



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

CHAPTER III

RETIREMENT ANNUITIES

618 Termination of relief under this Chapter, and transitional provisions.

- ^{M1}(1) Nothing in this Chapter shall apply in relation to—
- (a) a contract made or trust scheme established on or after [^{F1}1st July] 1988; or
 - (b) a person by whom contributions are first paid on or after that date under a trust scheme established before that date.
- (2) Subject to subsection (4) below, the terms of a contract made, or the rules of a trust scheme established, on or after 17th March 1987 and before [^{F1}1st July] 1988 and approved by the Board under section 620 shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to the individual by whom the contract is made, or an individual paying contributions under the scheme, of a lump sum exceeding £150,000 or such other sum as may for the time being be specified in an order under section 635(4).
- (3) Subject to subsection (5) below, the rules of a trust scheme established before 17th March 1987 and approved by the Board under section 620 shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to any person first paying contributions under the scheme on or after 17th March 1987 of a lump sum such as is mentioned in subsection (2) above.
- (4) Subsection (2) above shall not apply—
- (a) to a contract if, before the end of January 1988, the persons by and to whom premiums are payable under it jointly give notice to the Board that subsection (2) is not to apply; or

Status: Point in time view as at 27/07/1993.

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(b) to a scheme if, before the end of January 1988, the trustees or other persons having the management of the scheme give notice to the Board that subsection (2) is not to apply;

and where notice is given to the Board under this subsection, the contract or scheme shall, with effect from the date with effect from which it was approved, cease to be approved.

(5) Subsection (3) above shall not apply in the case of any person paying contributions under a scheme if, before the end of January 1988, he and the trustees or other persons having the management of the scheme jointly give notice to the Board that subsection (3) is not to apply; and where notice is given to the Board, the scheme shall cease to be approved in relation to the contributor with effect from the date on which he first paid a contribution under it or (if later) the date with effect from which it was approved.

Textual Amendments

F1 1988(F) s.54(2)—*deemed always to have had effect. Previously*
“4th January”.

Marginal Citations

M1 Source-1987 (No.2) s.54

619 Exemption from tax in respect of qualifying premiums.

(1) ^{M2}Where in any year of assessment an individual is (or would but for an insufficiency of profits or gains be) chargeable to income tax in respect of relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and pays a qualifying premium, then—

(a) relief from income tax shall be given under this section in respect of that qualifying premium, but only on a claim made for the purpose, and where relief is to be so given, the amount of that premium shall, subject to the provisions of this section, be deducted from or set off against his relevant earnings for the year of assessment in which the premium is paid; and

(b) any annuity payable to the same or another individual shall be treated as earned income of the annuitant to the extent to which it is payable in return for any amount on which relief is so given.

Paragraph (b) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the annuity contract under which it is paid.

(2) ^{M3}Subject to the provisions of this section and section 626, the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums, and whether or not including premiums in respect of a contract approved under section 621) shall not be more than 17.5 per cent. of the individual's net relevant earnings for that year.

(3) Subject to the provisions of this section, the amount which may be deducted or set off in any year of assessment in respect of qualifying premiums paid under a contract approved under section 621 (whether in respect of one or more such premiums) shall not be more than 5 per cent. of the individual's net relevant earnings for that year.

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- (4) ^{M4}An individual who pays a qualifying premium in a year of assessment (whether or not a year for which he has relevant earnings) may before the end of that year elect that the premium shall be treated as paid—
- (a) in the last preceding year of assessment; or
 - (b) if he had no net relevant earnings in the year referred to in paragraph (a) above, in the last preceding year of assessment but one;
- and where an election is made under this subsection in respect of a premium the other provisions of this Chapter shall have effect as if the premium had been paid in the year specified in the election and not in the year in which it was actually paid.
- (5) ^{M5}Where relief under this section for any year of assessment is claimed and allowed (whether or not relief then falls to be given for that year), and afterwards there is made any assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax, there shall be made also such adjustments, if any, as are consequential thereon in the relief allowed or given under this section for that or any subsequent year of assessment.
- (6) Where relief under this section is claimed and allowed for any year of assessment in respect of any payment, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or a later year of assessment nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract; and references in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section.
- (7) If any person, for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this section, knowingly makes any false statement or false representation, he shall be liable to a penalty not exceeding [^{F2}£3,000].

