements under the pension scheme from which the transfer is made which relate to the member and at least one other member of that pension scheme, and
 - [^{F7}(b) either the member was not a member of the pension scheme to which the transfer is made before the transfer or he has been a member of that pension scheme for no longer than such period as is prescribed by regulations made by the Board of Inland Revenue.]
- [^{F8}(6A) A transfer is also a block transfer if—
- (a) it involves the transfer in a single transaction of all the sums and assets held for the purposes of, or representing accrued rights under, the arrangements

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- under the pension scheme from which the transfer is made which relate to the member,
- (b) the transfer takes place—
 - (i) on or after 19 March 2014, and
 - (ii) before 6 April 2015, and
 - (c) the date mentioned in sub-paragraph (7)(a) is before 6 October 2015.]
- (7) The retirement condition is met in relation to the member and the pension scheme if—
- (a) the member becomes entitled to all the [F⁹benefits] payable to the member under arrangements under the pension scheme (to which the member did not have an actual entitlement on or before 5th April 2006) on the same date, and
 - [F¹⁰(b) in a case where on 5th April 2006 the member had an actual or prospective right under the pension scheme to any benefit from an age of less than 50, Condition 1 is met or, in any other case, Condition 2 or 3 is met.]
- [F¹¹(7A) Condition 1 is met if—
- (a) the member is not, after becoming entitled to the benefits mentioned in sub-paragraph (7)(a), employed by a person who is a sponsoring employer in relation to the pension scheme and with whom the member is connected, and
 - (b) the member's becoming entitled to those benefits is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.
- (7B) Condition 2 is met if—
- (a) the member is not, after becoming entitled to the benefits mentioned in sub-paragraph (7)(a), employed by a person specified in sub-paragraph (7C), and
 - (b) the member's becoming entitled to those benefits is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.
- (7C) The persons referred to in sub-paragraph (7B)(a) are—
- (a) any person who was a sponsoring employer in relation to the pension scheme at any time during the period of six months ending with the day on which the member became entitled to the benefits mentioned in sub-paragraph (7)(a) and by whom the member was employed at any time during that period,
 - (b) any person who is connected with any such person, or
 - (c) any person who is a sponsoring employer in relation to the pension scheme and with whom the member is connected.
- (7D) If the member has become entitled to the benefits payable under arrangements under the pension scheme by reason of service in the armed forces of the Crown, any employment on compulsory recall is to be disregarded for the purposes of sub-paragraph (7B)(a).
- (7E) Condition 3 is met if—
- (a) paragraph (a) of sub-paragraph (7B) is not satisfied but one of the re-employment conditions is met, and
 - (b) paragraph (b) of that sub-paragraph is satisfied.
- (7F) The re-employment conditions are—

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)*

- (a) that the member is not employed as mentioned in sub-paragraph (7B)(a) during the period of six months beginning with the day on which the member becomes entitled to the benefits mentioned in sub-paragraph (7)(a), and
- (b) that the member is not employed as mentioned in sub-paragraph (7B)(a) during the period of one month beginning with that day, but is so employed during the period of five months beginning at the end of that period, and either the pension abatement condition or the materially different employment condition is met ^{[^{F12}}, and
- (c) that the member is or was employed as mentioned in sub-paragraph (7B)(a) where—
 - (i) the employment began at any time during the coronavirus period, and
 - (ii) the only or main reason that the member was taken into employment was to help the employer to respond to the public health, social, economic or other effects of coronavirus.]

(7G) The pension abatement condition is met if—

- (a) the pension scheme is a public service pension scheme, and
- (b) the member's benefits under the scheme consist of or include a scheme pension which is liable to reduction by abatement while the member is employed as mentioned in sub-paragraph (7B)(a) and is under the age of 55.

(7H) The materially different employment condition is met—

- (a) in a case where the member is employed as mentioned in sub-paragraph (7B)(a) in more than one employment during the period of five months mentioned in sub-paragraph (7F)(b), if each of those employments, and
- (b) otherwise, if the employment in which the member is so employed during that period,

is materially different in nature from the employment in which the member was employed immediately before becoming entitled to the benefits mentioned in sub-paragraph (7)(a).

(7I) For the purposes of sub-paragraph (7D) “employment on compulsory recall” means permanent service—

- (a) under Part 4 of the Reserve Forces Act 1996,
- (b) under Part 5 of that Act,
- (c) under a call-out or recall order made under that Act,
- (d) having been called out or recalled under the Reserve Forces Act 1980, or
- (e) because of any other call-out or recall obligation of an officer.

(7J) ^{[^{F13}}Section 1122 of the Corporation Tax Act 2010] (connected persons) applies for the purposes of this paragraph.]

^{[^{F14}}(7K) In sub-paragraph (7F)(c)—

“coronavirus” has the same meaning as in the Coronavirus Act 2020 (see section 1(1) of that Act);

“the coronavirus period” means the period beginning with 1 March 2020 and ending with 1 November 2020.

(7L) The Treasury may by regulations amend the definition of “the coronavirus period” in sub-paragraph (7K) so as to replace the later of the dates specified in it with another date falling before 6 April 2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

(7M) The power in sub-paragraph (7L) may be exercised on more than one occasion.]

(8) The member's protected pension age is the age from which the member had an actual or prospective right to [^{F15}any benefit] under the protected pension scheme on 5th April 2006 (or, where condition B is met, under the original pension scheme on that date).

(9) But this paragraph does not have effect so as to give the member a protected pension age of more than 50 at any time before 6th April 2010.

