



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

CHAPTER IV

PERSONAL PENSION SCHEMES

Modifications etc. (not altering text)

C1 Pt. 14 Ch. 5 excluded (1.5.1995) by Finance Act 1995 (c. 4), s. 60(5)

Preliminary

630 Interpretation.

[^{F1}(1)] ^{M1}In this Chapter—

“approved”—

- (a) in relation to a scheme [^{F2}(other than an approved retirement benefits scheme)], means approved by the Board under this Chapter; and
- (b) in relation to arrangements, means—
 - (i) ^{F3}made in accordance with a scheme which is for the time being, and was when the arrangements were made, an approved scheme^{F4}; or
 - (ii) made in accordance with a scheme which is for the time being an approved converted scheme but which was, when the arrangements were made, an approved retirement benefits scheme;]

but does not refer to cases in which approval has been withdrawn;

Status: Point in time view as at 11/05/2001.

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[^{F5}“approved converted scheme” means an approved personal pension scheme which is such a scheme by virtue of paragraph 3(2)(b) of Schedule 23ZA;]

[^{F6}“approved retirement benefits scheme” means a retirement benefits scheme approved under Chapter I of this Part;]

[^{F7}“authorised insurance company” has the meaning given by section 659B;]

[^{F8}“the earnings threshold” for any year of assessment is £3,600;

[^{F9}“higher level contributions”, in the case of any year of assessment, means contributions in excess of the earnings threshold for the year;]

[^{F10}“income withdrawal” means a payment of income, under arrangements made in accordance with a personal pension scheme, otherwise than by way of an annuity;]

“member”, in relation to a personal pension scheme, means an individual who makes arrangements in accordance with the scheme;

[^{F11}“pension date”, in relation to any personal pension arrangements, means [^{F12}(subject to section 638ZA)] the date determined in accordance with the arrangements on which—

- (a) an annuity such as is mentioned in section 634 is first payable, or
- (b) the member elects to defer the purchase of such an annuity and to make income withdrawals in accordance with section 634A;]

“personal pension arrangements” means arrangements made by an individual in accordance with a personal pension scheme;

[^{F13}“the personal pension fund”, in the case of any personal pension arrangement and an individual, means the accrued rights to which the individual is entitled conferring prospective entitlement to benefits under the arrangement;

“personal pension scheme” means a scheme whose sole purpose is the provision of annuities [^{F14}, income withdrawals] or lump sums under arrangements made by individuals in accordance with the scheme;

[^{F15}“retirement benefits scheme” has the same meaning as in Chapter I of this Part (see section 611);]

“scheme administrator” means the person referred to in section 638(1);

[^{F16}and references to an employee or to an employer include references to the holder of an office or to the person under whom an office is held.]

[^{F17}(1A) The Treasury may by order amend the definition of “the earnings threshold” in subsection (1) above for any year of assessment by varying the amount there specified.]

[^{F18}(2) For the purposes of this Chapter the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated by reference to—

- (a) the value on that date, determined by or on behalf of the scheme administrator, of the [^{F19}“personal pension fund”] under the arrangements in question, and
- (b) the current published tables of rates of annuities prepared for the purposes of this Chapter by the Government Actuary.

[^{F20} Where a lump sum falls to be paid on the date in question, the reference is to the value of the personal pension fund after allowing for that payment.]

(3) ^{F21}

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- (4) The Board may make provision by regulations as to the basis on which the tables mentioned in subsection (2)(b) above are to be prepared and the manner in which they are to be applied.]]]

Textual Amendments

- F1 S. 630 renumbered as s. 630(1) (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by virtue of [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F2 S. 630(1): words in definition of "approved" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para 2\(a\)](#) (with [Sch. 13 Pt. 2](#))
- F3 S. 630(1): in definition of "approved", words in para. (b) renumbered as para. (b)(i) (28.7.2000) by virtue of [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(2\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F4 S. 630(1): in definition of "approved", para. (b) and preceding word inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(2\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F5 S. 630(1): definition of "approved converted scheme" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(a\)](#) (with [Sch. 13 Pt. 2](#))
- F6 S. 630(1): definition of "approved retirement benefits scheme" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F7 S. 630(1): definition of "authorised insurance company" substituted (with effect in accordance with s. 60(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 59\(4\)](#)
- F8 S. 630(1): definition of "the earnings threshold" inserted (with effect in accordance with [Sch. 13 para. 5\(8\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(c\)](#) (with [Sch. 13 Pt. 2](#))
- F9 S. 630(1): definition of "higher level contributions" inserted (with effect in accordance with [Sch. 13 para. 5\(8\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(d\)](#) (with [Sch. 13 Pt. 2](#))
- F10 S. 630(1): definition of "income withdrawal" inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F11 S. 630(1): definition of "pension date" inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F12 S. 630(1): words in definition of "pension date" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(3\)](#) (with [Sch. 13 Pt. 2](#))
- F13 S. 630(1): definition of "the personal pension fund" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(e\)](#) (with [Sch. 13 Pt. 2](#))
- F14 S. 630(1): words in definition of "personal pension scheme" inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(2\)](#)
- F15 S. 630(1): definition of "retirement benefits scheme" inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(4\)\(f\)](#) (with [Sch. 13 Pt. 2](#))
- F16 1988(F) s.55(1)—*from 1 July 1988.*
- F17 S. 630(1A) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(5\)](#) (with [Sch. 13 Pt. 2](#))
- F18 S. 630(2)-(4) inserted (with effect in accordance with [Sch. 11 para. 1](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 2\(3\)](#)
- F19 Words in s. 630(2)(a) substituted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(6\)\(a\)](#) (with [Sch. 13 Pt. 2](#))
- F20 Words in s. 630(2) added (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(6\)\(b\)](#) (with [Sch. 13 Pt. 2](#))
- F21 S. 630(3) repealed (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 5\(7\)](#), [Sch. 40 Pt. 2\(4\)](#) (with [Sch. 13 Pt. 2](#))

Marginal Citations

- M1 Source-1987 (No.2) s.18

Status: Point in time view as at 11/05/2001.

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631 Approval of schemes.

- ^{M2}(1) An application to the Board for their approval of a personal pension scheme shall be in such form, shall contain such information, and shall be accompanied by such documents, in such form, as the Board may prescribe.
- (2) The Board may at their discretion grant or refuse an application for approval of a personal pension scheme, but their discretion shall be subject to the restrictions set out in sections 632 to [^{F22}638A][^{F23}(and, where applicable, Schedule 23ZA)].
- [^{F24}(2A) An application for approval of a personal pension scheme may, if the Board think fit, be granted subject to conditions.]
- (3) The Board shall give notice to the applicant of the grant or refusal of an application; and
- [^{F25}(a) in the case of a grant subject to conditions, the notice shall state that the grant is so subject and shall specify the conditions; and
- (b)] in the case of a refusal the notice shall state the grounds for the refusal.
- (4) If an amendment is made to an approved scheme without being approved by the Board, their approval of the scheme shall cease to have effect.

Textual Amendments

- F22** Words in s. 631(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 94\(2\)](#)
- F23** Words in s. 631(2) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 6\(2\)](#) (with [Sch. 13 Pt. 2](#))
- F24** [S. 631\(2A\)](#) inserted (with effect in accordance with [Sch. 13 para. 6\(5\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 6\(3\)](#) (with [Sch. 13 Pt. 2](#))
- F25** Words in s. 631(3) inserted (with effect in accordance with [Sch. 13 para. 6\(5\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 6\(4\)](#) (with [Sch. 13 Pt. 2](#))

Modifications etc. (not altering text)

- C2** See [S.I. 1987 No.1765](#) (in Part III Vol.5) for regulations governing the provisional approval of schemes where application is made before 10 August 1989.

Marginal Citations

- M2** Source-1987 (No.2) s.19

[^{F26}631A Conversion of certain approved retirement benefits schemes.

Schedule 23ZA to this Act (which makes provision for or in connection with the conversion of certain retirement benefits schemes approved under Chapter I of this Part into personal pension schemes approved under this Chapter) shall have effect.]

Textual Amendments

- F26** [S. 631A](#) inserted (28.7.2000) by [Finance Act 2000 \(c. 17\), Sch. 13 para. 7](#) (with [Sch. 13 Pt. 2](#))

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Restrictions on approval

632 Establishment of schemes.

^{M3}(1) [^{F27}Subject to subsection (1A), the] Board shall not approve a personal pension scheme established by any person other than—

- (a) a person who is authorised under Chapter III of Part I of the ^{M4}Financial Services Act 1986 to carry on investment business and who carries on business of a kind mentioned in subsection (2) below;
- [^{F28}(aa) an EC company which—
 - (i) lawfully carries on long term business in the United Kingdom, or
 - (ii) lawfully provides long term insurance in the United Kingdom;]
- (b) a building society within the meaning of the ^{M5}Building Societies Act 1986;
- [^{F29}(bb) a pension company within the meaning of the ^{M6}Building Societies (Designation of Pension Companies) Order 1987 which is an associate of a building society within the meaning of section 18(17) of the Building Societies Act 1986;]
- (c) an institution authorised under the ^{M7}Banking Act 1987;
- [^{F29}(cc) a body corporate which is a subsidiary or holding company of an institution authorised under the Banking Act 1987, or is a subsidiary of the holding company of such an institution;]
- (d) a recognised bank or licensed institution within the meaning of the ^{M8}Banking Act 1979.
- [^{F30}(e) an institution which—
 - (i) is a European institution within the meaning of regulation 3(1) of the Banking Coordination (Second Council Directive) Regulations 1992 ^{M9}, and
 - (ii) in conformity with the conditions and requirements of those Regulations, carries on in the United Kingdom, through a branch established in the United Kingdom for that purpose, or by the provision of services, any activity falling within item 1, 7 or 11 of the list of activities contained in Schedule 1 to those Regulations.]

[^{F31}(1A) The Board may approve a personal pension scheme established by any person other than a person mentioned in subsection (1)(a) to (e) if the scheme is established under a trust or trusts.]

(2) The kinds of business referred to in subsection (1)(a) above are—

- (a) issuing insurance policies or annuity contracts;
- (b) managing unit trust schemes authorised under section 78(1) of the Financial Services Act 1986.

[^{F32}(2ZA) For the purposes of subsection (1)(aa) above an EC company—

- (a) lawfully carries on long term business in the United Kingdom if it does so through a branch in respect of which such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 ^{M10} as are applicable have been complied with;
- (b) lawfully provides long term insurance in the United Kingdom if such of those requirements as are applicable have been complied with in respect of the insurance.]

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[^{F33}(2A) In subsection 1(cc) above “holding company” and “subsidiary” are to be construed in accordance with section 736 of the ^{M11}Companies Act 1985 or Article 4 of the ^{M12}Companies (Northern Ireland) Order 1986.]

[^{F34}(2B) For the purposes of this section—

- (a) references to an EC company shall be construed in accordance with section 2(6) of the Insurance Companies Act 1982;
- (b) references to long term business shall be construed in accordance with section 1(1) of that Act;
- (c) references to the provision of long term insurance in the United Kingdom shall be construed in accordance with section 96A(3A) of that Act.]

(3) Subsection (1) above shall not apply in relation to a scheme approved by the Board by virtue of section 620(5) if it was established before [^{F35}1st July] 1988.

(4) The Treasury may by order amend this section as it has effect for the time being.