Textual Amendments

- F2** 1989 s.170(4)(a), (6) *in relation to things done or omitted to be done on or after 27 July 1989. Previously*
“£500”.

Marginal Citations

- M2** Source-1970 s.226(1), (4), 227(1)
M3 Source-1970 s.227(1A), (1B); 1971 s.20(2); 1980 s.31(1), (2)
M4 Source-1970 s.227(1BB); 1980 s.33(2)
M5 Source-1970 s.227(10), (11), (13)

620 Qualifying premiums.

- (1) ^{M6}In this Chapter “qualifying premium” means, subject to subsection (5) below, a premium or other consideration paid by an individual—
- (a) under an annuity contract for the time being approved by the Board under this section as having for its main object the provision for the individual of a life annuity in old age, or
 - (b) under a contract for the time being approved under section 621.

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- (2)^{M7} Subject to subsection (3) and (4) below, the Board shall not approve a contract under this section unless it appears to them to satisfy the conditions that it is made by the individual with a person lawfully carrying on in the United Kingdom the business of granting annuities on human life, and that it does not—
- (a) provide for the payment by that person during the life of the individual of any sum except sums payable by way of annuity to the individual; or
 - (b) provide for the annuity payable to the individual to commence before he attains the age of 60 or after he attains the age of 75; or
 - (c) provide for the payment by that person of any other sums except sums payable by way of annuity to the individual's widow or widower and any sums which, in the event of no annuity becoming payable either to the individual or to a widow or widower, are payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits; or
 - (d) provide for the annuity, if any, payable to a widow or widower of the individual to be of a greater annual amount than that paid or payable to the individual; or
 - (e) provide for the payment of any annuity otherwise than for the life of the annuitant;
- and that it does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.
- (3) A contract shall not be treated as not satisfying the requirements of subsection (2) above by reason only that it—
- (a) gives the individual the right to receive, by way of commutation of part of the annuity payable to him, a lump sum not exceeding three times the annual amount of the remaining part of the annuity, taking, where the annual amount is or may be different in different years, the initial annual amount, and
 - (b) makes any such right depend on the exercise by the individual of an election at or before the time when the annuity first becomes payable to him.
- (4)^{M8} The Board may, if they think fit, and subject to any conditions they think proper to impose, approve, under this section, a contract otherwise satisfying the preceding conditions, notwithstanding that the contract provides for one or more of the following matters—
- (a) for the payment after the individual's death of an annuity to a dependant not the widow or widower of the individual;
 - (b) for the payment to the individual of an annuity commencing before he attains the age of 60, if the annuity is payable on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted;
 - (c) if the individual's occupation is one in which persons customarily retire before attaining the age of 60, for the annuity to commence before he attains that age;
 - (d) for the annuity payable to any person to continue for a term certain (not exceeding ten years), notwithstanding his death within that term, or for the annuity payable to any person to terminate, or be suspended, on marriage (or re-marriage) or in other circumstances;
 - (e) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by his personal representatives in the distribution of the estate so as to give effect to a testamentary disposition, or to the rights of those

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entitled on intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

(5) ^{M9}Subject to section 621(5), section 619 and subsections (1) to (4) above shall apply in relation to a contribution under a trust scheme approved by the Board as they apply in relation to a premium under an annuity contract so approved, with the modification that, for the condition as to the person with whom the contract is made, there shall be substituted a condition that the scheme—

- (a) is established under the law of any part of, and administered in, the United Kingdom; and
- (b) is established for the benefit of individuals engaged in or connected with a particular occupation (or one or other of a group of occupations), and for the purpose of providing retirement annuities for them, with or without subsidiary benefits for their families or dependants; and
- (c) is so established under irrevocable trusts by a body of persons comprising or representing a substantial proportion of the individuals so engaged in the United Kingdom, or of those so engaged in England, Wales, Scotland or Northern Ireland;

and with the necessary adaptations of other references to the contract or the person with whom it is made.

(6) Exemption from income tax shall be allowed in respect of income derived from investments or deposits of any fund maintained for the purpose mentioned in subsection (5)(b) above under a scheme for the time being approved under that subsection.