Textual Amendments

- F5** Words in Sch. 36 para. 22(4)(a) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 54\(5\)](#), [64\(1\)](#)
- F6** Words in Sch. 36 para. 22(5) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 55\(3\)](#), [64\(1\)](#)
- F7** Sch. 36 para. 22(6)(b) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 55\(4\)](#), [64\(1\)](#)
- F8** Sch. 36 para. 22(6A) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 7\(1\)](#), [15](#)
- F9** Word in Sch. 36 para. 22(7)(a) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 54\(6\)](#), [64\(1\)](#)
- F10** Sch. 36 para. 22(7)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. [161\(2\)](#), [Sch. 23 para. 43\(2\)](#)
- F11** Sch. 36 para. 22(7A)-(7J) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. [161\(2\)](#), [Sch. 23 para. 43\(3\)](#)
- F12** Sch. 36 para. 22(7F)(c) and word inserted (retrospective to 1.3.2020) by [Finance Act 2020 \(c. 14\)](#), s. [108\(2\)\(4\)](#)
- F13** Words in Sch. 36 para. 22(7J) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. [1184\(1\)](#), [Sch. 1 para. 432\(3\)](#) (with Sch. 2)
- F14** Sch. 36 para. 22(7K)-(7M) inserted (retrospective to 1.3.2020) by [Finance Act 2020 \(c. 14\)](#), s. [108\(3\)\(4\)](#)
- F15** Words in Sch. 36 para. 22(8) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 54\(7\)](#), [64\(1\)](#)

Modifications etc. (not altering text)

- C4** Sch. 36 para. 22(7)(a) modified by S.I. 2006/572, art. 43(3) (as inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. [1\(1\)](#), [4](#))
- C5** Sch. 36 para. 22(7)(a) modified by S.I. 2006/572, art. 42(3) (as inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. [1\(1\)](#), [4](#))

23 (1) This paragraph applies in relation to a registered pension scheme and a member of the pension scheme if—

- (a) the pension scheme is a protected pension scheme, and
- (b) the retirement condition is met in relation to the member and the pension scheme.

(2) A pension scheme is a protected pension scheme if condition A or condition B is met.

(3) Condition A is met if—

- (a) the pension scheme was within paragraph (f) or (g) of paragraph 1(1), and
- (b) the entitlement condition is met in relation to the member and the pension scheme.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (4) The entitlement condition is met in relation to the member and the pension scheme if—
- (a) on 5th April 2006 the member had an actual or prospective right under the pension scheme to a pension from an age of less than 50, and
 - (b) the member’s occupation was on that date (or had been) one prescribed by regulations made by the Board of Inland Revenue.
- (5) Condition B is met if the member is a member of the pension scheme [^{F16}(“a transferee pension scheme”) as a result of—
- (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.]
- (6) “Block transfer” has the same meaning as in paragraph 22(6) [^{F17}and (6A), but for this purpose paragraph 22(6A)(c) is to be read as if its reference to paragraph 22(7) (a) were a reference to sub-paragraph (7) of this paragraph].
- (7) The retirement condition is met in relation to the member and the pension scheme if the member becomes entitled to all the pensions payable to the member under arrangements under the pension scheme (to which the member did not have an actual entitlement on or before 5th April 2006) on the same date.
- (8) The member’s protected pension age is the age from which the member had an actual or prospective right to a pension under the protected pension scheme on 5th April 2006 (or, where condition B is met, under the original pension scheme on that date).

Textual Amendments

- F16** Words in Sch. 36 para. 23(5) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\), Sch. 10 paras. 55\(5\), 64\(1\)](#)
- F17** Words in Sch. 36 para. 23(6) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\), Sch. 5 paras. 7\(2\), 15](#)

Modifications etc. (not altering text)

- C6** Sch. 36 para. 23(7) modified by S.I. 2006/572, art. 42(3) (as inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\), arts. 1\(1\), 4](#))
- C7** Sch. 36 para. 23(7) modified by S.I. 2006/572, art. 43(4) (as inserted (with effect in accordance with art. 1(3) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\), arts. 1\(1\), 4](#))

[^{F18}23~~(A)~~] Sub-paragraph (2) applies if—

- (a) there is a recognised transfer from one registered pension scheme (“the old scheme”) to another registered pension scheme (“the new scheme”), and
- (b) as a result of paragraph 21 or the previous operation of sub-paragraph (2), immediately before the transfer this Part (except for section 218(6) and paragraph 19) applied in relation to all of the transferred sums or assets as if references to normal minimum pension age were to the member’s protected pension age as defined by paragraph 22(8) or, as the case may be, paragraph 23(8).

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (2) This Part [^{F19}of this Act] (except for section 218(6) and paragraph 19) applies in relation to—
- (a) the transferred sums or assets while held for the purposes of an arrangement under the new scheme, and
 - (b) any sums or assets held for the purposes of such an arrangement that arise, or (directly or indirectly) derive, from—
 - (i) any of the transferred sums or assets, or
 - (ii) sums or assets which so arise or derive,
- as if references to normal minimum pension age were to the member's protected pension age as defined by paragraph 22(8) or, as the case may be, paragraph 23(8).
- (3) Paragraphs 22(7)(a) and 23(7) have effect as if the benefits or pensions to which they refer do not include any that are in respect of sums or assets within sub-paragraph (2) (a) or (b) of this paragraph.]