Textual Amendments

- F27** Words in s. 632(1) substituted (1.10.2000) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 2000 \(S.I. 2000/2317\)](#), [arts. 1, 2\(2\)](#)
- F28** S. 632(1)(aa) inserted (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 3\(a\)](#)
- F29** S.I. 1988 No.993
- F30** S. 632(1)(e) added (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 3\(b\)](#)
- F31** S. 632(1A) inserted (1.10.2000) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 2000 \(S.I. 2000/2317\)](#), [arts. 1, 2\(3\)](#)
- F32** S. 632(2ZA) inserted (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 4](#)
- F33** S.I. 1988 No.993
- F34** S. 632(2B) inserted (24.10.1997) by [The Personal Pension Schemes \(Establishment of Schemes\) Order 1997 \(S.I. 1997/2388\)](#), [arts. 1, 5](#)
- F35** 1988(F) s.54(2)(a)—*deemed always to have had effect. Previously* “4th January”.

Marginal Citations

- M3** Source-1987 (No.2) s.20
- M4** 1986 c. 60.
- M5** 1986 c. 53.
- M6** S.I. 1987 No.1871
- M7** 1987 c. 22.
- M8** 1979 c. 37.
- M9** S.I. 1992/3218.
- M10** 1982 c. 50. Schedule 2F was inserted by regulation 45 of, and Schedule 6 to, [S.I. 1994/1696](#).
- M11** 1985 c.6
- M12** S.I. 1986 No.1032.

[^{F36}632A Eligibility to make contributions.

(1) The Board shall not approve a personal pension scheme if it permits, in relation to arrangements made by a member in accordance with the scheme, the acceptance of—

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- (a) contributions by the member, or
 - (b) contributions by an employer of the member,
- at a time when the member is not eligible to make contributions.
- (2) The Board shall not approve a personal pension scheme unless it makes provision for ensuring, in relation to any such arrangements, that any contributions accepted at a time when the member is not eligible to make contributions are repaid—
 - (a) to the member, to the extent of his contributions; and
 - (b) as to the remainder, to his employer.
 - (3) The following provisions of this section, and the provisions of section 632B, have effect for determining for the purposes of subsections (1) and (2) above the times at which a member is eligible to make contributions (and, for those purposes, a member is not eligible to make contributions at any other time).
 - (4) A member is eligible to make contributions at any time during a year of assessment for which he has actual net relevant earnings.
 - (5) A member who does not have actual net relevant earnings for a year of assessment (“the relevant year”) is eligible to make contributions at any time during that year if—
 - (a) for at least some part of the year he does not hold an office or employment to which section 645 applies; and
 - (b) the condition in any of subsections (6) to (9) below is satisfied.
 - (6) Condition A is that at some time in the relevant year the member is resident and ordinarily resident in the United Kingdom.
 - (7) Condition B is that the member—
 - (a) at some time during the five years of assessment preceding the relevant year, has been resident and ordinarily resident in the United Kingdom; and
 - (b) was resident and ordinarily resident in the United Kingdom when he made the personal pension arrangements in question.
 - (8) Condition C is that at some time in the relevant year the member is a person who performs duties which, by virtue of section 132(4)(a), are treated as being performed in the United Kingdom.
 - (9) Condition D is that at some time in the relevant year the member is the spouse of a person who performs such duties as are mentioned in subsection (8) above.]

Textual Amendments

F36 Ss. 632A, 632B inserted (6.4.2001) by Finance Act 2000 (c. 17), Sch. 13 para. 8 (with Sch. 13 Pt. 2)

[^{F36}632B Eligibility to make contributions: concurrent membership.

- (1) A member who would not, apart from this section, be eligible to make contributions during a year of assessment shall be eligible to make contributions at any time during that year if—
 - (a) throughout the year he holds an office or employment to which section 645 applies;
 - (b) the condition in any of subsections (6) to (9) of section 632A is satisfied in his case as respects the year;

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- (c) he is not, and has not been, a controlling director of a company at any time in the year or in any of the five years of assessment preceding it;
 - (d) for at least one of the five years of assessment preceding the year, the aggregate of his grossed-up remuneration from each office and each employment held on 5th April in that preceding year does not exceed the remuneration limit for the relevant year; and
 - (e) the total relevant contributions made in the year do not exceed the earnings threshold for the year.
- (2) For the purposes of paragraphs (c) and (d) of subsection (1) above, no account shall be taken of any year of assessment earlier than the year 2000-01.
- (3) For the purposes of paragraph (c) of subsection (1) above, a person is a controlling director of a company at any time if at that time—
- (a) he is a director, as defined by section 612(1); and
 - (b) he is within paragraph (b) of section 417(5) in relation to the company.
- (4) For the purposes of paragraph (d) of subsection (1) above—
- (a) “grossed up”, in relation to a person’s remuneration from an office or employment, means increased by being multiplied by a figure determined in accordance with an order made by the Treasury (or left unchanged, if that figure is unity);
 - (b) “remuneration” shall be construed in accordance with an order made by the Treasury;
 - (c) “the remuneration limit” for any year of assessment is £30,000;
 - (d) “the relevant year” means the year of assessment first mentioned in subsection (1) above.
- The Treasury may by order amend the definition of “the remuneration limit” in paragraph (c) above for any year of assessment by varying the amount there specified.
- (5) For the purposes of paragraph (e) of subsection (1) above and the following provisions of this section, “the total relevant contributions”, in the case of a year of assessment, means the aggregate amount of the contributions made in the year—
- (a) by the member in question, and
 - (b) by any employer of his,
- under arrangements made by the member under the scheme in question, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member.
- (6) If—
- (a) in the case of a member, the total relevant contributions in a year of assessment, apart from this subsection, exceed the earnings threshold for the year, and
 - (b) but for that, the member would be eligible to make contributions by virtue of subsection (1) above at any time in that year,
- the repayment required by subsection (2) of section 632A is repayment of the relevant excess contributions only (so that the condition in subsection (1)(e) above becomes satisfied).
- (7) In subsection (6) above “the relevant excess contributions” means—

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- (a) to the extent that a contribution is the first which caused the total relevant contributions in the year to exceed the earnings threshold for the year, that contribution; and
 - (b) all subsequent contributions in the year.
- (8) The Treasury may by order make provision requiring any person who claims to be eligible to make contributions by virtue of this section to provide to—
- (a) the Board,
 - (b) an officer of the Board, or
 - (c) the scheme administrator of the personal pension scheme concerned,
- such declarations, certificates or other evidence in support of the claim as may be specified or described in, or determined in accordance with, the order.
- (9) A person shall only be eligible to make contributions by virtue of this section in a year of assessment if he complies with any requirements imposed by order under subsection (8) above.]

Textual Amendments

F36 Ss. 632A, 632B inserted (6.4.2001) by Finance Act 2000 (c. 17), Sch. 13 para. 8 (with Sch. 13 Pt. 2)

Modifications etc. (not altering text)

C3 S. 632B(4)(a) modified (6.4.2001) in accordance with art. 1(1) of the modifying S.I. by The Personal Pension Schemes (Concurrent Membership) Order 2000 (S.I. 2000/2318), art. 3(1)

633 Scope of benefits.

- ^{M13}(1) The Board shall not approve a personal pension scheme which makes provision for any benefit other than—
- (a) the payment of an annuity satisfying the conditions in section 634 [^{F37}or income withdrawals with respect to which the conditions in section 634A are satisfied];
 - (b) the payment to a member of a lump sum satisfying the conditions in section 635;
 - (c) the payment after the death of a member of an annuity satisfying the conditions in section 636 [^{F38}or income withdrawals with respect to which the conditions in section 636A are satisfied];
 - (d) the payment on the death of a member of a lump sum satisfying [^{F39}the conditions in section 637 (death benefit);]
 - [^{F40}(e) the payment on or after the death of a member of a lump sum [^{F41}with respect to which the conditions in section 637A (return of contributions) are satisfied]].
- (2) ^{F42}

Textual Amendments

F37 Words in s. 633(1)(a) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(2)

F38 Words in s. 633(1)(c) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(3)

F39 Words in s. 633(1)(d) substituted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(4)

F40 S. 633(1)(e) inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 3(5)

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- F41** Words in s. 633(1)(e) substituted (with effect in accordance with s. 172(3) of the amending Act) by Finance Act 1996 (c. 8), s. 172(1)
- F42** S. 633(2) repealed (with effect in accordance with Sch. 13 para. 9(3) of the repealing Act) by Finance Act 2000 (c. 17), Sch. 13 para. 9(2), Sch. 40 Pt. 2(4), Note 1 (with Sch. 13 Pt. 2)

Marginal Citations

M13 Source-1987 (No.2) s.21

634 Annuity to member.

- ^{M14}(1) The annuity must be payable by an authorised insurance company which may be chosen by the member.
- (2) Subject to subsection (3) below, the annuity must not commence before the member attains the age of 50 or after he attains the age of 75.
- (3) The annuity may commence before the member attains the age of 50 if—
- (a) it 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; or
 - (b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.
- (4) Subject to subsection (5) below, the annuity must be payable to the member for his life.
- (5) The annuity may continue for a term certain not exceeding ten years, notwithstanding the member's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the member and before expiry of that term, on the happening of any of the following—
- (a) the marriage of the annuitant;
 - (b) his attaining the age of 18;
 - (c) the later of his attaining that age and ceasing to be in full-time education.
- (6) The annuity must not be capable of assignment or surrender, [^{F43}except that—
- (a) an annuity may be assigned or surrendered for the purpose of giving effect to a pension sharing order or provision; and
 - (b)] an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

Textual Amendments

F43 Words in s. 634(6) substituted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), Sch. 10 para 12(1); S.I. 2000/1093, art. 2

Marginal Citations

M14 Source-1987 (No.2) s.22

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[^{F44}634A Income withdrawals by member.

- (1) Where a member elects to defer the purchase of an annuity such as is mentioned in section 634, income withdrawals may be made by him during the period of deferral, subject as follows.

[The Board shall not refuse to approve a personal pension scheme by reason only that
^{F45}(1A) it makes provision for arrangements under the scheme which enable a member who makes such an election as is mentioned in subsection (1) above to apply different parts of the personal pension fund at different times in the purchase of different annuities satisfying the conditions in section 634 (whether commencing on the same day or on different days).]

- (2) Income withdrawals must not be made before the member attains the age of 50, unless—
- (a) they are available 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, or
 - (b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.

- (3) Income withdrawals must not be made after the member attains the age of 75.

- (4) The aggregate amount of income withdrawals by a member in each successive period of twelve months [^{F46}in each valuation period] must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him—

- [^{F47}(a) in the case of the initial period, on the relevant reference date; and
(b) in the case of any subsequent valuation period,
[^{F48}(i) on a particular day in the period of sixty days ending with the relevant reference date]^{F49}, or
(ii) immediately after the last qualifying annuitisation,
whichever is the later]].

[For the purposes of subsection (4) above—

- ^{F50}(4A) (a) “annuitisation” means the application of part of the personal pension fund in the purchase of an annuity satisfying the conditions in section 634; and
(b) an annuitisation is a “qualifying annuitisation”, in relation to any such period of twelve months as is mentioned in subsection (4) above, if it has taken place—
(i) in an earlier such period, but
(ii) since the relevant reference date.]