(7) The Board may at any time, by notice given to the persons by and to whom premiums are payable under any contract for the time being approved under this section, or to the trustees or other persons having the management of any scheme so approved, withdraw that approval on such grounds and from such date as may be specified in the notice.

(8) ^{M10}Nothing in sections 4 and 6 of the ^{M11}Policies of Assurance Act 1867 (obligations of assurance companies in respect of notices of assignment of policies of life assurance) shall be taken to apply to any contract approved under this section.

(9) For the purposes of any provision applying this subsection “approved annuities” means—

- (a) annuities under contracts approved by the Board under this section, being annuities payable wholly in return for premiums or other consideration paid by a person who (when the premiums or other consideration are or is payable) is, or would but for an insufficiency of profits or gains be, chargeable to tax in respect of relevant earnings from a trade, profession, vocation, office or employment carried on or held by him; and
- (b) annuities or lump sums under approved personal pension arrangements within the meaning of Chapter IV of this Part.

Marginal Citations

M6 Source-1970 s.226(1)(b), 1971 s.20(1)

M7 Source-1970 s.226(2), 226A(5); 1976 s.30(2); 1971 s.20(3)

M8 Source-1970 s.226(3), 226A(5)

M9 Source-1970 s.226(5)-(7)

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M10 Source-1970 s.226(12), (13); 1987 (No.2) Sch.2 1

M11 1867 c. 144.

621 Other approved contracts.

- ^{M12}(1) The Board may approve under this section—
- (a) a contract the main object of which is the provision of an annuity for the wife or husband of the individual, or for any one or more dependants of the individual,
 - (b) a contract the sole object of which is the provision of a lump sum on the death of the individual before he attains the age of 75.
- (2) The Board shall not approve the contract unless it appears to them that it is made by the individual with a person lawfully carrying on in the United Kingdom the business of granting annuities on human life.
- (3) The Board shall not approve a contract under subsection (1)(a) above unless it appears to them to satisfy all the following conditions, that is to say—
- (a) that any annuity payable to the wife or husband or dependant of the individual commences on the death of the individual,
 - (b) that any annuity payable to the individual commences at a time after the individual attains the age of 60, and, unless the individual's annuity is one to commence on the death of a person to whom an annuity would be payable under the contract if that person survived the individual, cannot commence after the time when the individual attains the age of 75;
 - (c) that the contract does not provide for the payment by the person contracting with the individual of any sum, other than any annuity payable to the individual's wife or husband or dependant, or to the individual, except, in the event of no annuity becoming payable under the contract, any sums payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits;
 - (d) that the contract does not provide for the payment of any annuity otherwise than for the life of the annuitant;
 - (e) that the contract does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.
- (4) The Board may, if they think fit, and subject to any conditions that they think proper to impose, approve a contract under subsection (1)(a) above notwithstanding that, in one or more respects, they are not satisfied that the contract complies with the provisions of paragraphs (a) to (e) of subsection (3) above.
- (5) The main purpose of a trust scheme, or part of a trust scheme, within section 620(5) may be to provide annuities for the wives, husbands and dependants of the individuals, or lump sums payable on death and in that case—
- (a) approval of the trust scheme shall be subject to subsections (1) to (4) above with any necessary modifications, and not subject to section 620(2) to (4);
 - (b) the provisions of this Chapter shall apply to the scheme or part of the scheme when duly approved as they apply to a contract approved under this section; and
 - (c) section 620(6) shall apply to any duly approved trust scheme, or part of a trust scheme.

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- (6) Except as otherwise provided in this Chapter (and in particular except in section 620), any reference in the Tax Acts to a contract or scheme approved under that section shall include a reference to a contract or scheme approved under this section.