Textual Amendments

- F18** Sch. 36 para. 23ZA inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 78(2) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), Sch. 1 para. 78(1)
- F19** Words in Sch. 36 para. 23ZA(2) inserted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(6)(b)

Protected pension age: scheme rights existing before 4 November 2021

- [^{F20}23~~(B)~~] This paragraph applies in relation to a relevant registered pension scheme and a member of the pension scheme if—
- (a) neither paragraph 22 nor 23 applies in relation to them, and
 - (b) the entitlement condition or the block transfer condition is met in relation to the scheme and the member.
- (2) A registered pension scheme is “relevant” if it is not a uniformed services pension scheme (as defined in section 279(4)).
- (3) The entitlement condition is met if—
- (a) immediately before 4 November 2021 the member had an actual or prospective right under the pension scheme to any benefit from an age of less than 57,
 - (b) the rules of the pension scheme on 11 February 2021 included provision conferring such a right on some or all of the persons who were then members of the pension scheme, and
 - (c) the member either had such a right under the scheme on 11 February 2021 or would have had such a right had the member been a member of the scheme on 11 February 2021.
- (4) Where—
- (a) a recognised transfer is made on or after 4 November 2021 in execution of a request made before that date, and
 - (b) that transfer would, if executed before that date, have resulted in the member having an actual or prospective right under a pension scheme to any benefit from the age of less than 57 immediately before that date,

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

the member is, for the purposes of this paragraph, to be treated as having that right under that scheme at that time.

- (5) The block transfer condition is met if the member is a member of the pension scheme (the “transferee pension scheme”) as a result of—
- (a) a block transfer to the transferee pension scheme on or after 4 November 2021 from a pension scheme (the “original pension scheme”) where the entitlement condition is met in relation to the original scheme and the member,
 - (b) a block transfer to the transferee pension scheme from a pension scheme (the “original pension scheme”) on or before 3 November 2021 where—
 - (i) immediately before the transfer the member had an actual or prospective right under the original pension scheme to any benefit from an age of less than 57,
 - (ii) the rules of the original pension scheme met paragraph (b) of the entitlement condition, and
 - (iii) paragraph (c) of that condition is met in relation to the original pension scheme and the member, or
 - (c) a block transfer to the transferee pension scheme from a pension scheme (the “transferor pension scheme”) that was a transferee pension scheme in relation to an original pension scheme or another transferor pension scheme by virtue of the previous application of paragraph (a) or (b) or the previous application (on one or more occasions) of this paragraph.
- (6) For the purposes of sub-paragraph (5), a transfer is a “block transfer”, if it involves the transfer, in a single transaction, of all of the sums and assets held for the purposes of, or representing accrued rights under, the arrangements under a pension scheme which relate to the member and at least one other member of the scheme.
- (7) The member’s protected pension age is the higher of 55 and the age from which the member had an actual or prospective right to any benefit immediately before 4 November 2021 under—
- (a) in a case where the entitlement condition is met in relation to the member and the scheme, that scheme, or
 - (b) in a case where the block transfer condition is met in relation to the member and the scheme and the entitlement condition is not so met, whichever of that scheme, the original scheme or the transferor scheme that the member was a member of at that time.
- (8) But this paragraph does not have effect so as to give the member a protected pension age of more than 55 at any time before 6 April 2028.

Textual Amendments

F20 Sch. 36 paras. 23ZB, 23ZC and cross-headings inserted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(5)

^{F20}~~23ZC~~ This paragraph applies in relation to sums or assets of a relevant registered pension scheme and the member of the scheme to which those sums and assets relate if—

- (a) none of paragraphs 22, 23 or 23ZB apply in relation to the scheme and the member, and
- (b) those sums or assets were subject to a relevant transfer to the scheme.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (2) Sums or assets relate to a member of a pension scheme if they are held by that scheme for the purposes of, or represent accrued rights under, an arrangement relating to the member under the pension scheme.
- (3) Sums or assets were subject to a relevant transfer to a relevant registered pension scheme if they were transferred to that scheme from another relevant registered pension scheme (“the transferor scheme”) as a result of a recognised transfer and, immediately before the transfer—
 - (a) they were sums or assets held by the transferor scheme for the purposes of, or representing accrued rights under, an arrangement relating to a member of the transferor scheme, and
 - (b) paragraph 23ZB applied in relation to the transferor scheme and that member or this paragraph applied to those sums or assets and that member as a result of a relevant transfer to the transferor scheme.
- (4) If this paragraph applies in relation to sums or assets (“transferred sums or assets”) and a member of a relevant registered pension scheme, this Part of this Act (except for section 218(6) and paragraph 19) applies in relation to—
 - (a) the transferred sums or assets while held for the purposes of, or representing accrued rights under, an arrangement under the scheme, and
 - (b) any sums or assets held for the purposes of, or representing accrued rights under, such an arrangement that arise, or (directly or indirectly) derive, from—
 - (i) any of the transferred sums or assets, or
 - (ii) sums or assets which so arise or derive,as if references to normal minimum pension age were to the member’s protected pension age under the first relevant registered pension scheme from which there was a relevant transfer of the sums or assets (see paragraph 23ZB(7)).
- (5) In this paragraph “relevant registered pension scheme” means a pension scheme that is not a uniformed services pension scheme (as defined in section 279(4)).]

Textual Amendments

F20 Sch. 36 paras. 23ZB, 23ZC and cross-headings inserted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(5)

^{F21}23A

Textual Amendments

F21 Sch. 36 para. 23A and cross-heading omitted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by virtue of Finance Act 2024 (c. 3), Sch. 9 paras. 80, 124 (with Sch. 9 paras. 125-132A) (as amended by S.I. 2024/356, regs. 1, 4)

Textual Amendments

F20 Sch. 36 paras. 23ZB, 23ZC and cross-headings inserted (24.2.2022) by Finance Act 2022 (c. 3), s. 10(5)
F21 Sch. 36 para. 23A and cross-heading omitted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by virtue of Finance Act 2024 (c. 3), Sch. 9 paras. 80, 124 (with Sch. 9 paras. 125-132A) (as amended by S.I. 2024/356, regs. 1, 4)

