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## SCHEDULES

### SCHEDULE 3

Section 58.

#### OCCUPATIONAL PENSION SCHEMES

#### PART I

#### AMENDMENTS OF FINANCE ACT 1970 ETC.

##### *The Finance Act 1970.*

- 1 (1) In subsection (2A) of section 19 of the Finance Act 1970 (mandatory approval of schemes) in paragraph (d), after the words “final remuneration” there shall be inserted the words “(disregarding any excess of that remuneration over the permitted maximum)”; and after that subsection there shall be inserted—
  - “(2B) In subsection (2A) above “the permitted maximum” means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury; and an order under this subsection shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) This paragraph shall be deemed to have come into force on 17th March 1987.
- 2 (1) In subsection (3) of section 19 (withdrawal of approval) after the words “such date” there shall be inserted the words “(which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval)”.
- (2) This paragraph shall be deemed to have come into force on 17th March 1987, but shall not authorise the withdrawal of an approval from a day before that day.
- 3 (1) Section 20 (discretionary approval) shall be amended as follows.
  - (2) At the end of subsection (1) there shall be added the words “; but this subsection has effect subject to subsection (4) below.”.
  - (3) For paragraph (g) of subsection (2), there shall be substituted—
    - “(g) which provides in certain contingencies for securing relevant benefits (but no other benefits) by means of an annuity contract approved by the Board and made with an insurance company of the employee’s choice,”.
  - (4) After paragraph (g) of subsection (2) there shall be added—
    - “or
    - (h) to which the employer is not a contributor and which provides benefits additional to those provided by a scheme to which he is a contributor.”.

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- (5) At the end of the section there shall be added—
- “(4) The Board shall not approve a scheme by virtue of this section if to do so would be inconsistent with regulations made for the purposes of this section.
- (5) Regulations made for the purposes of this section may restrict the Board’s discretion to approve a scheme by reference to the benefits provided by the scheme, the investments held for the purposes of the scheme, the manner in which the scheme is administered, or any other circumstances whatever.
- (6) The power to make regulations for the purposes of this section shall be exercisable by the Board by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.”.
- 4 (1) In subsection (4) of section 21 (tax relief for ordinary annual contributions) the words “ordinary annual” shall be omitted; and after that subsection there shall be inserted—
- “(4A) The amount allowed to be deducted by virtue of subsection (4) above in respect of contributions paid by an employee in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.”.
- (2) This paragraph shall have effect in relation to contributions paid on or after 6th April 1987.
- 5 After subsection (7) of section 21 there shall be inserted—
- “(7A) Subsection (2) of section 354 and subsection (3) of section 354A of the Taxes Act (which treat unit holders under unit trust schemes as receiving certain payments) shall not apply to any authorised unit trust which is also an exempt approved scheme if the employer is not a contributor to the exempt approved scheme and that scheme provides benefits additional to those provided by another exempt approved scheme to which he is a contributor.
- (7B) A gain accruing to a unit holder on his disposal of units in an authorised unit trust to which subsection (7A) above applies shall not be a chargeable gain for the purposes of capital gains tax.”.
- 6 (1) In subsection (2) of section 22 (tax relief for ordinary annual contributions) the words “ordinary annual” shall be omitted, and for the words “chargeable period” there shall be substituted the words “year of assessment”; and after that subsection there shall be inserted—
- “(2A) The amount allowed to be deducted by virtue of subsection (2) above in respect of contributions paid by a person in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.”.
- (2) This paragraph shall have effect in relation to contributions paid on or after 6th April 1987.
- 7 (1) Section 26 (1) shall be amended as follows.
- (2) After the definition of “pension” there shall be inserted—

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““the permitted maximum” has the meaning given by section 19(2B) above;”.