Marginal Citations

M12 Source-1970 s.226A(1)-(4), (6), (7); 1971 Sch.2 1; 1976 s.30(2)

622 Substituted retirement annuity contracts.

^{M13}(1) The Board may, if they think fit, and subject to any conditions they think proper to impose, approve an annuity contract under section 620 notwithstanding that the contract provides that the individual by whom it is made—

- (a) may agree with the person with whom it is made that a sum representing the value of the individual's accrued rights under it should be applied as the premium or other consideration either under another annuity contract made between them and approved by the Board under section 620, or under personal pension arrangements made between them and approved by the Board under Chapter IV of this Part; or
- (b) may require the person with whom it is made to pay such a sum to such other person as the individual may specify, to be applied by that other person as the premium or other consideration either under an annuity contract made between the individual and him and approved by the Board under section 620, or under personal pension arrangements made between the individual and him and approved by the Board under Chapter IV of this Part.

(2) References in subsection (1) above to the individual by whom the contract is made include references to any widow, widower or dependant having accrued rights under the contract.

(3) Where in pursuance of any such provision as is mentioned in subsection (1) above of an annuity contract approved under section 620, or of a corresponding provision of a contract approved under section 621(1)(a), a sum representing the value of accrued rights under one contract ("the original contract") is paid by way of premium or other consideration under another contract ("the substituted contract"), any annuity payable under the substituted contract shall be treated as earned income of the annuitant to the same extent that an annuity payable under the original contract would have been so treated.

Marginal Citations

M13 Source-1978 s.26(1)-(3); 1987 (No.2) Sch.2 4

623 Relevant earnings.

(1) ^{M14}For the purposes of this Chapter, a married woman's relevant earnings shall not be treated as her husband's relevant earnings, notwithstanding that her income chargeable to tax is treated as his income^{F3}.

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- (2) Subject to subsection (1) above^{F3}, “relevant earnings”, in relation to any individual, means, for the purposes of this Chapter, any income of his chargeable to tax for the year of assessment in question, being either—
- (a) income arising in respect of remuneration from an office or employment held by him other than a pensionable office or employment; or
 - (b) income from any property which is attached to or forms part of the emoluments of any such office or employment held by him; or
 - (c) income which is chargeable under *Schedule B* or^{F4} *Schedule D* and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation either as an individual or, in the case of a partnership, as a partner personally acting therein; or
 - (d) income treated as earned income by virtue of section 529;
- but does not include any remuneration as director of a company whose income consists wholly or mainly of investment income [^{F5}(that is to say, income which, if the company were an individual, would not be earned income)], being a company of which he is a controlling director.
- (3) For the purposes of this Chapter, an office or employment is a pensionable office or employment if, and only if, service in it is service to which a sponsored superannuation scheme relates (not being a scheme under which the benefits provided in respect of that service are limited to a lump sum payable on the termination of the service through death or disability before the age of 75 or some lower age); but references to a pensionable office or employment apply whether or not the duties are performed wholly or partly in the United Kingdom or the holder is chargeable to tax in respect of it.
- (4) Service in an office or employment shall not for the purposes of subsection (3) above be treated as service to which a sponsored superannuation scheme relates by reason only of the fact that the holder of the office or employment might (though he does not) participate in the scheme by exercising or refraining from exercising an option open to him by virtue of that service.
- (5) ^{M15}For the purposes of relief under section 619, an individual’s relevant earnings are those earnings before giving effect to any capital allowances, other than deductions allowable in computing profits or gains, but after taking into account the amounts on which charges fall to be made under any of the Capital Allowances Acts; and references to income in the following provisions of this section (other than references to total income) shall be construed similarly.
- (6) Subject to the following provisions of this section “net relevant earnings” means, in relation to an individual, the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions falling to be made from the relevant earnings in computing for the purposes of income tax his total income for that year, being—
- (a) deductions which but for section 74(m), (p) or (q) could be made in computing his profits or gains; or
 - (b) deductions in respect of relief under Schedule 9 of the Finance Act 1981 (stock relief); or
 - (c) deductions in respect of losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual or of the individual’s wife or husband^{F6}.