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

Lump sum rights exceeding £375,000: primary and enhanced protection

- 24 (1) If the lump sum condition and the registration condition are met in relation to an individual—
- (a) paragraphs 27 to 29 (which modify Schedule 29 [^{F22}and paragraph 12 of this Schedule] in relation to pension commencement lump sums), and
 - [^{F23}(b) paragraph 29A (which makes provision modifying the value of the individual’s lump sum allowance),]
- apply in relation to the individual.
- (2) The lump sum condition is met if on 5th April 2006 the amount of an individual’s total lump sum rights exceeds £375,000 (25% of the standard lifetime allowance for the tax year 2006-07).
- (3) Paragraph 25 defines the amount of an individual’s total lump sum rights on that date.
- (4) The registration condition is met if either or both of the notice requirements is met.
- (5) The first notice requirement is met if notice of intention to rely on paragraph 7 (primary protection) is given to the Inland Revenue in accordance with regulations under that paragraph in relation to the individual.
- (6) The second notice requirement is met if notice of intention to rely on paragraph 12 (enhanced protection) is given to the Inland Revenue in accordance with regulations under that paragraph in relation to the individual.

Textual Amendments

- F22** Words in Sch. 36 para. 24(1)(a) inserted (for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 81\(2\), 124](#) (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4)
- F23** Sch. 36 para. 24(1)(b) substituted (for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 81\(3\), 124](#) (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4)

- 25 (1) The amount of an individual’s total lump sum rights on 5th April 2006 is—

$$\frac{VCPR}{4} + VULSR$$

where—

VCPR is the value of the individual’s relevant crystallised pension rights on 5th April 2006, calculated in accordance with paragraph 10, and

VULSR is the value of the individual’s relevant uncrystallised lump sum rights on that date.

- (2) The value of the individual’s relevant uncrystallised lump sum rights on 5th April 2006 is the aggregate value of the individual’s uncrystallised lump sum rights on that date under each relevant pension arrangement relating to the individual.
- (3) An uncrystallised lump sum right is a right to a lump sum which on 5th April 2006 is prospective (rather than actual).

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (4) An arrangement is a “relevant pension arrangement” if it is an arrangement under a pension scheme within paragraph 1(1).
 - (5) The value of the individual’s uncrystallised lump sum rights under an arrangement on 5th April 2006—
 - (a) in the case of an arrangement under a pension scheme falling within paragraph 1(1)(f), is 25% of the value of the funds held for the purposes of the arrangement on that date, and
 - (b) in the case of any other arrangement, is an amount calculated in accordance with sub-paragraph (6).
 - (6) The amount is the amount of any lump sum to which the individual would have been entitled under the arrangement on 5th April 2006 on the assumption that the individual became entitled to the present payment of a lump sum under the arrangement on that date.
 - (7) In calculating an amount in accordance with sub-paragraph (6) the valuation assumptions apply but as if the reference to such age (if any) as must have been reached to avoid any reduction in benefits on account of age in paragraph (a) of section 277 were to the relevant age; and for this purpose “the relevant age” is—
 - (a) if on 10th December 2003 the terms of the arrangement made provision for a reduction in the amount of benefits payable in respect of rights under the arrangement on account of the holder of the rights being below a particular age, that age, and
 - (b) otherwise, 60.
- 26
- (1) This paragraph applies if any of the individual’s uncrystallised lump sum rights on 5th April 2006 are rights under one or more arrangements under a pension scheme or schemes within paragraph 1(1)(a) to (d).
 - (2) The value of the individual’s uncrystallised lump sum rights on 5th April 2006 under the arrangement, or the aggregate of the values of the individual’s uncrystallised lump sum rights on 5th April 2006 under such of the arrangements as relate to a particular employment, is ^{F24}...—
 - (a) the value, or the aggregate of the values, calculated under paragraph 25, [^{F25}or (if lower)]
 - (b) the maximum permitted lump sum.
 - (3) “The maximum permitted lump sum” means
 - [^{F26}(a) in the case of an arrangement under a pension scheme which immediately before 6th April 2006 was within section [^{F27}611A(1)(a)] of ICTA, the maximum lump sum that could be paid to the individual under the pension scheme on 5th April 2006, and
 - (b) in any other case,]the maximum lump sum that could be paid to the individual on 5th April 2006 under the arrangement or arrangements if it or they were made under a pension scheme within paragraph 1(1)(a) without giving the Board of Inland Revenue grounds for withdrawing approval of the pension scheme under section 591B of ICTA.
 - (4) For the purposes of sub-paragraph (3) it is to be assumed—

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

- (a) [^{F28}in the case of any arrangement, that] if the individual was in the employment to which the arrangement or arrangements relates or relate on 5th April [^{F29}2006] the individual left the employment on that date, and
- [^{F30}(aa) in the case of an arrangement within sub-paragraph (3)(a), that the valuation assumptions apply (see section 277),]
- (b) [^{F31}in the case of any other arrangement, that] if the individual had not reached the lowest age at which a lump sum may be paid under a pension scheme within paragraph 1(1)(a) to a person in good health without giving the Board of Inland Revenue grounds for withdrawing the approval of the pension [^{F32}scheme] that fact would not give the Board such grounds.
- (5) Whether an arrangement relating to an individual relates to an employment is to be determined in accordance with paragraph 9(6).

