

SCHEDULES

SCHEDULE 3

Section 21.

OCCUPATIONAL PENSION SCHEMES

PART I

TRANSITIONAL

- 1 Section 208 of the Taxes Act (relief for superannuation funds)—
 - (a) shall not apply to a retirement benefits scheme which is or has at any time been approved (that is to say approved for the purposes of Chapter II of Part II of the Finance Act 1970),
 - (b) shall not apply to a scheme which comes into being after 5th April 1973, or which is altered after that date,
 - (c) shall cease to have effect on 6th April 1980.
- 2 (1) Section 23 of the Finance Act 1970 (taxation of schemes with exceptions for approved schemes and the others mentioned in section 24(1) of that Act)—
 - (a) in the case of a scheme which comes into being at a time after 5th April 1973 but before 6th April 1980, or which is altered at a time between those two dates, shall come into force at that time,
 - (b) shall come into force for all purposes on 6th April 1980.
 - (2) Neither subsection (1) nor subsection (2) of section 220 of the Taxes Act (which will be superseded by section 23 of the Finance Act 1970) shall apply to an approved scheme or to a scheme as respects which the said section 23 is in force, and Chapter II of Part IX of the Taxes Act (which contains the said section 220) shall cease to have effect on 6th April 1980.
 - (3) Sub-paragraph (2) above, and the repeal by this Act of the said Chapter II of Part IX, shall not affect any liability to tax in respect of a scheme for any period before the time when that Chapter II (or any provision of that Chapter) ceases to apply to the scheme, nor to the giving of any relief under section 221(3) of the Taxes Act.
- 3 (1) On such date as the Treasury may by order in a statutory instrument appoint—
 - (a) section 22 of the Finance Act 1970 (exemptions and reliefs for certain statutory schemes) shall come into force, and
 - (b) section 209 of the Taxes Act (corresponding provision for the schemes within the said section 22, and certain other statutory schemes) shall cease to have effect.
 - (2) The said section 209 shall not apply as respects a payment or repayment of contributions at a time when the relevant scheme is an exempt approved scheme, and the repeal by this Act of the said section 209 shall not apply as respects a payment or repayment of contributions at a time before the repeal takes effect

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- 4 Where an alteration has been made in a scheme which before the alteration was a statutory superannuation scheme as defined in section 224(1) in Chapter II of Part IX of the Taxes Act, and, although the scheme was approved under an enactment or regulation relating to superannuation, the alteration was not so approved—
- (a) the scheme shall not, after the alteration, be treated as a statutory superannuation scheme within the said definition, and
- (b) section 209 of the Taxes Act shall not, after the alteration, apply to that scheme.
- 5 (1) This paragraph has effect as respects any retirement benefits scheme which authorises the employer to determine individual by individual which employees are subject to the scheme.
- (2) For the purposes of—
- (a) Chapter II of Part IX of the Taxes Act, and
- (b) Chapter II of Part II of the Finance Act 1970,
- the Board may, if they think fit, distinguish between employees who become subject to any such scheme at a time not later than 5th April 1973 on the one hand and those who become subject to the scheme at any later time on the other hand, and may treat the scheme as being, in relation to those two classes of employees, two different schemes, of which the one relating to employees becoming subject to the scheme on and after 6th April 1973 is a scheme coming into being on that date.
- (3) Where the Board exercise their powers under this paragraph, the preceding provisions of this Schedule distinguishing between schemes coming into being up to 5th April 1973 and schemes coming into being later, shall apply accordingly to what are to be so treated as separate schemes.
- (4) The provisions of this paragraph are without prejudice to the powers of the Board as respects the treatment of schemes conferred by section 25 of the Finance Act 1970.
- 6 References in this Part of this Schedule to the alteration of a scheme do not include references to any alteration which, in the opinion of the Board, is immaterial.

PART II

TAXATION OF REFUNDS OF CONTRIBUTIONS AND CERTAIN OTHER PAYMENTS

- 7 For paragraphs 2 and 3 of Part II of Schedule 5 to the Finance Act 1970 substitute, as respects tax for the year 1971-72 and subsequent years of assessment—

“Charge to tax on repayment of employee's contributions

- 2 (1) Subject to the provisions of this paragraph, tax shall be charged under this paragraph on any repayment to an employee during his lifetime of any contributions (including interest on contributions, if any) if the payment is made under—
- (a) a scheme which is or has at any time been an exempt approved scheme, or
- (b) a statutory scheme established under a public general Act.
- (2) Where any payment is chargeable to tax under this paragraph, the administrator of the scheme shall be charged to income tax under Case

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VI of Schedule D and, subject to sub-paragraph (3) below, the rate of the tax shall be 10 per cent.