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- (7) Where in any year of assessment for which an individual claims and is allowed relief under section 619—
- (a) there falls to be made in computing the total income of the individual *or that of his wife or her husband*^{F7} a deduction in respect of any such loss or allowance of the individual as is mentioned in subsection (6)(c) above; and
 - (b) the deduction or part of it falls to be so made from income other than relevant earnings,
- the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment (being deducted as far as may be from those of the immediately following year, whether or not he claims or is entitled to claim relief under this section for that year, and so far as it cannot be so deducted, then from those of the next year, and so on).
- (8)^{M16} An individual's net relevant earnings for any year of assessment are to be computed without regard to any relief which falls to be given for that year under section 619 *either*^{F7} to that individual *or to that individual's wife or husband*^{F7}.
- (9) An individual's relevant earnings, in the case of partnership profits, shall be taken to be his share of the partnership income, estimated in accordance with the Income Tax Acts, but the amount to be included in respect of those earnings in arriving at his net relevant earnings shall be his share of that income after making therefrom all such deductions (if any) in respect of payments made by the partnership or of relief given to the partnership under Schedule 9 of the Finance Act 1981 (stock relief) or in respect of capital allowances falling to be made to the partnership as would be made in computing the tax payable in respect of that income.

Textual Amendments

- F3** *S. 623(1) and words in s. 623(2) repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.*
- F4** *Words in s. 623(2)(c) repealed by 1988(F) s.148 and Sch.14 Part V from 6 April 1988.*
- F5** *1989 s.107 and Sch.12 para.15—in relation to accounting periods beginning after 31 March 1989. Previously*
“(construed in accordance with paragraph 7 of Schedule 19)”.
- F6** *Words in s. 623(6)(c) repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.*
- F7** *Words in s. 623(7)(a)(8) repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.*

Modifications etc. (not altering text)

- C1** *S. 623(2)(c) extended (with effect in accordance with s. 44 of the extending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 6 paras. 1, 2](#)*

Marginal Citations

- M14** *Source-1970 s.226(8)-(10); 1976 s.30(2); 1972 Sch.24 17*
- M15** *Source-1970 s.227(4), (5)(a), (aa), (b), (6); 1971 Sch.8 16; 1970 s.33(3); 1981 s.35; 1986 s.56(7), Sch.13 2*
- M16** *Source-1970 s.227(8), (9); 1980 s.33(4); 1981 s.35*

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624 Sponsored superannuation schemes and controlling directors.

(1)^{M17}In section 623 “a sponsored superannuation scheme” means a scheme or arrangement—

- (a) relating to service in particular offices or employments, and
- (b) having for its object or one of its objects to make provision in respect of persons serving in those offices or employments against future retirement or partial retirement, against future termination of service through death or disability, or against similar matters,

being a scheme or arrangement under which any part of the cost of the provision so made is or has been borne otherwise than by those persons by reason of their service (whether it is the cost or part of the cost of the benefits provided, or of paying premiums or other sums in order to provide those benefits, or of administering or instituting the scheme or arrangement).

(2) For the purposes of subsection (1) above a person shall be treated as bearing by reason of his service the cost of any payment made or agreed to be made in respect of his service, if that payment or the agreement to make it is treated under the Income Tax Acts as increasing his income, or would be so treated if he were chargeable to tax under Case I of Schedule E in respect of his emoluments from that service.

(3)^{M18}In section 623 “controlling director” means a director of a company, the directors of which have a controlling interest in the company, who is the beneficial owner of, or able either directly or through the medium of other companies or by any other indirect means to control, more than 5 per cent. of the ordinary share capital of the company; and for the purposes of this definition—

“company” means one within the ^{M19}Companies Act 1985 or the ^{M20}Companies (Northern Ireland) Order 1986; and

“director” means—

- (a) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person;
- (c) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate;

and includes any person who is to be or has been a director.

Marginal Citations

M17 Source-1970 s.226(11)

M18 Source-1970 s.226(9), 224(1)

M19 1985 c. 6.

M20 S.I. 1986/1032 (N.I. 6).

625 Carry-forward of unused relief under section 619.

^{M21}(1) Where—

- (a) in any year of assessment an individual is (or would but for an insufficiency of profits or gains be) chargeable to income tax in respect of relevant earnings

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from any trade, profession, vocation, office or employment carried on or held by him, but

- (b) there is unused relief for that year, that is to say, an amount which could have been deducted from or set off against the individual's relevant earnings for that year under subsection (1) of section 619 if—
- (i) he had paid a qualifying premium in that year; or
 - (ii) the qualifying premium or premiums paid by him in that year had been greater;

then, subject to section 655(1)(b), relief may be given under that section, up to the amount of the unused relief, in respect of so much of any qualifying premium or premiums paid by the individual in any of the next six years of assessment as exceeds the maximum applying for that year under subsection (2) of that section.