Textual Amendments

- F24** Words in Sch. 36 para. 26(2) repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 52(7)(a), 64(1), **Sch. 11 Pt. 4**
- F25** Words in Sch. 36 para. 26(2)(a) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(7)(b), 64(1)**
- F26** Words in Sch. 36 para. 26(3) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(8), 64(1)**
- F27** Word in Sch. 36 para. 26(3)(a) substituted (retrospective to 6.4.2006) by Finance Act 2006 (c. 25), s. 161(2), **Sch. 23 para. 45**
- F28** Words in Sch. 36 para. 26(4)(a) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(9)(a), 64(1)**
- F29** Word in Sch. 36 para. 26(4)(a) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(9)(a), 64(1)**
- F30** Sch. 36 para. 26(4)(aa) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(9)(b), 64(1)**
- F31** Words in Sch. 36 para. 26(4)(b) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(9)(c), 64(1)**
- F32** Word in Sch. 36 para. 26(4)(b) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 52(9)(c), 64(1)**

- [^{F33}27 If (and for so long as) paragraph 12 (enhanced protection) applies in relation to the individual, that paragraph has effect as if, for paragraph (i) of sub-paragraph (3B) there were substituted—
- “(i) paragraph 2 of Schedule 29 to FA 2004 (pension commencement lump sum: definition of “permitted maximum”) has effect as if, for sub-paragraphs (b) and (c), there were substituted—
- “(b) an amount equal to—
- (i) the maximum amount of a pension commencement lump sum that could have been paid to the individual on 5 April 2023 under the arrangement pursuant to which the individual becomes entitled to the relevant pension mentioned in paragraph 1(1)(aa), less
- (ii) the aggregate of the amounts of any pension commencement lump sums to which the member has previously become

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

entitled under that arrangement after that date.””]

Textual Amendments

F33 Sch. 36 para. 27 substituted (for the tax year 2024-25 and subsequent tax years) by Finance Act 2024 (c. 3), Sch. 9 paras. 82, 124 (with Sch. 9 paras. 125-132A) (as amended by S.I. 2024/356, regs. 1, 4)

28 (1) If paragraph 12 (enhanced protection) does not apply in relation to the individual,^{F34}... Schedule 29 applies in relation to the individual with the following modifications.

(2) If the value of the individual’s relevant uncrystallised lump sum rights on 5th April 2006 (calculated in accordance with paragraphs 25 and 26) was nil, the permitted maximum under paragraph 2 [^{F35}of Schedule 29] is nil.

[^{F36}(3) Otherwise, for paragraph 2 of Schedule 29 substitute—

“2 (1) In paragraph 1 “the permitted maximum”, in relation to a lump sum, means an amount equal to—

AB

where—

A is the value of the individual’s relevant uncrystallised lump sum rights on 5 April 2006 (calculated in accordance with paragraphs 25 and 26), as adjusted under sub-paragraph (2);

B is the aggregate of the amounts of each pension commencement lump sum to which the individual has previously become entitled, as adjusted under sub-paragraph (3) (or, if the individual has not previously become entitled to a pension commencement lump sum, is nil).

(2) The adjustment referred to in the definition of A is the multiplication of the value of the individual’s relevant uncrystallised lump sum rights on 5th April 2006 by 1.2 (being £1,800,000 divided by £1,500,000).

(3) The adjustment of the amount of a pension commencement lump sum to which the individual has previously become entitled referred to in the definition of B is the multiplication of the amount by—

£1,800,000C

where C is—

(a) if the individual became entitled to the lump sum before 6th April 2012, the standard lifetime allowance at that time;

(b) otherwise, £1,800,000.””]

Textual Amendments

F34 Words in Sch. 36 para. 28(1) omitted (for the tax year 2024-25 and subsequent tax years) by virtue of Finance Act 2024 (c. 3), Sch. 9 paras. 83(2), 124 (with Sch. 9 paras. 125-132A) (as amended by S.I. 2024/356, regs. 1, 4)

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

- F35** Words in Sch. 36 para. 28(2) inserted (for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 83\(3\)](#), 124 (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4)
- F36** Sch. 36 para. 28(3) substituted (for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 83\(4\)](#), 124 (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4)

[^{F37}29 (1) If (and for so long as) paragraph 12 (enhanced protection) applies in relation to the individual, paragraphs 2A to 2D of Schedule 29 (meaning of “the applicable amount” in relation to a relevant pension) apply with the following modifications.

(2) Paragraph 2A of that Schedule (meaning of “the applicable amount” where the relevant pension is income withdrawal) applies as if, for sub-paragraphs (2) to (4), there were substituted—

“(2) The applicable amount is—

$$AB \times C + D$$

where—

A is the value of the individual’s relevant uncrystallised lump sum rights on 5 April 2006, calculated in accordance with paragraphs 25 and 26 of Schedule 36;

B is the value of the individual’s uncrystallised pension rights on 5 April 2006, calculated in accordance with paragraphs 8 and 9 of that Schedule;

C is the pension commencement lump sum paid;

D is—

(a) the aggregate of the sums, and the market value of the assets, designated as available for the payment of drawdown pension on that occasion, less

(b) so much (if any) of that amount as represents rights which are attributable to a disqualifying pension credit.”

(3) Paragraph 2B of that Schedule (meaning of “the applicable amount” where the relevant pension is a lifetime annuity) applies as if, for sub-paragraph (2) there were substituted—

“(2) The applicable amount is (subject to sub-paragraph (4))—

$$AB \times C + DE$$

where—

A is the value of the individual’s relevant uncrystallised lump sum rights on 5 April 2006, calculated in accordance with paragraphs 25 and 26 of Schedule 36 to FA 2004;

B is the value of the individual’s uncrystallised pension rights on 5 April 2006, calculated in accordance with paragraphs 8 and 9 of that Schedule;

C is the pension commencement lump sum paid;

D is the annuity purchase price;

E is—

(a) if the annuity is purchased (in whole or in part) by the application of sums or assets representing the whole or part of the member’s drawdown pension fund or flexi-access

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

drawdown fund, the aggregate of the amount of those sums and the market value of those assets;

- (b) otherwise, so much (if any) of the aggregate of the lump sum and the annuity purchase price as represents the rights which are attributable to a disqualifying pension credit.”