[^{F51}(5) For the purposes of this section, in the case of any arrangements the relevant reference date—

- (a) for the period beginning with the member’s pension date (“the initial period”), is that pension date; and
- (b) for each succeeding period, is the first day of the period;

and, subject to subsection (5D) below, any period mentioned in paragraph (a) or (b) above (a “valuation period”) is a period of three years.]

[Where—
^{F52}(5A)

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- (a) a member has made an election under subsection (1) above in respect of two or more personal pension arrangements under the same personal pension scheme, and
 - (b) in the case of one or more of those arrangements, the relevant reference date for any valuation period after the initial period would not, apart from this subsection, coincide with a date which is (or, but for the ending of the period of deferral, would be) the relevant reference date for a valuation period in the case of the arrangements with the earliest pension date,
- the relevant reference date for any valuation period other than the initial period, and the valuation period to which that date relates, shall, if the scheme or the arrangements so require, be determined in the case of all those arrangements on the assumption that the pension date is in each case the same as in the case of the arrangements with the earliest pension date.
- (5B) In determining in accordance with subsection (5A) above the relevant reference date and the valuation period to which it relates, in the case of any arrangements (“the relevant arrangements”), there shall be left out of account any arrangements in whose case the period of deferral ended—
- (a) before the actual pension date in the case of the relevant arrangements; or
 - (b) before the date on which the relevant arrangements first become subject to such a requirement as is mentioned in subsection (5A) above.
- (5C) But where, in the case of any arrangements,—
- (a) the relevant reference date for any valuation period falls to be determined, in accordance with the assumption in subsection (5A) above, by reference to the pension date for any other arrangements, and
 - (b) the period of deferral in the case of those other arrangements comes to an end, the same pension date shall continue to be assumed under that subsection for that and any subsequent valuation period, notwithstanding the coming to an end of the period of deferral in the case of those other arrangements (and references in subsection (5A) to the arrangements with the earliest pension date shall be construed accordingly).
- (5D) Where, in the case of any personal pension arrangements, in consequence of subsection (5A) above the relevant reference date for any valuation period (“the later date”) falls less than three years after the relevant reference date for the previous valuation period (“the earlier date”)—
- (a) the valuation period beginning with the earlier date shall end with the day before the later date; and
 - (b) [^{F53}subsections (4) and (4A)] above shall apply in relation to any portion of the period which remains after the completion of any successive periods of twelve months as if it were a period of twelve months.]
- (6) The right to income withdrawals must not be capable of assignment or surrender [^{F54}, except for the purpose of giving effect to a pension sharing order or provision].]

Textual Amendments

F44 S. 634A inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 4

F45 S. 634A(1A) inserted (6.4.2001) by Finance Act 2000 (c. 17), Sch. 13 para. 11(2)(6) (with Sch. 13 Pt. 2)

F46 Words in s. 634A(4) substituted (1.10.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 10(2)(a)(5) (with Sch. 13 Pt. 2)

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- F47** S. 634(4)(a)(b) substituted for words in s. 634(4) (with effect in accordance with Sch. 13 para. 10(6)(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 10(2)(b)** (with Sch. 13 Pt. 2)
- F48** Words in s. 634A(4)(b) renumbered as s. 634A(4)(b)(i) (6.4.2001) by virtue of Finance Act 2000 (c. 17), **Sch. 13 para. 11(3)(a)(6)** (with Sch. 13 Pt. 2)
- F49** Words in s. 634A(4)(b) added (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(3)(b)(6)** (with Sch. 13 Pt. 2)
- F50** S. 634A(4A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(4)(6)** (with Sch. 13 Pt. 2)
- F51** S. 634A(5) substituted (1.10.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 10(3)(5)** (with Sch. 13 Pt. 2)
- F52** S. 634A(5A)-(5D) inserted (with effect in accordance with Sch. 13 para. 10(6)(7) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 10(4)** (with Sch. 13 Pt. 2)
- F53** Words in s. 634A(5D)(b) substituted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 11(5)(6)** (with Sch. 13 Pt. 2)
- F54** Words in s. 634A(6) inserted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 12(2)**; S.I. 2000/1093, **art. 2**

635 Lump sum to member.

- ^{M15}(1) The lump sum must be payable only if the member so elects on or before [^{F55}his pension date under the arrangements in question].
- (2) The lump sum must be payable [^{F56}on the date which is his pension date under the arrangements in question].
- ^{F57}(3) The lump sum must not exceed one quarter of the difference between—
- the total value, at the time when the lump sum is paid, of the benefits provided for by [^{F58}the arrangements in question], and
 - the value, at that time, of such of the member's rights [^{F59}under those arrangements] as are protected rights for the purposes of the [^{F60}Pension Schemes Act 1993] or the [^{F61}Pension Schemes (Northern Ireland) Act 1993].
- (4) *The lump sum must not exceed £150,000 or such other sum as may for the time being be specified in an order made by the Treasury^{F62}.*
- (5) The right to payment of the lump sum must not be capable of assignment or surrender [^{F63}, except for the purpose of giving effect to a pension sharing order or provision].

Textual Amendments

- F55** Words in s. 635(1) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 5(2)**
- F56** Words in s. 635(2) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 5(3)**
- F57** 1989 s.77 and Sch.7 para.2(2) in relation to the approval of a scheme on or after 27 July 1989 but if the scheme came into existence before 27 July 1989 para.2(2) shall not have effect as regards arrangements made by a member in accordance with the scheme before that date. Previously “(3) The lump sum must not exceed one quarter of the total value, at the time when the lump sum is paid, of the benefits for the member provided for by the arrangements made by him in accordance with the scheme.”.
- F58** Words in s. 635(3)(a) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 5(4)(a)**
- F59** Words in s. 635(3)(b) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 5(4)(b)**
- F60** Words in s. 635(3)(b) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(2)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**

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- F61** Words in s. 635(3)(b) substituted (7.2.1994) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), ss. 184, 186(2), **Sch. 7 para. 22(1)**; S.R. 1994/17, **art. 2**
- F62** Words repealed by 1989 ss.77, 187 and Schs.7 para. 2(3) and 17 Part IV in relation to approvals on or after 27 July 1989.
- F63** Words in s. 635(5) inserted (with application in accordance with **Sch. 10 para. 18(8)(9)** of the amending Act) by **Finance Act 1999 (c. 16), Sch. 10 para. 12(3)**; S.I. 2000/1093, **art. 2**

Marginal Citations

- M15** Source-1987 (No.2) s.23

636 Annuity after death of member.

- ^{M16}(1) The annuity must be payable by an authorised insurance company which may be chosen by the member or by the annuitant.
- (2) The annuity must be payable to the surviving spouse of the member, or to a person who was at the member's death a dependant of his.
- (3) The aggregate annual amount (or, if that amount varies, the aggregate of the initial annual amounts) of all annuities to which this section applies and which are payable under the same personal pension arrangements shall not exceed—
- (a) where before his death the member was in receipt of an annuity under the arrangements, the annual amount (or, if it varied, the highest annual amount) of that annuity; or
 - (b) where paragraph (a) does not apply, the highest annual amount of the annuity that would have been payable under the arrangements to the member (ignoring any entitlement of his to commute part of it for a lump sum) if it had [^{F64}been purchased] on the day before his death.
- [^{F65}(3A) The references in subsection (3) above—
- (a) to the annual amount or highest annual amount of an annuity of which the member was in receipt before his death, and
 - (b) to the highest annual amount of an annuity that would have been payable if it had been purchased on the day before the member's death,
- shall each be construed in a case where payments of that annuity were or would have been affected by the making of any pension sharing order or provision as if the only payments of that annuity to be taken into account were those that have been or would have been so affected.]
- (4) Subject to subsections (5) to (9) below, the annuity must be payable for the life of the annuitant.
- (5) Where the annuity is payable to the surviving spouse of the member and at the time of the member's death the surviving spouse is under the age of 60, the annuity may be deferred to a time not later than—
- (a) the time when the surviving spouse attains that age; or
 - (b) where the member's annuity is payable to the surviving spouse for a term certain as mentioned in section 634(5) and the surviving spouse attains the age of 60 before the time when the member's annuity terminates, that time.
- (6) The annuity may cease to be payable on the marriage of the annuitant.

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- (7) Where the annuity is payable to the surviving spouse of the member, it may cease before the death of the surviving spouse if—
- (a) the member was survived by one or more dependants under the age of 18 and at the time of the member's death the surviving spouse was under the age of 45; and
 - (b) at some time before the surviving spouse attains that age no such dependant remains under the age of 18.
- (8) Where the annuity is payable to a person who is under the age of 18 when it is first payable, it must cease to be payable either—
- (a) on his attaining that age; or
 - (b) on the later of his attaining that age and ceasing to be in full-time education, unless he was a dependant of the member otherwise than by reason only that he was under the age of 18.
- (9) The annuity may continue for a term certain not exceeding ten years, notwithstanding the original annuitant's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the original annuitant and before the expiry of that term, on the happening of any of the following—
- (a) the marriage of the annuitant to whom it is payable;
 - (b) his attaining the age of 18;
 - (c) the later of his attaining that age and ceasing to be in full-time education.
- (10) The annuity must not be capable of assignment or surrender, [^{F66}except that—
- (a) an annuity may be assigned or surrendered for the purpose of giving effect to a pension sharing order or provision; and
 - (b)] an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

Textual Amendments

- F64** Words in s. 636(3) substituted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 6**
- F65** S. 636(3A) inserted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 13(1)**; S.I. 2000/1093, **art. 2**
- F66** Words in s. 636(10) substituted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 13(2)**; S.I. 2000/1093, **art. 2**

Marginal Citations

- M16** Source-1987 (No.2) s.24

[^{F67}636A Income withdrawals after death of member.

- (1) Where a person entitled to such an annuity as is mentioned in section 636 elects to defer the purchase of the annuity, income withdrawals may be made by him during the period of deferral, subject as follows.

[The Board shall not refuse to approve a personal pension scheme by reason only that ^{F68}(1A) it makes provision for arrangements under the scheme which enable a person who

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makes such an election as is mentioned in subsection (1) above to apply different parts of the personal pension fund at different times in the purchase of different annuities satisfying the conditions in section 636 (whether commencing on the same day or on different days).]

- (2) No such deferral may be made, and accordingly income withdrawals may not be made, if the person concerned elects in accordance with section 636(5)(a) to defer the purchase of an annuity.
- (3) Income withdrawals must not be made after the person concerned if he had purchased such an annuity as is mentioned in section 636 would have ceased to be entitled to payments under it.
- (4) Income withdrawals must not in any event be made after the member would have attained the age of 75 or, if earlier, after the person concerned attains the age of 75.
- (5) The aggregate amount of income withdrawals by a person in each successive period of twelve months beginning with the date of the member's death must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him—
 - [^{F69}(a) in the case of the first period of three years, on the relevant reference date; and
 - (b) in the case of any succeeding period of three years,
 - [^{F70}(i) on a particular day in the period of sixty days ending with the relevant reference date]^{F71}, or
 - (ii) immediately after the last qualifying annuitisation, whichever is the later]].