- (3) The Treasury may, by order in a statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament, from time to time increase or decrease the rate of tax under sub-paragraph (2) above.
- (4) The tax shall be charged on the amount paid or, if the rules permit the administrator to deduct the tax before payment, on the amount before deduction of tax, and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.
- (5)
 - (a) Sub-paragraph (1)(a) above shall not apply in relation to a contribution made after the scheme ceases to be an exempt approved scheme (unless it again becomes an exempt approved scheme);
 - (b) sub-paragraph (1)(b) above shall not apply to any payment made before the coming into force of section 22 of this Act.
- (6) This paragraph shall not apply where the employee's employment was carried on outside the United Kingdom.
- (7) In relation to a statutory scheme "employee" in this paragraph includes any officer.

Charge to tax: commutation of entire pension in special circumstances

- 3 (1) Where—
 - (a) a scheme which is or has at any time been an approved scheme, or
 - (b) a statutory scheme established under a public general Act,contains a rule allowing, in special circumstances, a payment in commutation of an employee's entire pension, and any pension is commuted, whether wholly or not, under the rule, tax shall be charged on the amount by which the sum receivable exceeds—
 - (i) the largest sum which would have been receivable in commutation of any part of the pension if the scheme had secured that the aggregate value of the relevant benefits payable to an employee on or after retirement, excluding any pension which was not commutable, could not exceed three-eighths of his final remuneration for each year of service up to a maximum of 40, or
 - (ii) the largest sum which would have been receivable in commutation of any part of the pension under any rule of the scheme authorising the commutation of part (but not the whole) of the pension, or which would have been so receivable but for the said circumstances,whichever gives the lesser amount chargeable to tax.
- (2) Where any amount is chargeable to tax under this paragraph the administrator of the scheme shall be charged to income tax under Case VI of Schedule D on that amount, and sub-paragraphs (2), (3) and (4)

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of paragraph 2 above shall apply as they apply to tax chargeable under that paragraph.

- (3) This paragraph shall not apply where the employee's employment was carried on outside the United Kingdom.
- (4) In relation to a statutory scheme “employee” in this paragraph includes any officer.
- (5) In applying paragraph (i) or paragraph (ii) of sub-paragraph (1) above—
 - (a) the same considerations shall be taken into account, including the provisions of any other relevant scheme, as would have been taken into account by the Board in applying section 19 of this Act, and
 - (b) where the scheme has ceased to be an approved scheme, account shall only be taken of the rules in force when the scheme was last an approved scheme.
- (6) Sub-paragraph (1)(b) above shall not apply to any payment made before the coming into force of section 22 of this Act”.

Schemes approved under old law

Taxation of refunds of contributions and commutation payments

- 8 (1) This paragraph has effect as respects any payment chargeable to tax for the year 1971-72 or any later year of assessment under Regulation 7, 8 or 13 of the Regulations dated November 10th 1921 made by the Board under section 32 of the Finance Act 1921 (which corresponds to section 208 of the Taxes Act).
- (2) Where tax is chargeable under the said Regulation 7 (or Regulation 13 with that Regulation) then—
 - (a) if the scheme relates to a trade, profession or vocation carried on by the employer, the payment shall be treated for the purposes of the Tax Acts as a receipt of that trade, profession or vocation receivable when the payment falls due or on the last day on which the trade, profession or vocation is carried on by the employer, whichever is the earlier ;
 - (b) if the scheme does not relate to such a trade, profession or vocation, the employer shall be charged to tax on the amount of the payment under Case VI of Schedule D.
- (3) Where tax is chargeable under the said Regulation 8 (or Regulation 13 with that Regulation), sub-paragraphs (2), (3) and (4) of paragraph 2 of Part II of Schedule 5 to the Finance Act 1970 (as set out in this Schedule) shall apply as they apply to tax chargeable under that paragraph.
- (4) If at any time the scheme becomes an approved scheme (that is to say approved for the purposes of Chapter II of Part II of the Finance Act 1970) no tax shall be chargeable under the said Regulations on any payment made under the scheme after that time.
- (5) The provisions of this paragraph shall have effect in substitution for the provisions of the said Regulations as to the rate of tax and the manner of charging tax, and the said Regulations 7, 8 and 13 shall not cease to be in force by reason of the provisions of this Act repealing the said section 208 of the Taxes Act, or of the provisions of

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this Act under which in certain cases the said section 208 ceases to apply to a scheme before the date of that repeal.