- (4) Paragraph 2C of that Schedule (meaning of “the applicable amount” where the relevant pension is a defined benefits arrangement or a collective money purchase arrangement) applies as if—

- (a) for sub-paragraph (2) there were substituted—

“(2) The applicable amount is (subject to sub-paragraph (3))—

$$AB \times C + D$$

where—

A is the value of the individual’s relevant uncrystallised lump sum rights on 5 April 2006, calculated in accordance with paragraphs 25 and 26 of Schedule 36;

B is the value of the individual’s uncrystallised pension rights on 5 April 2006, calculated in accordance with paragraphs 8 and 9 of that Schedule;

C is the pension commencement lump sum paid;

D is an amount equal to the value of the pension rights crystallised by reason of the individual becoming entitled to the pension (see sub-paragraph (4)).”;

- (b) after sub-paragraph (3) there were inserted—

“(4) The Commissioners for His Majesty’s Revenue and Customs may by regulations make provision about how the value of the pension rights crystallised by reason of the individual becoming entitled to the pension is to be determined for the purposes of sub-paragraph (2).”

- (5) Paragraph 2D of that Schedule (meaning of “the applicable amount” where the relevant pension is a money purchase arrangement) applies as if, for sub-paragraph (2), there were substituted—

“(2) The applicable amount is—

$$AB \times C + D$$

where—

A is the value of the individual’s relevant uncrystallised lump sum rights on 5 April 2006, calculated in accordance with paragraphs 25 and 26 of Schedule 36;

B is the value of the individual’s uncrystallised pension rights on 5 April 2006, calculated in accordance with paragraphs 8 and 9 of that Schedule;

C is the pension commencement lump sum paid;

D is the scheme pension purchase price.”]

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

Textual Amendments

F37 Sch. 36 para. 29 substituted (for the tax year 2024-25 and subsequent tax years) by [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 84, 124](#) (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4)

F38 29A

Textual Amendments

F38 Sch. 36 para. 29A inserted and then immediately omitted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 85, 124](#) (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4) and [The Pensions \(Abolition of Lifetime Allowance Charge etc\) Regulations 2024 \(S.I. 2024/356\)](#), regs. 1, **3(14)**

F39 30

Textual Amendments

F39 [Sch. 36 para. 30](#) omitted (for the tax year 2024-25 and subsequent tax years) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 9 paras. 86, 124](#) (with [Sch. 9 paras. 125-132A](#)) (as amended by [S.I. 2024/356](#), regs. 1, 4)

Entitlement to lump sums exceeding 25% of uncrystallised rights

- 31 (1) If the pension condition is met in relation to an individual and a registered pension scheme which is a protected pension scheme, the provisions of Schedule 29 relating to pension commencement lump sums apply in relation to the individual and the pension scheme with the modifications specified in paragraph 34 (but subject to subparagraph (2)).
- (2) Those provisions do not apply with those modifications if the lump sum condition and registration condition in paragraph 24 are met.
- (3) The pension condition is that the individual becomes entitled to all the pensions payable to the individual under arrangements under the pension scheme (to which the individual did not have an actual entitlement on or before 5th April 2006) on the same date.
- (4) A registered pension scheme is a protected pension scheme if condition A or condition B is met.
- (5) Condition A is met if—
- (a) the pension scheme was within any of paragraphs (a) to (e) of paragraph 1(1), and
 - (b) on 5th April 2006 the lump sum percentage of the individual's uncrystallised rights under the pension scheme exceeded 25%.
- (6) The lump sum percentage of an individual's uncrystallised pension rights under a pension scheme on 5th April 2006 is—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

$$\frac{\text{VULSR}}{\text{VUR}} \times 100$$

where—

VULSR is the value of the individual’s uncrystallised lump sum rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 32, and

VUR is the value of the individual’s uncrystallised rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 33.

- (7) Condition B is met if the individual is a member of the pension scheme [^{F40}(“a transferee pension scheme”) as a result of—
- (a) a block transfer from the pension scheme (“the original pension scheme”) in relation to which condition A is met to the transferee pension scheme, or
 - (b) a block transfer to the transferee pension scheme from a pension scheme that was a transferee pension scheme in relation to the original pension scheme by virtue of the previous application of paragraph (a) or the previous application (on one or more occasions) of this paragraph.]
- (8) “Block transfer” has the same meaning as in paragraph 22(6) [^{F41}and (6A)], but treating the references there to the member as references to the individual [^{F42}and reading paragraph 22(6A)(c) as if its reference to paragraph 22(7)(a) were a reference to sub-paragraph (3) of this paragraph.]
- (9) Where a pension scheme is a protected pension scheme because condition B is met, Schedule 29 as modified by paragraph 34 applies as if the protected pension scheme were the same pension scheme as the original pension scheme.

Textual Amendments

- F40** Words in Sch. 36 para. 31(7) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\), Sch. 10 paras. 55\(6\), 64\(1\)](#)
- F41** Words in Sch. 36 para. 31(8) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\), Sch. 5 paras. 9\(a\), 15](#)
- F42** Words in Sch. 36 para. 31(8) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\), Sch. 5 paras. 9\(b\), 15](#)

Modifications etc. (not altering text)

- C8** Sch. 36 para. 31 applied (6.4.2006) by [The Registered Pension Schemes \(Enhanced Lifetime Allowance\) Regulations 2006 \(S.I. 2006/131\), regs. 1, 9\(8\)](#)
- C9** Sch. 36 para. 31 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\), arts. 1\(1\), 21, 22](#)
- C10** Sch. 36 para. 31(3) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\), arts. 1\(1\), 26](#)
- C11** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZE(3) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\), arts. 1\(1\), 3](#))
- C12** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZA(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\), arts. 1\(1\), 3](#))
- C13** Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZD(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\), arts. 1\(1\), 3](#))