[For the purposes of subsection (5) above—

^{F72}(5A) (a) “annuitisation” means the application of part of the personal pension fund in the purchase of an annuity satisfying the conditions in section 636; and

(b) an annuitisation is a “qualifying annuitisation”, in relation to any such period of twelve months as is mentioned in subsection (5) above, if it has taken place—

 - (i) in an earlier such period, but
 - (ii) since the relevant reference date.]
- (6) For the purposes of this section the relevant reference date for the first three years is the date of the member's death, and for each succeeding period of three years is the first day of that period.
- (7) The right to income withdrawals must not be capable of assignment or surrender [^{F73}, except for the purpose of giving effect to a pension sharing order or provision].]

Textual Amendments

F67 S. 636A inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 7**

F68 S. 636A(1A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(2)(7)** (with Sch. 13 Pt. 2)

F69 S. 636A(5)(a)(b) substituted for words in s. 636A(5) (1.10.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(3)(6)** (with Sch. 13 Pt. 2)

F70 Words in s. 636A(5)(b) renumbered as s. 636A(5)(b)(i) (6.4.2001) by virtue of Finance Act 2000 (c. 17), **Sch. 13 para. 12(4)(a)(7)** (with Sch. 13 Pt. 2)

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- F71** Words in s. 636A(5)(b) added (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(4)(b)(7)** (with Sch. 13 Pt. 2)
- F72** S. 636A(5A) inserted (6.4.2001) by Finance Act 2000 (c. 17), **Sch. 13 para. 12(5)(7)** (with Sch. 13 Pt. 2)
- F73** Words in s. 636A(7) inserted (with application in accordance with Sch. 10 para. 18(8)(9) of the amending Act) by Finance Act 1999 (c. 16), **Sch. 10 para. 14**; S.I. 2000/1093, **art. 2**

[^{F74} 637 **Death benefit.**

The lump sum—

- (a) must be payable on the death of the member before he attains the age of 75, and
- (b) must be payable by an authorised insurance company.]

Textual Amendments

- F74** Ss. 637, 637A substituted for s. 637 (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 8**

[^{F75} [^{F76} ~~637A~~ **Return of contributions on or after death of member.**

- (1) The lump sum payable under the arrangements in question (or, where two or more lump sums are so payable, those lump sums taken together) must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for—

- (a) any income withdrawals, and
- (b) any purchases of annuities such as are mentioned in section 636.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum (or lump sums) may represent the sale or redemption price of the units.

- (2) A lump sum must be payable only if, in the case of the arrangements in question,—
- (a) no such annuity as is mentioned in section 634 has been purchased by the member;
 - (b) no such annuity as is mentioned in section 636 has been purchased in respect of the relevant interest; and
 - (c) no election in accordance with subsection (5)(a) of section 636 has been made in respect of the relevant interest.
- (3) Where the member’s death occurs after the date which is his pension date in relation to the arrangements in question, a lump sum must not be payable more than two years after the death unless, in the case of that lump sum, the person entitled to such an annuity as is mentioned in section 636 in respect of the relevant interest—
- (a) has elected in accordance with section 636A to defer the purchase of an annuity; and
 - (b) has died during the period of deferral.
- (4) In this section “the relevant interest” means the interest, under the arrangements in question, of the person to whom or at whose direction the payment in question is made, except where there are two or more such interests, in which case it means that one of them in respect of which the payment is made.

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- (5) Where, under the arrangements in question, there is a succession of interests, any reference in subsection (2) or (3) above to the relevant interest includes a reference to any interest (other than that of the member) in relation to which the relevant interest is a successive interest.]]

Textual Amendments

F75 S. 637A substituted (with effect in accordance with s. 172(3) of the amending Act) by Finance Act 1996 (c. 8), s. 172(2)

F76 Ss. 637, 637A substituted for s. 637 (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 8

638 Other restrictions on approval.

- (1)^{M17}The Board shall not approve a personal pension scheme unless they are satisfied that there is a person resident in the United Kingdom who will be responsible for the management of the scheme.
- (2) The Board shall not approve a personal pension scheme unless it makes such provision for the making, acceptance and application of transfer payments as satisfies any requirements imposed by or under regulations made by the Board.
- (3)^{M18}The Board shall not approve a personal pension scheme unless it makes provision, in relation to arrangements made in accordance with the scheme, for ensuring that—
- (a) the aggregate amount of the contributions that may be made in a year of assessment by the member and an employer of his under the arrangements, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member, does not exceed [^{F77}the earnings threshold for that year or, if greater,] the permitted maximum for that year; and
 - (b) any excess is repaid to the member of the extent of his contributions and otherwise to his employer.
- (4) In subsection (3) above “the permitted maximum” for a year of assessment means an amount equal to ^{F78} . . . —
- (a) the relevant percentage of the member’s net relevant earnings for the year;
^{F79} . . .
 - (b) ^{F79}
- and references in subsection (3) to contributions by the member do not include references to contributions treated by virtue of section 649(3) as paid by him.
- (5) In subsection (4) above “the relevant percentage” means 17.5 per cent. or, in a case where section 640(2) applies, the relevant percentage there specified.
- (6)^{M19}The Board shall not approve a personal pension scheme which permits the acceptance of contributions other than—
- (a) contributions by members;
 - (b) contributions by employers of members;
 - (c) minimum contributions paid by the [^{F80}Board] under [^{F81}section 43 of the Pension Schemes Act 1993] or ^{F82} . . . under [^{F83}section 39 of the Pension Schemes (Northern Ireland) Act 1993].

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- [^{F84}(7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service as director of a company, if his emoluments as such are within section 644(5).
- [The Board shall not approve a personal pension scheme unless it prohibits, except in ^{F85}(7A) such cases as may be prescribed by regulations made by the Board—
- (a) the acceptance of further contributions, and
 - (b) the making of transfer payments,
- after the date which is the member's pension date in relation to the arrangements in question.]
- [Subsection (7A) above shall have effect subject to and in accordance with ^{F86}(7B) section 638ZA.]
- (8) A personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual's service in an office or employment to which section 645 applies may be approved by the Board only if—
- (a) the scheme does not permit the acceptance of contributions from the individual or from the person who is his employer in relation to that office or employment; or
 - (b) at the time when the minimum contributions are paid the individual is not serving in an office or employment to which section 645 applies.]

[^{F87}(9) The Board may only approve a personal pension scheme if it prohibits the acceptance of contributions in any form other than—

 - (a) the payment of monetary sums; or
 - (b) the transfer, subject to the conditions in subsection (12) below, of eligible shares in a company;

and any reference in this Chapter to the payment of contributions includes a reference to the making of contributions in accordance with paragraph (b) above.

(10) For the purposes of this Chapter, the amount of a contribution made by way of a transfer of shares shall be the aggregate market value of the shares at the date of the transfer.

(11) For the purposes of subsection (9)(b) above, "eligible shares" means shares—

 - (a) which the member has exercised the right to acquire, or
 - (b) which have been appropriated to the member,

in accordance with the provisions of a savings-related share option scheme, an approved profit-sharing scheme or an employee share ownership plan.

(12) The conditions mentioned in subsection (9)(b) above are—

 - (a) in relation to shares which the member has exercised his right to acquire in accordance with the provisions of a savings-related share option scheme, that the transfer of the shares as contributions under the personal pension scheme takes place before the expiry of the period of 90 days following the exercise of that right;
 - (b) in relation to shares appropriated to the member in accordance with the provisions of an approved profit-sharing scheme or an employee share ownership plan, that the transfer of the shares as contributions under the

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personal pension scheme takes place before the expiry of the period of 90 days following the date when the member directed the trustees of the approved profit-sharing scheme or employee share ownership plan to transfer the ownership of the shares to him or, if earlier, the release date in relation to the shares.

(13) In this section—

- “approved profit-sharing scheme” has the same meaning as in section 186;
- “employee share ownership plan” has the same meaning as in Schedule 8 to the Finance Act 2000;
- “market value” shall be construed in accordance with section 272 of the ^{M20}Taxation of Chargeable Gains Act 1992;
- “savings-related share option scheme” has the same meaning as in Schedule 9 (see paragraph 1(1) of that Schedule).]

Textual Amendments

- F77** Words in s. 638(3)(a) inserted (with effect in accordance with Sch. 13 para. 13(6) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 13(2)** (with Sch. 13 Pt. 2)
- F78** Words in s. 638(4) repealed (with effect in accordance with Sch. 13 para 13(7), Sch. 40 Pt. 2(4) Note 2 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 13 para. 13(3)(a), **Sch. 40 Pt. 2(4)**
- F79** S. 638(4)(b) and preceding word repealed (with effect in accordance with Sch. 13 para 13(7), Sch. 40 Pt. 2(4) Note 2 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 13 para. 13(3)(b)(c), **Sch. 40 Pt. 2(4)**
- F80** Word in s. 638(6)(c) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a)(3), **Sch. 1 para. 3** (with Sch. 8); S.I. 1999/527, art. 2(b), **Sch. 2**
- F81** Words in s. 638(6)(c) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(3)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F82** Words in s. 638(6)(c) repealed (1.4.1999) by The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), art. 1(3), Sch. 1 para. 3, **Sch. 9 Pt. 1** (with Sch. 7); S.R. 1999/149, art. 2(c), **Sch. 2**
- F83** Words in s. 638(6)(c) substituted (7.2.1994) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), ss. 184, 186(2), **Sch. 7 para. 22(2)**; S.R. 1994/17, **art. 2**
- F84** S. 638(7)(8) substituted for s. 638(7) by Finance Act 1988 (c. 39), **s. 55(2)(4)**
- F85** S. 638(7A) inserted (1.5.1995) by Finance Act 1995 (c. 4), **Sch. 11 para. 9**
- F86** S. 638(7B) inserted (28.7.2000) by Finance Act 2000 (c. 17), **Sch. 13 para. 13(4)** (with Sch. 13 Pt. 2)
- F87** S. 638(9)-(13) inserted (with effect in accordance with Sch. 13 para. 13(8) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 13(5)** (with Sch. 13 Pt. 2)

Modifications etc. (not altering text)

- C4** For regulations see Part III Vol.5 (under “Personal pension schemes”).

Marginal Citations

- M17** Source-1987 (No.2) s.27
- M18** Source-1987 (No.2) s.29
- M19** Source-1987 (No.2) s.30
- M20** 1992 c. 12.

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[^{F88}638Z] Personal pension arrangements with more than one pension date etc.