- (3) After the definition of “relevant benefits” there shall be inserted—
- ““remuneration” does not include—
- (a) anything in respect of which tax is chargeable under Schedule E and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares, or
  - (b) anything in respect of which tax is chargeable by virtue of section 187 of the Taxes Act (payments on termination of employment, etc.);”.
- 8 In section 26(2), after the words “the employer” there shall be inserted the words “or the employee”, and at the end there shall be added the words “; and any reference to pensions or contributions paid, or payments made, under a scheme includes a reference to pensions or contributions paid, or payments made, under such a contract entered into for the purposes of the scheme”.
- 9 (1) In Schedule 5 to the Finance Act 1970, in paragraph 3(1)(i), after the words “final remuneration” there shall be inserted the words “(disregarding any excess of that remuneration over the permitted maximum)”.
- (2) This paragraph applies to any payments made on or after 17th March 1987 except payments made under schemes approved or established before that date to employees who became members before that date.
- 10 In paragraph 3 of that Schedule, at the end there shall be added—
- “(7) Where the pension has been secured by means of an annuity contract with an insurance company and the sum receivable is payable under that contract by the insurance company, the references to the administrator of the scheme in sub-paragraph (2) above and paragraph 2(2) and (4) above as applied by sub-paragraph (2) are to be read as references to the insurance company.
- (8) In sub-paragraph (7) above “insurance company” means—
- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on long term business and acting through a branch or agency in the United Kingdom, or
  - (b) a society registered as a friendly society under the Friendly Societies Act 1974 or the Friendly Societies Act (Northern Ireland) 1970.”
- 11 In paragraph 6 (which shall become paragraph 6(1)) of that Schedule, for the word “supported” there shall be substituted the word “accompanied”; and at the end there shall be added—
- “(2) The form in which an application for approval is to be made, or in which any information is to be given, in pursuance of this paragraph may be prescribed by the Board.”.
- 12 After paragraph 6 of that Schedule there shall be inserted—
- “Relief by deduction from contributions.*
- 6A (1) Relief under section 21(4) of this Act shall be given in accordance with sub-paragraphs (2) and (3) below in such cases and subject to such

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- conditions as the Board may prescribe by regulations under paragraph 10 below in respect of schemes—
- (a) to which employees, but not their employers, are contributors, and
  - (b) which provide benefits additional to benefits provided by schemes to which their employers are contributors.
- (2) An employee who is entitled to relief under section 21(4) in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate on the contribution.
- (3) The administrator of the scheme—
- (a) shall accept the amount paid after the deduction in discharge of the employee’s liability to the same extent as if the deduction had not been made, and
  - (b) may recover an amount equal to the deduction from the Board.
- (4) Regulations under paragraph 10 below may, without prejudice to the generality of that paragraph,—
- (a) provide for the manner in which claims for the recovery of a sum under sub-paragraph (3)(b) above may be made;
  - (b) provide for the giving of such information, in such form, as may be prescribed by or under the regulations;
  - (c) provide for the inspection by persons authorised by the Board of books, documents and other records.”
- 13 In paragraph 7 (which shall become paragraph 7(1)) of that Schedule, at the end there shall be added—
- “(2) Where benefits provided for an employee under an approved scheme or a statutory scheme have been secured by means of an annuity contract with an insurance company (within the meaning given by paragraph 3 above), the insurance company shall, within thirty days from the date of a notice from the inspector requiring it to do so, prepare and deliver to the inspector a return containing particulars of—
- (a) any payments under the contract by way of commutation of, or in lieu of, a pension, or any other lump sum payments under the contract, and
  - (b) any payments made under the contract to the employer.”.

14 In paragraph 8(2)(a) of that Schedule, after the words “such scheme” there shall be inserted the words “to which he contributes”.

15 In paragraph 9 of that Schedule, after sub-paragraph (1) there shall be inserted—

“(1A) Sub-paragraph (1) above does not apply if the employer is not a contributor to the scheme.”.

*The Taxes Act.*

16 In section 323(4) of the Taxes Act (insurance companies: interpretation of “pension business”), after paragraph (ab) there shall be inserted—

“(ac) any annuity contract entered into for the purposes of—

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- (i) a scheme which is approved or is being considered for approval under Chapter II of Part II of the Finance Act 1970,
  - (ii) a statutory scheme as defined in section 26 of that Act, or
  - (iii) a fund to which section 36 of the Finance Act 1980 applies, being a contract which is approved by the Board and made with the persons having the management of the scheme or fund (or those persons and a member of or contributor to the scheme or fund) and by means of which relevant benefits as defined in section 26 of the Finance Act 1970 (but no other benefits) are secured,
- (ad) any annuity contract approved by the Board which is entered into in substitution for a contract within paragraph (ac) above,”.