- (2) Relief by virtue of this section shall be given for an earlier year rather than a later year, the unused relief taken into account in giving relief for any year being deducted from that available for giving relief in subsequent years and unused relief derived from an earlier year being exhausted before unused relief derived from a later year.
- (3) Where a relevant assessment to tax in respect of a year of assessment becomes final and conclusive more than six years after the end of that year and there is an amount of unused relief for that year which results from the making of the assessment—
- (a) that amount shall not be available for giving relief by virtue of this section for any of the six years following that year, but
 - (b) the individual may, within the period of six months beginning with the date on which the assessment becomes final and conclusive, elect that relief shall be given under section 619, up to that amount, in respect of so much of any qualifying premium or premiums paid by him within that period as exceeds the maximum applying under subsection (2) of that section for the year of assessment in which they were paid;
- and to the extent to which relief in respect of any premium or premiums is given by virtue of this subsection it shall not be given by virtue of subsection (1) above.
- (4) In this section “a relevant assessment to tax” means an assessment on the individual's relevant earnings or on the profits or gains of a partnership from which the individual derives relevant earnings.

Marginal Citations

M21 Source-1970 s.277A; 1980 s.32(1)

626 Modification of section 619 in relation to persons over 50.

^{M22}In the case of an individual whose age at the beginning of a year of assessment is within a range specified in the first column of the Table set out below, section 619(2) shall have effect for that year with the substitution for the reference to 17.5 per cent. of a reference to the relevant percentage specified in the second column of the Table.

TABLE

Age range

Percentage

Status: Point in time view as at 27/07/1993.

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51 to 55	20
56 to 60	22½
61 or more	27½

Marginal Citations

M22 Source-1970 s.228; 1987 (No.2) s.54(2)

627 Lloyd’s underwriters.

- ^{M23}(1) Where for any year of assessment an individual—
- (a) is chargeable to income tax in respect of relevant earnings derived from Lloyd’s underwriting activities; and
 - (b) there is an amount of unused relief attributable to those earnings,
- the individual may, subject to subsection (2) below, elect that there shall be treated as paid in that year any qualifying premium paid by him in the next year of assessment but two.
- (2) An election under this section shall not have effect in relation to so much of any qualifying premium as exceeds the amount of unused relief referred to in subsection (1)(b) above.
- (3) Any election under this section shall be made before the end of the year of assessment in which the premium is paid.
- (4) Where an election is made under this section the provisions of this Chapter, other than section 619(4), shall have effect as if the premium or, as the case may be, the part of the premium in question had been paid in the year specified in the election and not in the year in which it was actually paid.
- (5) In this section—
- “unused relief” has the same meaning as in section 625; and
- “relevant earnings derived from Lloyd’s underwriting activities” means relevant earnings as an [^{F8}underwriting or former underwriting member.] of Lloyd’s or by way of commission calculated by reference to the profits of Lloyd’s underwriting business.

Textual Amendments

F8 Words in s. 627(5) substituted (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 183(3), 184(3)

Marginal Citations

M23 Source-1982 s.37

628 Partnership retirement annuities.

- ^{M24}(1) Where a person (“the former partner”) has ceased to be a member of a partnership on retirement, because of age or ill-health or on death and, under—

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- (a) the partnership agreement; or
- (b) an agreement replacing the partnership agreement or supplementing it or supplementing an agreement replacing it; or
- (c) an agreement made with an individual who acquires the whole or part of the business carried on by the partnership;

annual payments are made for the benefit of the former partner or [^{F9}a widow, widower or dependant of the former partner] and are for the purposes of income tax income of the person for whose benefit they are made, the payments shall be treated as earned income of that person, except to the extent that they exceed the limit specified in subsection (2) below.