- (1) This section applies where a personal pension scheme makes provision for a personal pension arrangement under the scheme to make provision—
 - (a) for the payment of more than one annuity satisfying the conditions in section 634 or 636 (a “qualifying annuity”) and for different such annuities to commence, or be capable of commencing, on different days;
 - (b) for elections such as are mentioned in section 634A(1) or 636A(1) (“elections for deferral”) to be capable of being made at different times in relation to different portions of the personal pension fund; and
 - (c) for a qualifying lump sum to be payable in connection with—
 - (i) each qualifying annuity (other than one purchased pursuant to section 634A, 636 or 636A); and
 - (ii) each election for deferral such as is mentioned in section 634A(1).
- (2) The Board shall not refuse to approve a personal pension scheme by reason only that it makes such provision as is mentioned in subsection (1) above if they are satisfied that it makes provision in conformity with the provisions of this section.
- (3) In this section—

“income withdrawal fund” means a portion of the personal pension fund which is specified or described in an election for deferral as the portion of that fund to which the election relates;

“qualifying lump sum” means a lump sum satisfying the conditions of section 635 (as that section has effect by virtue of and in accordance with this section);

“the relevant date”, in relation to any qualifying annuity or election for deferral, means the date determined in accordance with the arrangement on which—

 - (a) the qualifying annuity commences; or
 - (b) the member makes the election for deferral.
- (4) In the application of section 635 in relation to a qualifying lump sum, for the condition in subsection (3) there shall be substituted the conditions in subsections (5) and (6) below (as read with subsection (7) below).
- (5) The first condition is that the lump sum must not exceed one-third of—
 - (a) the difference between—
 - (i) the value of the portion of the personal pension fund applied in the provision of the qualifying annuity in connection with which the lump sum is paid, determined as at the date on which that portion is so applied, and
 - (ii) the value, determined as at that date, of so much of that portion as represents protected rights, or
 - (b) the value, as at the relevant date, of the income withdrawal fund which relates to the election for deferral in connection with it is paid,as the case may be.
- (6) The second condition is that the lump sum must not represent any of the value, at the time when the lump sum is paid, of any protected rights.
- (7) In subsections (5) and (6) above, “protected rights” means any of the member’s rights under the personal pension arrangement which are protected rights for the purposes

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of the ^{M21}Pension Schemes Act 1993 or the ^{M22}Pension Schemes (Northern Ireland) Act 1993.

- (8) Where a qualifying annuity commences, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been a separate personal pension arrangement and—
- (a) the annuity, and any qualifying lump sum payable in connection with it, were benefits provided for by that separate arrangement (instead of by the personal pension arrangement by which it was actually provided (in this subsection referred to as “the relevant arrangement”));
 - (b) the portion of the personal pension fund applied in the provision of the annuity, together with the amount of any qualifying lump sum payable in connection with the annuity, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);
 - (c) any election for the annuity, or for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement); and
 - (d) except in the case of an annuity satisfying the conditions in section 636, the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that annuity, the pension date in relation to the relevant arrangement).
- (9) Where, in the case of any personal pension arrangement (in this subsection referred to as “the relevant arrangement”), an election for deferral is made, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been, and continued to be, a separate personal pension arrangement and—
- (a) the income withdrawal fund which relates to the election, together with the amount of any qualifying lump sum payable in connection with the election, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);
 - (b) the election for deferral, and any election for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement);
 - (c) the election for deferral had been made in respect of the whole of the income withdrawal fund which relates to the election; and
 - (d) except in the case of an election such as is mentioned in section 636A(1), the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that election, the pension date in relation to the relevant arrangement).]

Textual Amendments

F88 S. 638ZA inserted (6.4.2001) by Finance Act 2000 (c. 17), Sch. 13 para. 14 (with Sch 13 Pt. 2)

Marginal Citations

M21 1993 c. 48.

M22 1993 c. 49.

Status: Point in time view as at 11/05/2001.

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[^{F89}638A Power to prescribe restrictions on approval.

- (1) The Board—
 - (a) may by regulations restrict their discretion to approve a personal pension scheme; and
 - (b) shall not approve any such scheme if to do so would be inconsistent with any regulations under this section.
- (2) The restrictions that may be imposed by regulations under this section may be imposed by reference to any one or more of the following, that is to say—
 - (a) the benefits for which the scheme provides;
 - (b) the investments held for the purposes of the scheme;
 - (c) the manner in which the scheme is administered;
 - (d) any other circumstances whatever.
- (3) The following provisions of this section apply where—
 - (a) any regulations are made under this section imposing a restriction (“the new restriction”) on the Board’s discretion to approve a personal pension scheme;
 - (b) the new restriction did not exist immediately before the making of the regulations; and
 - (c) that restriction is one imposed by reference to circumstances other than the benefits for which the scheme provides.
- (4) Subject to subsections (5) and (6) below, a personal pension scheme which is an approved scheme immediately before the day on which the regulations imposing the new restriction come into force shall cease to be approved at the end of the period of 36 months beginning with that day if, at the end of that period, the scheme—
 - (a) contains a provision of a prohibited description, or
 - (b) does not contain every provision which is a provision of a required description.
- (5) The Board may by regulations provide that subsection (4) above is not to apply in the case of the inclusion of such provisions of a prohibited description, or in the case of the omission of such provisions of a required description, as may be specified in the regulations.
- (6) For the purposes of subsection (4) above—
 - (a) a provision contained in a scheme shall not be treated as being of a prohibited description to the extent that it authorises the retention of an investment held immediately before the day of the making of the new regulations; and
 - (b) so much of any provision contained in a scheme as authorises the retention of an investment held immediately before that day shall be disregarded in determining if any provision of the scheme is of a required description.
- (7) In this section—
 - (a) references to a provision of a prohibited description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which, if contained in a personal pension scheme, would prevent the Board from approving it; and
 - (b) references to a provision of a required description are references to a provision of a description which, by virtue of the new restriction, is a description of provision which must be contained in a personal pension scheme before the Board may approve it.]

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Textual Amendments

F89 S. 638A inserted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 94(1)

Tax reliefs

639 Member's contributions.

[^{F90}(1) An individual who pays a contribution under approved personal pension arrangements made by him shall be entitled to relief under this section in respect of the contribution.

(1A) Subsection (1) above is subject to the other provisions of this Chapter.

(1B) The total amount of contributions in respect of which relief may be given to an individual under this section for any year of assessment must not exceed—

- (a) the permitted maximum for the year, as defined in section 638(4), or
- (b) the earnings threshold for the year,

whichever is the greater.

(2) Any relief under this section shall be given in accordance with—

- (a) subsections (3) and (4) below, and
- (b) where applicable, subsection (5A) below.

(2A) Relief in accordance with subsections (3) and (4) below shall be subject to such conditions as the Board may prescribe in regulations.]

[^{F91}(3) An individual who is entitled to relief under this section in respect of a contribution shall be entitled, on making the payment, to deduct and retain out of it a sum equal to income tax on the contribution at the basic rate for the year of assessment in which the payment is made.]

[^{F92}(4) Where a sum is deducted under subsection (3) above from a contribution—

- (a) the scheme administrator shall allow the deduction on receipt of the residue;
- (b) the individual paying the contribution shall be acquitted and discharged of so much money as is represented by the deduction as if the sum had been actually paid; and
- (c) the sum deducted shall be treated as income tax paid by the scheme administrator.]

[^{F93}(4A) Where payment of a contribution under approved personal pension arrangements is received—

- (a) the scheme administrator shall be entitled to recover from the Board, in accordance with regulations, an amount which by virtue of subsection (4)(c) above is treated as income tax paid by him; and
- (b) any amount so recovered shall be treated for the purposes of the Tax Acts in like manner as the payment of the contribution to which it relates.]

(5) Regulations under this section may make provision for carrying subsections [^{F94}(3) to (4A)] above into effect and, without prejudice to the generality of that, may provide—

- (a) for the manner in which claims for the recovery of a sum under subsection [^{F95}(4A)(a)] may be made;

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- (b) for the giving of such information, in such form, as may be prescribed by or under the regulations;
- (c) for the inspection by persons authorised by the Board of books, documents and other records.

[^{F96}(5A) Where—

- (a) an individual is entitled to relief under this section in respect of contributions paid in any year of assessment, and
- (b) apart from this subsection, income tax at the higher rate is chargeable in respect of any part of his total income for the year,

the basic rate limit for that year shall in his case be increased by the addition of the amount of the contributions in respect of which he is entitled to relief under this section.

(5B) Relief in accordance with subsection (5A) above shall be given only on a claim made for the purpose.]

- (6)^{M23}Where relief under this section for any year of assessment is claimed and allowed (whether or not it then falls to be given for that year), and afterwards an assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax is made, there shall also be made such consequential adjustments in the relief allowed or given under this section for that or any subsequent year as are appropriate.
- (7)^{M24}Where relief [^{F97}is given under this section] for any year of assessment in respect of a contribution, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or any subsequent year, nor (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.
- (8) References in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section.

Textual Amendments

- F90** S. 639(1)-(1B)(2)(2A) substituted for s. 639(1)(2) (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(2) (with Sch. 13 Pt. 2)
- F91** S. 639(3) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(3) (with Sch. 13 Pt. 2)
- F92** S. 639(4) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(4) (with Sch. 13 Pt. 2)
- F93** S. 639(4A) inserted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(5) (with Sch. 13 Pt. 2)
- F94** Words in s. 639(5) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(6)(a) (with Sch. 13 Pt. 2)
- F95** Words in s. 639(5) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(6)(b) (with Sch. 13 Pt. 2)
- F96** S. 639(5A)(5B) inserted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(7) (with Sch. 13 Pt. 2)
- F97** Words in s. 639(7) substituted (with effect in accordance with Sch. 13 para. 15(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 15(8) (with Sch. 13 Pt. 2)

Modifications etc. (not altering text)

- C5** For regulations see Part III Vol.5 (under

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“Personal pension schemes”).

Marginal Citations

M23 Source-1987 (No.2) s.48

M24 Source-1987 (No.2) s.49

640 Maximum amount of deductions.

^{M25}(1) The maximum amount [^{F98}of contributions in respect of which relief may be given] in any year of assessment by virtue of section 639(1) shall be—

- [^{F99}(a) an amount equal to the earnings threshold for that year; or
 (b) if greater,] 17.5 per cent. of the individual’s net relevant earnings for that year.

(2) In the case of an individual whose age at the beginning of the year of assessment is within a range specified in the first column of the following table, subsection (1) above shall have effect with the substitution for 17.5 per cent. of the relevant percentage specified in the second column.

[^{F100}	20 per cent.
36 to 45	
46 to 50	25 per cent.
51 to 55	30 per cent.
56 to 60	35 per cent.
61 or more	40 per cent.]

(3) [^{F101}Without prejudice to subsection (1) above, where any contributions are paid in a year of assessment by an individual to secure benefits satisfying the conditions in section 637, the maximum amount of those contributions in respect of which relief may be given by virtue of section 639(1)] [^{F102}shall be an amount equal to 10 per cent. of the aggregate amount of the relevant pension contributions made in that year by the individual and an employer of his].

[^{F103}(3A) In subsection (3) above “relevant pension contribution” means a contribution paid towards securing benefits falling within paragraph (a), (b) or (c) of section 633(1) under arrangements made under a personal pension scheme on or after 6th April 2001.]

(4) Where personal pension arrangements are made by an employee whose employer makes contributions under the arrangements, the maximum amount [^{F104}of contributions in respect of which relief may be given by virtue of section 639(1)] in any year of assessment shall be reduced by the amount of the employer’s contributions in the year.

(5) Any minimum contributions treated by virtue of section 649(3) as paid by the individual in respect of whom they are paid shall be disregarded for the purposes of this section.

Textual Amendments

F98 Words in s. 640(1) substituted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(2)(a) (with Sch. 13 Pt. 2)

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- F99** Words in s. 640(1) inserted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(2)(b) (with Sch. 13 Pt. 2)
- F100** 1989 s.77 and Sch. 7 para. 3 for 1989-90 and subsequent years. Previously “51 to 55—20 per cent., 56 to 60—22.5 per cent., 61 or more—27.5 per cent.”.
- F101** Words in s. 640(3) substituted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(4) (with Sch. 13 Pt. 2)
- F102** Words in s. 640(3) substituted (with effect in accordance with Sch. 13 para. 16(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(5) (with Sch. 13 Pt. 2)
- F103** S. 640(3A) inserted (with effect in accordance with Sch. 13 para. 16(9) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(6) (with Sch. 13 Pt. 2)
- F104** Words in s. 640(4) substituted (with effect in accordance with Sch. 13 para. 16(8) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 16(7) (with Sch. 13 Pt. 2)

Marginal Citations

M25 Source-1987 (No.2) s.32

[^{F105}640A] Earnings cap.