*The Taxes Management Act 1970.*

- 17 In both columns in the Table in section 98 of the Taxes Management Act 1970, after the reference to provisions of Schedule 5 to the Finance Act 1970 there shall be inserted—

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“Regulations under paragraph 10 of that Part of that Schedule”.

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## **PART II**

### **SCHEMES APPROVED BEFORE THE PASSING OF THIS ACT**

*Preliminary.*

- 18 (1) This Part of this Schedule shall be deemed to have come into force on 17th March 1987 and, subject to sub-paragraphs (2) and (3) below, applies in relation to any retirement benefits scheme approved by the Board before the passing of this Act.
- (2) The Board may by regulations provide that this Part of this Schedule, or any provision of it, shall not apply in relation to a scheme or to an employee—
- (a) in circumstances prescribed in the regulations;
  - (b) in any case where in the opinion of the Board the facts are such that it would be appropriate for this Part of this Schedule, or the provision in question, not to apply;
- and regulations under this sub-paragraph shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (3) This Part of this Schedule shall not apply to a retirement benefits scheme if, before the end of 1987, the administrator of the scheme gives written notice to the Board that it is not to apply.
- (4) Where a notice is given to the Board under sub-paragraph (3) above, the scheme shall, with effect from 17th March 1987 or (if later) the date with effect from which it was approved, cease to be approved.

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*Accelerated accrual.*

- 19 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987.
- (2) Notwithstanding anything to the contrary in the rules of the scheme, they shall have effect as if they did not allow the provision for the employee of a pension exceeding one-thirtieth of his relevant annual remuneration for each year of service up to a maximum of 20.
- 20 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987 and the scheme allows him to commute his pension or part of it for a lump sum or sums.
- (2) If the employee's full pension (that is, the pension before any commutation) is equal to or less than a basic rate commutable pension, the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow him to obtain by way of commutation a lump sum or sums exceeding in all a basic rate lump sum.
- (3) If the employee's full pension is greater than a basic rate commutable pension but less than a maximum rate commutable pension, the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow him to obtain by way of commutation a lump sum or sums exceeding in all the aggregate of—
- (a) a basic rate lump sum, and
  - (b) an amount equal to the relevant percentage of the difference between a basic rate lump sum and a maximum rate lump sum.
- (4) In this paragraph, as it applies in relation to an employee—
- (a) a "basic rate commutable pension" means a pension of one-sixtieth of his relevant annual remuneration for each year of service up to a maximum of 40;
  - (b) a "maximum rate commutable pension" means a pension of one-thirtieth of his relevant annual remuneration for each year of service up to a maximum of 20;
  - (c) a "basic rate lump sum" means a lump sum of three-eighths of his relevant annual remuneration for each year of service up to a maximum of 40;
  - (d) a "maximum rate lump sum" means a lump sum of such amount as may be determined by or under regulations made by the Board for the purposes of this paragraph and paragraph 21 below;
  - (e) "the relevant percentage" means the difference between a basic rate commutable pension and the employee's full pension expressed as a percentage of the difference between a basic rate commutable pension and a maximum rate commutable pension.
- (5) Regulations under this paragraph shall be made by statutory instrument.
- 21 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987 and the scheme provides a lump sum or sums for him otherwise than by commutation of his pension or part of it.
- (2) If the employee's pension is equal to or less than a basic rate non-commutable pension, the rules of the scheme shall have effect (notwithstanding anything in them

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to the contrary) as if they did not allow the payment to him, otherwise than by way of commutation, of a lump sum or sums exceeding in all a basic rate lump sum.