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)*

C14 Sch. 36 para. 31(3) modified by S.I. 2006/572, art. 23ZC(3) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), 3)

- 32 (1) Subject to sub-paragraph (2), the value of the individual's uncrystallised lump sum rights under the pension scheme on 5th April 2006 is the aggregate of the value of the individual's uncrystallised lump sum rights under each arrangement in respect of the individual under the pension scheme, calculated in accordance with paragraph 25(5), on that date.
- (2) If the pension scheme is a relevant pension scheme, the value of the individual's uncrystallised lump sum rights on 5th April 2006 under an arrangement—
- (a) which relates to a particular employment, and
 - (b) in relation to which the excess lump sum condition is met (see sub-paragraph (5) or (6)),
- is the amount arrived at in accordance with sub-paragraph (7) or (8).
- (3) A pension scheme is a relevant pension scheme if it falls within paragraph 1(1)(a) to (d).
- (4) Whether an arrangement relating to the individual relates to a particular employment is to be determined in accordance with paragraph 9(6).
- (5) If no other arrangement relating to the individual under a relevant pension scheme relates to the employment to which the arrangement relates, the excess lump sum condition is met in relation to the arrangement if—
- (a) the value of the individual's uncrystallised lump sum rights under the arrangement calculated in accordance with paragraph 25(5), exceeds
 - (b) the amount arrived at in relation to the arrangement in accordance with paragraph 26.
- (6) If one or more other arrangements relating to the individual under a relevant pension scheme or relevant pension schemes relates or relate to the employment to which the arrangement relates, the excess lump sum condition is met in relation to the arrangement if—
- (a) the aggregate of the values of the individual's uncrystallised lump sum rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 25(5), exceeds
 - (b) the amount arrived at in relation to those arrangements in accordance with paragraph 26;
- and the amount by which the aggregate of those values exceeds that amount is the "lump sum excess".
- (7) Where the excess lump sum condition is met by virtue of sub-paragraph (5), the value of the individual's uncrystallised lump sum rights under the arrangement is the amount arrived at in accordance with paragraph 26.
- (8) Where the excess lump sum condition is met by virtue of sub-paragraph (6), the value of the individual's uncrystallised lump sum rights under the arrangement is the value of those rights calculated in accordance with paragraph 25(5), less the appropriate proportion of the lump sum excess.
- (9) The appropriate proportion of the lump sum excess is—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

$$\frac{V}{AV}$$

where—

V is the value of the individual's uncrystallised lump sum rights under the arrangement, calculated in accordance with paragraph 25(5), and

AV is the aggregate of the values of the individual's uncrystallised lump sum rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 25(5).

- 33 (1) Subject to sub-paragraph (2), the value of the individual's uncrystallised rights under the pension scheme on 5th April 2006 is the aggregate of the value of the individual's uncrystallised rights under each arrangement in respect of the individual under the pension scheme, calculated in accordance with paragraph 8(5).
- (2) If the pension scheme is a relevant pension scheme, the value of the individual's uncrystallised rights on 5th April 2006 under an arrangement—
- (a) which relates to a particular employment, and
 - (b) in relation to which the excess rights condition is met (see sub-paragraph (5) or (6)),
- is the amount arrived at in accordance with sub-paragraph (7) or (8).
- (3) A pension scheme is a relevant pension scheme if it falls within paragraph 1(1)(a) to (d).
- (4) Whether an arrangement relating to the individual relates to a particular employment is to be determined in accordance with paragraph 9(6).
- (5) If no other arrangement relating to the individual under a relevant pension scheme relates to the employment to which the arrangement relates, the excess rights condition is met in relation to the arrangement if—
- (a) the value of the individual's uncrystallised rights under the arrangement calculated in accordance with paragraph 8(5), exceeds
 - (b) the amount arrived at in relation to the arrangement in accordance with paragraph 9(3).
- (6) If one or more other arrangements relating to the individual under a relevant pension scheme or relevant pension schemes relates or relate to the employment to which the arrangement relates, the excess rights condition is met in relation to the arrangement if—
- (a) the aggregate of the values of the individual's uncrystallised rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 8(5), exceeds
 - (b) the amount arrived at in relation to those arrangements in accordance with paragraph 9(3);
- and the amount by which the aggregate of those values exceeds that amount is the "rights excess".
- (7) Where the excess rights condition is met by virtue of sub-paragraph (5), the value of the individual's uncrystallised rights under the arrangement is the amount arrived at in accordance with paragraph 9(3).

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)*

- (8) Where the excess rights condition is met by virtue of sub-paragraph (6), the value of the individual's uncrystallised rights under the arrangement is the value of those rights calculated in accordance with paragraph 8(5), less the appropriate proportion of the rights excess.
- (9) The appropriate proportion of the rights excess is—

$$\frac{V}{AV}$$

where—

V is the value of the individual's uncrystallised rights under the arrangement, calculated in accordance with paragraph 8(5), and

AV is the aggregate of the values of the individual's uncrystallised rights under the arrangement and the other arrangement or arrangements, calculated in accordance with paragraph 8(5).

- [^{F43}34 (1) Paragraph 2 of Schedule 29 (pension commencement lump sums: definition of "permitted maximum") applies as if the permitted maximum were—

$$A \times 1.2 + B$$

where—

A is the value of the individual's uncrystallised lump sum rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 32;

B is the additional lump sum amount.