- (1) In arriving at an individual’s net relevant earnings for a year of assessment for the purposes of section 640 above, any excess of what would be his net relevant earnings for the year (apart from this subsection) over the allowable maximum for the year shall be disregarded.
- (2) In subsection (1) above “the allowable maximum” means, as regards a particular year of assessment, the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the year of assessment 1989-90 the figure is £60,000.
- (4) For the year of assessment 1990-91 and any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [^{F106}to (5A)].

Textual Amendments

- F105** S. 640A inserted (with effect in accordance with Sch. 7 para. 4(2) of the amending Act) by Finance Act 1989 (c. 26), Sch. 7 para. 4(1)
- F106** Words in s. 640A(4) substituted (27.7.1993 with effect for 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

641 Carry-back of contributions.

^{F107}

Textual Amendments

- F107** S. 641 repealed (with effect in accordance with Sch. 13 para. 17 of the repealing Act) by Finance Act 2000 (c. 17), Sch. 40 Pt. 2(4), Note 3 (with Sch. 13 Pt. 2)

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[^{F108}641A Election for contributions to be treated as paid in previous year.

- (1) A person who pays a contribution under approved personal pension arrangements on or before the 31st January in any year of assessment may, at or before the time when he pays the contribution, irrevocably elect that the contribution, or part of it, shall be treated as paid in the preceding year of assessment.
- (2) Where an election is made under this section in respect of a contribution or part of a contribution, the other provisions of this Chapter shall have effect as if the contribution or part had been paid in the year specified in the election and not in the year in which it was actually paid.]

Textual Amendments

F108 S. 641A inserted (with effect in accordance with Sch. 13 para. 18(2) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 13 para. 18\(1\)](#) (with Sch. 13 Pt. 2)

642 Carry-forward of relief.

F109

Textual Amendments

F109 S. 642 repealed (with effect in accordance with Sch. 13 para. 19 of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 40](#) Pt. 2(4), Note 4 (with Sch. 13 Pt. 2)

643 Employer's contributions and personal pension income etc.

- (1) ^{M26}Where contributions are paid by an employer under approved personal pension arrangements made by his employee, those contributions shall not be regarded as emoluments of the employment chargeable to tax under Schedule E.
- (2) ^{M27}Income derived by a person from investments or deposits held by him for the purposes of an approved personal pension scheme shall be exempt from income tax.
- (3) ^{M28}An annuity payable under approved personal pension arrangements shall be treated as earned income of the annuitant.
- (4) Subsection (3) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the arrangements.
- [^{F110}(5) Income withdrawals under approved personal pension arrangements shall be assessable to tax under Schedule E (and section 203 shall apply accordingly) and shall be treated as earned income of the recipient.]

Textual Amendments

F110 S. 643(5) inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 11](#)

Marginal Citations

M26 Source-1987 (No.2) s.38
M27 Source-1987 (No.2) s.39(1)

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M28 Source-1987 (No.2) s.41(1), (2)

644 Meaning of “relevant earnings”.

^{M29}(1) In this Chapter, “relevant earnings”, in relation to an individual, means any income of his which is chargeable to tax for the year of assessment in question and is within subsection (2) below.

(2) Subject to subsections (3) to [^{F111}(6F)] below, income is within this subsection if it is—

- (a) emoluments chargeable under Schedule E from an office or employment held by the individual;
- (b) income from any property which is attached to or forms part of the emoluments of an office or employment held by him;
- (c) income which is chargeable under 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 as a partner acting personally in a partnership);
- (d) income treated as earned income by virtue of section 529.

(3) Where section 645 applies to an office or employment held by the individual, neither emoluments from the office or employment nor income from any property which is attached to it or forms part of its emoluments are within subsection (2) above.

(4) The following are not income within subsection (2) above—

- (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;
- (b) anything in respect of which tax is chargeable by virtue of section 148.

(5) Emoluments of an individual as director of a company are not income within subsection (2) above if—

- (a) the income of the company consists wholly or mainly of investment income; and
- (b) the individual, either alone or together with any other persons who are or have been at any time directors of the company, controls the company;

and section 840 shall apply for the purposes of this subsection.

(6) For the purposes of subsection (5) above—

“director” includes any person occupying the position of director by whatever name called; and

[^{F112}“investment income” means income which if the company were an individual, would not be earned income.]

[^{F113}(6A) Emoluments of an individual as an employee of a company are not income within subsection (2) above if—

- (a) he is a controlling director of the company at any time in the year of assessment in question or has been a controlling director of the company at any time in the ten years immediately preceding that year of assessment, and
- (b) any of subsections (6B) to (6E) below applies in his case.

(6B) This subsection applies in the case of the individual if—

Status: Point in time view as at 11/05/2001.

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- (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme, and
 - (b) the benefits are payable in respect of past service with the company.
- (6C) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme.
 - (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme, and
 - (c) the transfer payment is in respect of past service with the company.
- (6D) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme,
 - (b) the benefits are payable in respect of past service with another company,
 - (c) the emoluments are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and
 - (d) the other company carried on the trade or business at any time during the period of service in respect of which the benefits are payable.
- (6E) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme,
 - (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme,
 - (c) the transfer payment is in respect of past service with another company,
 - (d) the emoluments are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and
 - (e) the other company carried on the trade or business at any time during the period of service in respect of which the transfer payment was made.
- [Where—
- ^{F114}(6EA) (a) there is a time at which a person would be in receipt of any benefits under a scheme but for any debit to which any of his rights under that scheme became subject by virtue of any pension sharing order or provision, and
- (b) the benefits he would be in receipt of are benefits payable in respect of past service with a company,
- that person shall be deemed for the purposes of subsections (6A) to (6E) above to be in receipt at that time of benefits under that scheme and the benefits which he is deemed to be in receipt of shall be deemed to be benefits in respect of past service with that company.]
- (6F) For the purposes of subsections (6A) to [^{F115}(6EA)] above—
- (a) a person is a controlling director of a company if he is a director (as defined by section 612(1)), and he is within paragraph (b) of section 417(5), in relation to the company;
 - (b) “relevant superannuation scheme” has the same meaning as in section 645(1);
 - (c) references to benefits payable in respect of past service with a company include references to benefits payable partly in respect of past service with

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- the company ^{F116}but do not include references to benefits which (within the meaning of section 590) are provided for him as an ex-spouse]; and
- (d) references to a transfer payment in respect of past service with a company include references to a transfer payment partly in respect of past service with the company ^{F117}but do not include references to any transfer payment made for the purpose of giving effect to a pension sharing order or provision.]]

(7) *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^{F118}.*

Textual Amendments

- F111** 1989 s.77 and Sch.7 para.5(2) from 6 April 1989. Previously “(5)”.
- F112** 1989 s.107 and Sch. 12 para.16 in relation to accounting periods beginning after 31 March 1989. Previously ““investment income” shall be construed in accordance with paragraph 7 of Schedule 19.”.
- F113** 1989 s.77 and Sch.7 para.5(3) from 6 April 1989.
- F114** S. 644(6EA) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 15(1)
- F115** Words in s. 644(6F) substituted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 15(2)(a)
- F116** Words in s. 644(6F)(c) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 15(2)(b)
- F117** Words in s. 644(6F)(d) inserted (27.7.1999) by Finance Act 1999 (c. 16), Sch. 10 para. 15(2)(c)
- F118** Repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.

Modifications etc. (not altering text)

- C6** S. 644(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
- C7** S. 644(2)(c) extended (with effect in accordance with Sch. 22 paras. 16-18 of the extending Act) by Finance Act 2002 (c. 23), Sch. 22 para. 4

Marginal Citations

- M29** Source-1987 (No.2) s.35

645 Earnings from pensionable employment.

- ^{M30}(1) This section applies to an office or employment held by an individual if—
- service in it is service to which a relevant superannuation scheme relates; and
 - the individual is a participant in the scheme; and
 - ^{F119}subsection (4) below does not apply] to his participation in the scheme.
- (2) This section applies whether or not the duties of the office or employment are performed wholly or partly in the United Kingdom or the individual is chargeable to tax in respect of it.
- (3) In subsection (1) above “a relevant superannuation scheme” means a scheme or arrangement—
- the object or one of the objects of which is the provision, in respect of persons serving in particular offices or employments, of relevant benefits within the meaning of section 612; ^{F120} . . .
 - which is established by a person other than the individual ^{F119}; ^{F121} . . .
 - which is of a description mentioned in section 596(1)(a), (b) or (c)] ^{F122}; and

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- (d) which is not an approved converted scheme].
- (4) This subsection applies to an individual's participation in a scheme if the scheme provides no benefits in relation to him other than—
- (a) an annuity payable to his surviving spouse or a dependant of his;
 - (b) a lump sum payable on his death in service.
- [^{F123}(4A) Where the emoluments from an office or employment held by an individual are foreign emoluments within the meaning of section 192, this section shall have effect with the substitution of the following for paragraph (c) of subsection (3) above—
- “(c) which corresponds to a scheme of a description mentioned in section 596(1)(a), (b) or (c).”.]
- (5) *This subsection applies to an individual's participation in a scheme if any sums paid pursuant to the scheme with a view to the provision of relevant benefits for him are treated as his income for the purposes of the Income Tax Acts*^{F124}.

Textual Amendments

- F119** 1989 s.77 and Sch.7 para.6(2), (3) from 6 April 1989. Previously “neither subsection (4) nor subsection (5) below applies” in subs.(1).
- F120** Repealed by 1989 ss.77 and 187, Schs.7 para.6(3) and 17 Part IV from 6 April 1989.
- F121** Word preceding s. 645(3)(c) repealed (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 20(2), Sch. 40 Pt. 2(4) (with Sch. 13 Pt. 2)
- F122** S. 645(3)(d) and preceding word inserted (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 20(2) (with Sch. 13 Pt. 2)
- F123** 1989 s.77 and Sch.7 para.6(4) from 6 April 1989.
- F124** Repealed by 1989 ss.77 and 187, Schs.7 para.6(5) and 17 Part IV from 6 April 1989.

Marginal Citations

- M30** Source-1987 (No.2) s.36

646 Meaning of “net relevant earnings”.

- ^{M31}(1) Subject to subsections (3) to (7) below [^{F125}and section 646(A)], in this Chapter “net relevant earnings”, in relation to an individual, means the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions within subsection (2) below which fall to be made from the relevant earnings in computing for the purposes of income tax his total income for that year.
- (2) Deductions are within this subsection if they are—
- (a) deductions which but for section 74(m), (p) or (q) could be made in computing the profits or gains of the individual;
 - (b) deductions made by virtue of section [^{F126}197AG, 198, 201 or 332(3)];
 - (c) deductions in respect of relief under Schedule 9 to the Finance Act 1981 (stock relief);
 - (d) deductions in respect of losses or capital allowances, being losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual or the individual's wife or husband^{F127}.