Schemes approved under old law or new law

*Charge to tax in respect of unauthorised payments
and payments after cessation of tax exemptions*

- 9 (1) This paragraph applies to any payment to or for the benefit of an employee, otherwise than in course of payment of a pension, being a payment made out of funds which are or have been held for the purposes of a scheme which is or has at any time been approved for the purposes of—
- (a) Chapter II of Part II of the Finance Act 1970, or
 - (b) section 208 of the Taxes Act, or
 - (c) Chapter II of Part IX of the Taxes Act.
- (2) If the payment—
- (a) is not expressly authorised by the rules of the scheme, or
 - (b) is made at a time when the scheme is not approved for the purposes of any of the enactments mentioned in paragraphs (a), (b) or (c) of sub-paragraph (1) above, and would not have been expressly authorised by the rules of the scheme when it was last so approved,
- the employee (whether or not he is the recipient of the payment) shall be chargeable to tax on the amount of the payment under Schedule E for the year of assessment in which the payment is made.
- (3) Any payment chargeable to tax under this paragraph shall not be chargeable to tax under paragraph 2 or paragraph 3 of Part II of Schedule 5 to the Finance Act 1970 (as set out in this Schedule), or under the Regulations mentioned in paragraph 8 above.
- (4) References in this paragraph to any payment include references to any transfer of assets or other transfer of money's worth.
- (5) Paragraph 5 of Part II of Schedule 5 to the Finance Act 1970 (Which is superseded by this paragraph) shall not have effect as respects tax for the year 1971-72 or any subsequent year of assessment.

PART III

CONSEQUENTIAL AND MINOR AMENDMENTS

Capital gains: amendment of Finance Act 1965

- 10 In section 38(2) of the Finance Act 1965 as amended by Part II of the Table in paragraph 11 of Schedule 15 to the Taxes Act after “section 208(2) of the Income and Corporation Taxes Act 1970 ” add “or section 21(7) of the Finance Act 1970 ”.

Saving for certain life policies

- 11 In section 19(4) and section 393(2) of the Taxes Act (life policies, etc.) after paragraph (b) insert “, or

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- (c) to any policy of life insurance issued in connection with an approved scheme as defined in Chapter II of Part II of the Finance Act 1970.”

Amendments of Finance Act 1970

- 12 (1) For section 19(4) of the Finance Act 1970 substitute—
- “(4) Where an alteration has been made in a retirement benefits scheme, no approval given as regards the scheme before the alteration shall apply after the date of the alteration unless the alteration has been approved by the Board.”
- (2) For section 24(2) of the said Act (exceptions from charge to tax under section 23) substitute—
- “(2) Neither subsection (1) nor subsection (2) of the last preceding section shall apply for any year of assessment where, apart from those subsections—
- (a) the employee is, by reason of his exercising his employment outside the United Kingdom, not assessable to tax for that year under Case I or II of Schedule E in respect of the emoluments of his employment, or
- (b) he is assessable to tax for that year in respect of those emoluments only under Case III of Schedule E.”
- (3) In the definition of “administrator” in section 26(1) of the said Act the words “resident in the United Kingdom” shall be omitted.
- (4) In the said section 26(1) after the definition of “exempt approved scheme ” insert—
- “‘final remuneration ’ means the average annual remuneration of the last three years’ service”.
- (5) Paragraph 4 of Part II of Schedule 5 to the said Act (charge to tax in respect of payments to employer) shall be amended as follows—
- (a) before the words “an exempt approved scheme” in sub-paragraph (1) insert “a scheme which is or has at any time been ”,
- (b) at the end add—
- “(3) References in this paragraph to any payment include references to any transfer of assets or other transfer of money’s worth.”
- (6) for paragraph 12(6) of Part III of Schedule 5 to the said Act substitute—
- “(6) At the end of paragraph 4(c) of Schedule 8 to the Taxes Act (standard capital superannuation benefit) add “or in section 24(1) of the Finance Act 1970 ””.

Construction

- 13 (1) The principal sections and this Schedule shall be construed as one with Chapter II of Part II of the Finance Act 1970 and Schedule 5 to that Act.
- (2) In paragraph 9(1) of the said Schedule 5, the reference to Part II of that Schedule shall include a reference to Part II of this Schedule.

- (3) Without prejudice to the preceding provisions of this paragraph, references in paragraph 10 of the said Schedule 5 to that Schedule shall include references to this Schedule.