- (3) If the employee's pension is greater than a basic rate non-commutable pension but less than a maximum rate non-commutable pension the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to him, otherwise than by way of commutation, of a lump sum or sums exceeding in all the aggregate of—
- (a) a basic rate lump sum, and
  - (b) an amount equal to the relevant percentage of the difference between a basic rate lump sum and a maximum rate lump sum.
- (4) In this paragraph, as it applies in relation to an employee—
- (a) a “basic rate non-commutable pension” means a pension of one-eightieth of his relevant annual remuneration for each year of service up to a maximum of 40;
  - (b) a “maximum rate non-commutable pension” means a pension of one-fortieth of his relevant annual remuneration for each year of service up to a maximum of 20;
  - (c) “basic rate lump sum” and “maximum rate lump sum” have the same meanings as in paragraph 20 above; and
  - (d) “the relevant percentage” means the difference between a basic rate non-commutable pension and the employee's actual pension expressed as a percentage of the difference between a basic rate non-commutable pension and a maximum rate non-commutable pension.

*Final remuneration.*

- 22 (1) This paragraph applies where an employee who is a member of the scheme retires on or after 17th March 1987.
- (2) The rules of the scheme shall have effect as if they provided that in determining the employee's relevant annual remuneration for the purpose of calculating benefits, no account should be taken of anything excluded from the definition of “remuneration” in section 26(1) of the Finance Act 1970.
- (3) In the case of an employee—
- (a) whose employer is a company and who at any time in the last ten years of his service is a controlling director of the company, or
  - (b) whose relevant annual remuneration for the purpose of calculating benefits, so far as the remuneration is ascertained by reference to years beginning on or after 6th April 1987, would (apart from this Schedule) exceed the permitted maximum,
- the rules of the scheme shall have effect as if they provided that his relevant annual remuneration must not exceed his highest average annual remuneration for any period of three or more years ending within the period of ten years which ends with the date on which his service ends.
- (4) In the case of an employee within paragraph (b) of sub-paragraph (3) above who retires before 6th April 1991, the rules of the scheme shall have effect as if they provided that his relevant annual remuneration must not exceed the higher of—
- (a) the average annual remuneration referred to in that sub-paragraph, and

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(b) his remuneration (within the meaning given in section 26(1) of the Finance Act 1970) assessable to income tax under Schedule E for the year of assessment 1986–87.

- (5) For the purposes of this paragraph a person is a controlling director of a company if—
- (a) he is a director as defined in section 26 of the Finance Act 1970, and
  - (b) he is within paragraph (c) of section 303(5) of the Taxes Act,
- in relation to the company.

*Lump sums.*

- 23 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987.
- (2) If the rules of the scheme allow the employee to obtain (by commutation of his pension or otherwise) a lump sum or sums calculated by reference to his relevant annual remuneration, they shall have effect as if they included a rule that in calculating a lump sum any excess of that remuneration over the permitted maximum should be disregarded.

*Additional voluntary contributions.*

- 24 (1) This paragraph applies where—
- (a) the rules of the scheme make provision for the payment by employees of voluntary contributions, and
  - (b) on or after 8th April 1987 an employee enters into arrangements to pay such contributions.
- (2) Notwithstanding anything in the rules of the scheme, they shall have effect as if they did not allow the payment to the employee of a lump sum in commutation of a pension if or to the extent that the pension is secured by the voluntary contributions.
- 25 (1) This paragraph applies where an employee who is a member of the scheme (“the main scheme”) is also a member of an approved scheme (“the voluntary scheme”) which provides additional benefits to supplement those provided by the main scheme and to which no contributions are made by any employer of his.
- (2) Any rules of the main scheme imposing a limit on the amount of a benefit provided for the employee shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the employee by the voluntary scheme.

*Supplementary.*

- 26 (1) In this Part of this Schedule “relevant annual remuneration” means final remuneration or, if the scheme provides for benefits to be calculated by reference to some other annual remuneration, that other annual remuneration.
- (2) Expressions used in this Part of this Schedule and in Chapter II of Part II of the Finance Act 1970 have the same meanings in this Part as they have in that Chapter.