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- (3) For the purposes of this section, an individual's relevant earnings shall be taken to be 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 [^{F128}under [^{F129}the Capital Allowances Act (including enactments which under this Act are to be treated as contained in that Act)]; and in subsections (4) and (5) below, references to income (other than references to total income) shall be construed similarly.
- (4) In the case of an individual's partnership profits, the amount to be included in arriving at his net relevant earnings shall be his share of the partnership income (estimated in accordance with the Income Tax Acts) after making from it any such deductions in respect of—
- (a) payments made by the partnership;
 - (b) relief given to the partnership under Schedule 9 to the Finance Act 1981; or
 - (c) capital allowances falling to be made to the partnership,
- as would be made in computing the tax payable in respect of that income.
- (5) Where, in a year of assessment for which [^{F130}the basic rate limit is increased in accordance with section 639(5A) in the case] of an individual—
- (a) a deduction in respect of such a loss or allowance of the individual as is mentioned in subsection (2)(d) above falls to be made in computing the total income of the individual *or the individual's wife or husband*^{F131}; 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 in accordance with subsection (6) below.
- (6) The deduction shall be made so far as possible from the individual's net relevant earnings for the first of the subsequent years of assessment (whether or not he is entitled to relief [^{F132}in accordance with section 639(5A)] for that year), and then, so far as it cannot be so made, from those of the next year, and so on.
- (7) ^{F133}

Textual Amendments

F125 1989 s.77 and Sch.7 para.7 for the year 1989-90 and subsequent years.

F126 Words in s. 646(2)(b) inserted (with effect in accordance with s. 57(4) of the amending Act) by Finance Act 2001 (c. 9), **Sch. 12 Pt. 2 para. 14**

F127 Words repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.

F128 1990(C) s.164 and Sch.1 para.8(29). Previously
“under the 1968 Act (including the enactments which under this Act or the 1970 Act are to be treated as contained in Part I of the 1968 Act)”.

F129 Words in s. 646(3) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), **Sch. 2 para. 54**

F130 Words in s. 646(5) substituted (with effect in accordance with Sch. 13 para. 21(5) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 21(2)** (with Sch. 13 Pt. 2)

F131 Words repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.

F132 Words in s. 646(6) substituted (with effect in accordance with Sch. 13 para. 21(5) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 13 para. 21(3)** (with Sch. 13 Pt. 2)

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F133 S. 646(7) repealed (with effect in accordance with Sch. 13 para. 21(5), Sch. 40 Pt. 2(4) Note 5 of the repealing Act) by [Finance Act 2000 \(c. 17\)](#), Sch. 13 para. 21(4), **Sch. 40 Pt. 2(4)**

Marginal Citations

M31 Source-1987 (No.2) s.37

[^{F134}646A] **Earnings from associated employments.**

- (1) This section applies where in the year of assessment in question—
 - (a) an individual holds two or more offices or employments which are associated in that year,
 - (b) one or more of them is an office or employment to which section 645 applies (“pensionable job”), and
 - (c) one or more of them is an office or employment to which that section does not apply (“non-pensionable job”).
- (2) Where the emoluments for that year from the pensionable job (or jobs) are equal to or exceed the allowable maximum for that year, section 646(1) shall have effect in the case of the individual as if the references to relevant earnings were references to relevant earnings not attributable to the non-pensionable job (or jobs).
- (3) Where the allowable maximum for that year exceeds the emoluments for that year from the pensionable job (or jobs), the individual’s net relevant earnings, so far as attributable to the non-pensionable job (or jobs), shall not be greater than the amount of the excess.
- (4) For the purposes of this section two or more offices or employments held by an individual in a year of assessment are associated in that year if the employers in question are associated at any time during it.
- (5) For the purposes of subsection (4) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (6) In subsection (5) above the reference to control, in relation to a body corporate, shall be construed—
 - (a) where the body corporate is a close company, in accordance with section 416, and
 - (b) where it is not, in accordance with section 840.
- (7) In this section “the allowable maximum” has the same meaning as in section 640A(1).]

Textual Amendments

F134 S. 646A inserted (with effect in accordance with [Sch. 7 para. 8\(2\)](#) of the amending Act) by [Finance Act 1989 \(c. 26\)](#), **Sch. 7 para. 8(1)**

[^{F135}646B] **Presumption of same level of relevant earnings etc for 5 years.**

- (1) This section applies where an individual (the “relevant member”) who is or becomes a member of a personal pension scheme provides to the scheme administrator the requisite evidence of the relevant amounts for any year of assessment (the “basis year”).

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- (2) For the purposes of this section, the “relevant amounts” for any year of assessment are the amounts which need to be known in order to calculate the relevant member’s net relevant earnings for that year.
- (3) The basis year need not be a year of assessment in which the relevant member is a member of the personal pension scheme concerned.
- (4) Where this section applies, it shall be presumed for the purposes of this Chapter in the case of the relevant member and the personal pension scheme concerned that, for each of the five years of assessment following the basis year, the relevant amounts (and, accordingly, the relevant member’s net relevant earnings) are the same as for the basis year.
- (5) Subsection (4) above is subject to—
 - (a) subsections (6) to (9) below; and
 - (b) such conditions or exceptions as may be prescribed.
- (6) For the purposes of this section, the requisite evidence provided for a later basis year (the “later basis year”) supersedes the requisite evidence provided for an earlier basis year (the “earlier basis year”).
- (7) Subsection (6) above has effect subject to, and in accordance with, subsections (8) and (9) below.
- (8) If—
 - (a) the actual net relevant earnings for the later basis year, exceed
 - (b) the actual net relevant earnings for the earlier basis year,the supersession effected by subsection (6) above has effect as respects the later basis year and subsequent years of assessment (and subsection (4) above applies accordingly).
- (9) Where the condition in subsection (8) above is not satisfied, the supersession effected by subsection (6) above has effect only as respects years of assessment later than the last of the five years of assessment following the earlier basis year (and subsection (4) above applies accordingly).
- (10) It is immaterial for the purposes of this section whether the requisite evidence for a later year of assessment is provided before or after, or at the same time as, the requisite evidence for an earlier year of assessment.
- (11) This section is subject to section 646D.]

Textual Amendments

F135 Ss. 646B, 646C inserted (with effect in accordance with Sch. 13 para. 22(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 22(1) (with Sch. 13 Pt. 2)

[^{F135}646C] Provisions supplementary to section 646B.

- (1) In this section and section 646B, “requisite evidence” means evidence—
 - (a) of such a description as may be prescribed;
 - (b) in such form as may be prescribed; and

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- (c) satisfying such conditions as may be prescribed.
- (2) Regulations may make further provision in connection with requisite evidence.
- (3) The provision that may be made by regulations under subsection (2) above includes provision for or in connection with the provision, use, retention, production or inspection of, or of copies of,—
 - (a) requisite evidence;
 - (b) books, documents or other records relating to any requisite evidence; or
 - (c) extracts from requisite evidence or from such books, documents or other records.
- (4) Any power to make regulations under this section or section 646B includes power to make different provision for different cases or different purposes.
- (5) In this section and section 646B—
 - “prescribed” means specified in or determined in accordance with regulations;
 - “regulations” means regulations made by the Board.]

Textual Amendments

F135 Ss. 646B, 646C inserted (with effect in accordance with Sch. 13 para. 22(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 22(1) (with Sch. 13 Pt. 2)

[^{F136}646D] Higher level contributions after cessation of actual relevant earnings: modification of section 646B.

- (1) This section applies where a member of a personal pension scheme—
 - (a) has no actual relevant earnings in a year of assessment (the “break year”); but
 - (b) had actual relevant earnings in the preceding year of assessment (the “cessation year”); and
 - (c) was entitled to make higher level contributions under arrangements under the scheme in any one or more of the six years of assessment preceding the break year (the “reference years”).
- (2) In the application of the presumption in subsection (4) of section 646B for any qualifying post-cessation year, in a case where this section applies, the basis year may be any one of the reference years for which the member provides or has provided the requisite evidence—
 - (a) notwithstanding anything in subsections (6) to (9) of that section; and
 - (b) whether or not the qualifying post-cessation year is included among the five years of assessment following the basis year.
- (3) If the member provides or has provided the requisite evidence for two or more of the reference years, he may by notice in writing to the scheme administrator nominate that one of those years which is to be the basis year by virtue of subsection (2) above.
- (4) In this section “post-cessation year”, in the case of the member concerned, means any of the five years of assessment following the cessation year.
- (5) For the purposes of this section any post-cessation year is a “qualifying” post-cessation year unless—

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- (a) it is a year for which the member has any actual relevant earnings;
 - (b) it is a year throughout which the member holds an office or employment to which section 645 applies; or
 - (c) it immediately follows a post-cessation year which is not a qualifying post-cessation year.
- (6) Subsection (5) above is without prejudice to the further application of this section in relation to the member if the conditions in subsection (1) above are again fulfilled.
- (7) In this section—
“the basis year” shall be construed in accordance with section 646B;
“the requisite evidence” has the same meaning as in that section.]

Textual Amendments

F136 S. 646D inserted (with effect in accordance with Sch. 13 para. 23(2) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 23(1) (with Sch. 13 Pt. 2)

Charge to tax

647 Unauthorised payments.

- ^{M32}(1) This section applies to any payment within subsection (2) below which is made—
- (a) out of funds which are or have been held for the purposes of a personal pension scheme which is or has at any time been approved; and
 - (b) to or for the benefit of an individual who has made personal pension arrangements in accordance with the scheme.
- (2) A payment is within this subsection if—
- (a) it is not expressly authorised by the rules of the scheme; or
 - (b) it is made at a time when the scheme or the arrangements are not approved and it would not have been expressly authorised by the rules of the scheme or by the arrangements when the scheme, or as the case may be the arrangements, were last so approved.
- (3) The individual referred to in subsection (1)(b) above, whether or not he is the recipient of the payment, shall be chargeable to tax under Schedule E on the amount of the payment for the year of assessment in which the payment is made.
- (4) This section applies to a transfer of assets or other transfer of money’s worth as it applies to a payment, and in relation to such a transfer the reference in subsection (3) above to the amount of the payment shall be read as a reference to the value of the transfer.

Marginal Citations

M32 Source-1987 (No.2) s.44

Status: Point in time view as at 11/05/2001.

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648 Contributions under unapproved arrangements.

^{M33}Where contributions are paid by an employer under personal pension arrangements made by his employee then, if those arrangements are not approved arrangements and the contributions are not otherwise chargeable to income tax as income of the employee, the contributions shall be regarded for all the purposes of the Income Tax Acts as emoluments of the employment chargeable to tax under Schedule E.

Marginal Citations

M33 Source-1987 (No.2) s.53

[^{F137F138}

Textual Amendments

F137 S. 648A and preceding cross-heading inserted (with application in accordance with s. 109(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 109(1)

F138 Cross-heading preceding s. 648A omitted (1.5.1995) by virtue of [Finance Act 1995 \(c. 4\)](#), [Sch. 11 para. 12](#)

648A Annuities: charge under Schedule E.

- (1) Subject to subsection (2) below, where funds held for the purposes of an approved personal pension scheme are used to acquire an annuity—
 - (a) the annuity shall be charged to tax under Schedule E and section 203 shall apply accordingly;
 - (b) the annuity shall not be charged to tax under Case III of Schedule D.
- (2) As respects any approved personal pension scheme the Board may direct that, until such date as the Board may specify, annuities acquired with funds held for the purposes of the scheme shall be charged to tax as annual payments under Case III of Schedule D, and tax shall be deductible under sections 348 and 349 accordingly.