- (2) The limit mentioned in subsection (1) above is 50 per cent. of the average of the amounts which, in the best three of the relevant years of assessment, were the former partner's shares of the relevant profits or gains; and for this purpose—
 - (a) the former partner's share in any year of the relevant profits or gains is, subject to subsection (3) below, so much of the relevant profits or gains as fell to be included in a return of his income for that year; and
 - (b) the relevant profits or gains are the profits or gains of any trade, profession or vocation on which the partnership or any other partnership of which the former partner was a member was assessed to income tax; and
 - (c) the relevant years of assessment are the last seven years of assessment in which he was required to devote substantially the whole of his time to acting as a partner in the partnership or those partnerships; and
 - (d) the best three of the relevant years of assessment are those three of them in which the amounts of his shares of the relevant profits were highest;

but where, in any of the relevant years, the circumstances were such that any of the profits or gains of a partnership were not assessable to income tax, paragraphs (a), (b) and (d) above shall apply as they would apply had those profits or gains been so assessable.

- (3) If the retail prices index for the month of December in the last of the seven years referred to in paragraph (c) of subsection (2) above is higher than it was for the month of December in any of the other years referred to in that paragraph, the amount which, for that other year, was the former partner's share of the relevant profits or gains shall be treated for the purposes of that subsection as increased by the same percentage as the percentage increase in that index.
- (4) If the retail prices index for the month of December preceding a year of assessment after that in which the former partner ceased to be a member of the partnership is higher than it was for the month of December in the year of assessment in which he ceased to be such a member, the amount which under subsection (2) above is the limit for the first-mentioned year of assessment shall be treated as increased by the same percentage as the percentage increase in that index.
- (5) Where the former partner ceased to be a member of the partnership before the year 1974-75, subsection (4) above shall have effect as if he had ceased to be a member in that year.

Textual Amendments

- F9** 1988(F) s.35 and Sch.3 para.19 for 1990-91 and subsequent years. Previously "his widow or a dependant of his".

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Marginal Citations

M24 Source-1974 s.16; 1982 s.39(1); 1980 s.34(3)

629 Annuity premiums of Ministers and other officers.

^{M25}(1) For the purposes of this Chapter so much of any salary which—

- (a) is payable to the holder of a qualifying office who is also a Member of the House of Commons, and
- (b) is payable for a period in respect of which the holder is not a participant in relation to that office in arrangements contained in the Parliamentary pension scheme but is a participant in relation to his membership of the House of Commons in any such arrangements, or for any part of such a period,

as is equal to the difference between a Member's pensionable salary and the salary which (in accordance with any such resolution as is mentioned in subsection (3)(a) below) is payable to him as a Member holding that qualifying office shall be treated as remuneration from the office of Member and not from the qualifying office.

(2) In this section—

“Member's pensionable salary” means a Member's ordinary salary under any resolution of the House of Commons which, being framed otherwise than as an expression of opinion, is for the time being in force relating to the remuneration of Members or, if the resolution provides for a Member's ordinary salary thereunder to be treated for pension purposes as being at a higher rate, a notional yearly salary at that higher rate;

“qualifying office” means an office mentioned in section 2(2)(b), (c) or (d) of the Parliamentary and other ^{M26}Pensions Act 1987;

“the Parliamentary pension scheme” has the same meaning as in that Act; and without prejudice to the power conferred by virtue of paragraph 13 of Schedule 1 to that Act, regulations under section 2 of that Act may make provision specifying the circumstances in which a person is to be regarded for the purposes of this section as being or not being a participant in relation to his Membership of the House of Commons, or in relation to any office, in arrangements contained in the Parliamentary pension scheme.

(3) In subsection (2) above “a Member's ordinary salary”, in relation to any resolution of the House of Commons, means—

- (a) if the resolution provides for salary to be paid to Members at different rates according to whether or not they are holders of particular offices, or are in receipt of salaries or pensions as the holders or former holders of particular offices, a Member's yearly salary at the higher or highest rate; and
- (b) in any other case, a Member's yearly salary at the rate specified in or determined under the resolution.

Modifications etc. (not altering text)

C2 S. 629 applied (with modifications) (with effect in accordance with s. 52(2) of the affecting Act) by [Finance Act 1999 \(c. 16\), Sch. 5 para. 6](#)

Marginal Citations

M25 Source-1970 s.229

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M26 1987 c. 45.

Status:

Point in time view as at 27/07/1993.

Changes to legislation:

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