- (2) The additional lump sum amount is—

$$C + (D \times 4)E \times 0.71544$$

where—

C is the pension commencement lump sum paid;

[^{F44}“D” is—

- (a) if the relevant pension is income withdrawal, the applicable amount determined in accordance with paragraph 2A of Schedule 29;
- (b) if the relevant pension is a lifetime annuity, the applicable amount determined in accordance with paragraph 2B of Schedule 29;
- (c) if the relevant pension is a scheme pension under a defined benefits arrangement, or a collective money purchase arrangement, the applicable amount determined in accordance with paragraph 2C of Schedule 29;
- (d) if the relevant pension is a scheme pension under a money purchase arrangement that is not a collective money purchase arrangement, the scheme pension purchase price as it would be defined by paragraph 2D of Schedule 29 if the words “(subject to sub-paragraph (4))” in sub-paragraph (3), and sub-paragraph (4), were omitted;]

E is the value of the individual's uncrystallised rights under the pension scheme on 5th April 2006, calculated in accordance with paragraph 33.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Part 3. (See end of Document for details)

- (3) For the purposes of section 637Q of ITEPA 2003 (availability of individual's lump sum allowance), the "non-taxable amount" of a pension commencement lump sum paid to the individual is to be treated as an amount equal to the applicable amount in relation to the relevant pension.
- (4) Any part of what would otherwise be D or E which represents rights attributable to a disqualifying pension credit is to be disregarded.]

Textual Amendments

- F43** Sch. 36 para. 34 substituted (for the tax year 2024-25 and subsequent tax years) by Finance Act 2024 (c. 3), Sch. 9 paras. 87, 124 (with Sch. 9 paras. 125-132A) (as amended by S.I. 2024/356, regs. 1, 4)
- F44** Words in Sch. 36 para. 34(2) substituted (6.4.2024 for the tax year 2024-25 and subsequent tax years) by The Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024 (S.I. 2024/356), regs. 1, 3(15)

Modifications etc. (not altering text)

- C15** Sch. 36 para. 34 modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), 21, 23 (as amended (1.1.2009) by S.I. 2008/2990, arts. 1(1), 4; and (with effect in accordance with art. 1(2) of the amending S.I.) by S.I. 2011/1782, arts. 1(1), 2(2))

F45 ...

Textual Amendments

- F45** Sch. 36 para. 35 and cross-heading omitted (for the tax year 2024-25 and subsequent tax years) by virtue of Finance Act 2024 (c. 3), Sch. 9 paras. 88, 124 (with Sch. 9 paras. 125-132A) (as amended by S.I. 2024/356, regs. 1, 4)

F45³⁵

Right to payment of lump sum death benefit

- 36 (1) This paragraph applies to a member of a registered pension scheme if on 5th April 2006—
- (a) the pension scheme is within any of paragraphs (a) to (e) of paragraph 1(1),
 - (b) the member has an actual (rather than a prospective) right to a pension under an arrangement under the pension scheme, and
 - (c) under the arrangement a lump sum death benefit is payable if the member dies within the guarantee period.
- (2) The guarantee period is the period of five years beginning with the day on which the member became entitled to the pension or, if later, the day on which the pension was first paid.
- (3) If the member dies after having reached the age of 75 and before the end of the guarantee period—
- (a) paragraph 14 of Schedule 29 (pension protection lump sum death benefit), [F46 and]

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2004, Part 3. (See end of Document for details)*

- (b) paragraph 16 of that Schedule (annuity protection lump sum death benefit),
^{F47} ...
- ^{F47}(c)
 apply in relation to the member and the arrangement with the following
 modifications.
- ^{F48}(4)
- (5) Paragraph 14 (1) applies as if paragraph (d) were omitted.
- (6) Paragraph 14(2) applies as if the reference to the pension protection limit were to the
 transitional protection limit.
- (7) Paragraph 16(2) applies as if the reference to the annuity protection limit were to the
 transitional protection limit.
- ^{F49}(8)
- (9) Section 206 (1) (special lump sum death benefits charge) does not apply to any
 pension protection lump sum death benefit [^{F50}or annuity protection lump sum death
 benefit] or unsecured pension fund lump sum death benefit paid by virtue of [^{F51}sub-
 paragraphs (3) to (7)].
- (10) If the member dies before having reached the age of 75 and before the end of the
 guarantee period—
- (a) section 206 (1) does not apply to so much of any pension protection lump
 sum death benefit [^{F52}or annuity protection lump sum death benefit] or
 unsecured pension fund lump sum death benefit paid under the arrangement
 as does not exceed the transitional protection limit, and
- (b) if the arrangement is a defined benefits arrangement, paragraph 14(1)(d) of
 Schedule 29 is to be treated as satisfied in relation to so much of the lump sum
 death benefit paid under the arrangement as does not exceed the transitional
 protection limit.
- (11) The transitional protection limit is—

P – TPLS

where—

P is the amount of pension to which (had the member lived) the member would have
 been entitled under the arrangement in respect of the period beginning with the day
 of the member's death and ending with the last day of the guarantee period, and

TPLS is the amount of any pension protection lump sum death benefit [^{F53}or annuity
 protection lump sum death benefit] previously paid in respect of the pension.

Textual Amendments

- F46** Word in Sch. 36 para. 36(3) inserted (with effect in accordance with Sch. 16 paras. 85, 103 of the
 amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(a\)\(i\)](#)
- F47** Sch. 36 para. 36(3)(c) and word omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the
 amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(a\)\(ii\)](#)

Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2004, Part 3. (See end of Document for details)

- F48** Sch. 36 para. 36(4) omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(b\)](#)
- F49** Sch. 36 para. 36(8) omitted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(b\)](#)
- F50** Words in Sch. 36 para. 36(9) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(c\)\(i\)](#)
- F51** Words in Sch. 36 para. 36(9) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(c\)\(ii\)](#)
- F52** Words in Sch. 36 para. 36(10)(a) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(d\)](#)
- F53** Words in Sch. 36 para. 36(11) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 82\(6\)\(e\)](#)

Modifications etc. (not altering text)

- C16** Sch. 36 paras. 35, 36 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [32](#)

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Part 3.