[^{F139} ~~648B~~ Return of contributions after pension date.]

- (1) Tax shall be charged under this section on any payment to a person under approved personal pension arrangements of such a lump sum as is mentioned in section 637A in a case where the member's death occurred after his pension date in relation to the arrangement in question.
- (2) Where a payment is chargeable to tax under this section, the scheme administrator shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 35 per cent.
- (3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.
- (4) The tax shall be charged on the amount paid or, if the rules of the scheme permit the scheme administrator to deduct the tax before payment, on the amount before

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deduction of tax; and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.]

Textual Amendments

F137 S. 648A and preceding cross-heading inserted (with application in accordance with s. 109(2) of the amending Act) by Finance Act 1994 (c. 9), s. 109(1)

F139 S. 648B inserted (1.5.1995) by Finance Act 1995 (c. 4), Sch. 11 para. 12

Miscellaneous

649 Minimum contributions under Social Security Act 1986.

^{M34}(1) Where under [^{F140}section 43 of the Pension Schemes Act 1993] the [^{F141}Board pay] minimum contributions for the purposes of approved personal pension arrangements, the amount of the employee’s share of those contributions shall, instead of being the amount provided for in that Part, be the grossed-up equivalent of the amount so provided for.

(2) For the purposes of this section—

[^{F142}“the employee’s share’ of minimum contributions is the amount that would be the minimum contributions if, for the reference in section 45(1) of the Pension Schemes Act 1993 to the appropriate age-related percentage, there were substituted a reference to the percentage mentioned in section 41(1A) (a) of that Act];

“the grossed-up equivalent” of an amount is such sum as, after deduction of income tax at the basic rate in force for the year of assessment for which the contributions are paid, is equal to that amount.

(3) The employee’s share of minimum contributions paid for a year of assessment by the [^{F143}Board] for the purposes of approved personal pension arrangements shall be treated for the purposes of income tax—

- (a) as the income for that year of the individual in respect of whom it is paid; and
- (b) as contributions paid in that year by that individual under those arrangements.

(4) The Board may make regulations—

- (a) ^{F144}
- (b) ^{F144}
- (c) prescribing circumstances in which this section or any provision of it shall not apply;
- (d) making such provision as appears to the Board to be necessary or expedient for the purposes of supplementing the provisions of this section.

[^{F145}(5) The Board shall pay into the National Insurance Fund out of money provided by Parliament the amount of any increase attributable to this section in the sums paid out of that Fund under the Pension Schemes Act 1993.]

(6) In relation to Northern Ireland, this section shall have effect as if—

- (a) ^{F146}

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- (b) references to ^{F147}section 43, section 45(1) and section 41(1)(a) of the Pension Schemes Act 1993] were references to ^{F148}sections 39, 41(1) and 37(1)(a) of the Pension Schemes (Northern Ireland) Act 1993, respectively];
- ^{F149}(bb) references to sections 45(1) and 41(1A)(a) of the Pension Schemes Act 1993 were references to sections 41(1) and 37(1A)(a) of the Pension Schemes (Northern Ireland) Act 1993, respectively;] and
- (c) references to the National Insurance Fund were references to the Northern Ireland National Insurance Fund.

Textual Amendments

- F140** Words in s. 649(1) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(3)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F141** Words in s. 649(1) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 4(2)** (with Sch. 8); S.I. 1999/527, **art. 2(b)**, **Sch. 2**
- F142** S. 649(2): definition of "the employee's share" substituted (E.W.S.) (6.4.1997) by Pensions Act 1995 (c. 26), **Sch. 5 para. 12**; S.I. 1997/664, **art. 2(3)**, **Sch. Pt. 2**
- F143** Word in s. 649(3) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 4(3)** (with Sch. 8); S.I. 1999/527, **art. 2(b)**, **Sch. 2**
- F144** S. 649(4)(a)(b) repealed (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), Sch. 1 para. 4(4), **Sch. 10 Pt. 1** (with Sch. 8); S.I. 1999/527, **art. 2(b)**, **Sch. 2**
- F145** S. 649(5) substituted (25.2.1999 for specified purposes and 1.4.1999 otherwise) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 4(5)** (with Sch. 8); S.I. 1999/527, **art. 2(b)**, **Sch. 2**
- F146** S. 649(6)(a) repealed (1.4.1999) by The Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), **art. 1(3)**, Sch. 1 para. 4, **Sch. 9 Pt. 1** (with Sch. 7); S.R. 1999/149, **art. 2(c)**, **Sch. 2**
- F147** Words in s. 649(6)(b) substituted (7.2.1994) by Pension Schemes Act 1993 (c. 48), ss. 190, 193(2), **Sch. 8 para. 20(5)** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**
- F148** Words in s. 649(6)(b) substituted (7.2.1994) by Pension Schemes (Northern Ireland) Act 1993 (c. 49), ss. 184, 186(2), **Sch. 7 para. 22(3)**; S.R. 1994/17, **art. 2**
- F149** S. 649(6)(bb) inserted (N.I.) (6.4.1997) by The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213), **art. 1(2)**, **Sch. 3 para. 8**; S.R. 1997/192, **art. 2(b)**

Modifications etc. (not altering text)

- C8** For regulations see Part III Vol.5 (under "Personal pension schemes").

Marginal Citations

- M34** Source-1987 (No.2) s.42.

650 Withdrawal of approval.

- ^{M35}(1) If in the opinion of the Board the facts concerning an approved personal pension scheme or its administration or arrangements made in accordance with it do not warrant the continuance of their approval of the scheme, they may at any time by notice given to the scheme administrator withdraw their approval of the scheme.

Status: Point in time view as at 11/05/2001.

Changes to legislation: Income and Corporation Taxes Act 1988, CHAPTER IV is up to date with all changes known to be in force on or before 10 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) If in the opinion of the Board the facts concerning any approved personal pension arrangements do not warrant the continuance of their approval in relation to the arrangements, they may at any time by notice given to the individual who made them and to the scheme administrator withdraw their approval in relation to the arrangements.
- (3) Without prejudice to the generality of subsection (2) above, the Board may withdraw their approval in relation to any personal pension arrangements if they are of the opinion that securing the provision of benefits under the arrangements was not the sole purpose of the individual in making them.
- (4) A notice under subsection (1) or (2) above shall state the grounds on which, and the date from which, approval is withdrawn.
- (5) The Board may not withdraw their approval from a date earlier than the date when the facts were first such that they did not warrant the continuance of their approval (so, however, that in a case within subsection (3) above their approval may be withdrawn from the day the arrangements in question were made).
- [^{F150}(6) The power of the Board under this section to withdraw their approval in relation to any arrangements made under a personal pension scheme shall be exercisable for the purposes of section 650A notwithstanding that the time from which the approval is withdrawn is a time from which, by virtue of section 631(4) or 638A(4), the whole scheme ceases to be an approved scheme.]

Textual Amendments

F150 S. 650(6) inserted (with effect in accordance with s. 95(4) of the amending Act) by Finance Act 1998 (c. 36), s. 95(2)

Marginal Citations

M35 Source-1987 (No.2) s.43

[^{F151}650A] Charge on withdrawal of approval from arrangements.

- (1) Where any personal pension arrangements cease to be approved arrangements by virtue of the exercise by the Board of their power under section 650(2), tax shall be charged in accordance with this section.
- (2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value (taking that value at the relevant time) of the appropriate part of the assets held at that time for the purposes of the relevant scheme.
- (3) In subsection (2) above—
 - “the appropriate part”, in relation to the value of any assets, is so much of those assets as is properly attributable, in accordance with the provisions of the scheme and any just and reasonable apportionment, to the arrangements in question; and
 - “the relevant time” means the time immediately before the date from which the Board’s approval is withdrawn.
- (4) Subject to subsection (5) below, the person liable for the tax charged under this section shall be the scheme administrator for the relevant scheme.

Status: Point in time view as at 11/05/2001.

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- (5) If, in any case where an amount of tax has been charged under this section and has not been paid—
- (a) there is at any time no person who, as the scheme administrator for the relevant scheme, may be assessed to that amount of tax, or is liable to pay it,
 - (b) the scheme administrator for that scheme cannot for the time being be traced,
 - (c) there has been such a failure by the scheme administrator for that scheme to meet a liability to pay that amount as the Board consider to be a failure of a serious nature, or
 - (d) it appears to the Board that a liability of the scheme administrator for that scheme to pay that amount of tax is a liability that he will be, or (were there an assessment) would be, unable to meet out of assets held in accordance with the scheme for the purposes of those arrangements,
- the Board shall be entitled to assess the unpaid tax on the person who made the arrangements in question as if the tax charged under this section, to the extent that it is unpaid, were assessable under this section on that person, instead of on the scheme administrator.
- (6) An assessment to tax made by virtue of subsection (5)(c) above shall not be out of time if it is made within three years after the date on which the tax which the scheme administrator has failed to pay first became due from him.
- (7) For the purposes of this section the value of an asset is, subject to subsection (8) below, its market value, construing “market value” in accordance with section 272 of the 1992 Act.
- (8) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (9) below, the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.
- (9) Those persons are—
- (a) the person who (whether or not before the making of the loan) made the arrangements in relation to which the Board’s approval has been withdrawn;
 - (b) any other person who has at any time (whether or not before the making of the loan) made contributions under those arrangements; and
 - (c) any person connected, at the time of the making of the loan or subsequently, with a person falling within paragraph (a) or (b) above.
- (10) In this section “the relevant scheme”, in relation to any personal pension arrangements, means the scheme in accordance with which those arrangements were made.
- (11) Section 839 shall apply for the purposes of this section.]

Textual Amendments

F151 S. 650A inserted (with effect in accordance with s. 95(4) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 95\(1\)](#)

651 Appeals.

^{M36}(1) Where the Board—

Status: Point in time view as at 11/05/2001.

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- (a) refuse an application by notice under section 631 [^{F152}or paragraph 3 of Schedule 23ZA]; or
 - (b) withdraw an approval by notice under section 650;the person to whom the notice is given may appeal to the Special Commissioners against the refusal or, as the case may be, the withdrawal.
- (2) An appeal under this section shall be made by notice stating the grounds for the appeal and given to the Board before the end of the period of 30 days beginning with the day on which the notice of refusal or withdrawal was given to the appellant.
- (3) On an appeal under this section against the withdrawal of an approval, the Special Commissioners may, instead of allowing or dismissing the appeal, order that the withdrawal shall have effect from a date other than that determined by the Board.
- (4) The bringing of an appeal under this section shall not affect the validity of the decision appealed against pending the determination of the proceedings.

Textual Amendments

F152 Words in s. 651(1)(a) inserted (28.7.2000) by Finance Act 2000 (c. 17), Sch. 13 para. 24(2) (with Sch. 13 Pt. 2)

Marginal Citations

M36 Source-1987 (No.2) s.47

[^{F153}651] **Information powers.**

- (1) The Board may by regulations make any of the following provisions—
 - (a) provision requiring prescribed persons to furnish to the Board, at prescribed times, information relating to any of the matters mentioned in subsection (2) below;
 - (b) provision enabling the Board to serve a notice requiring prescribed persons to furnish to the Board, within a prescribed time, particulars relating to any of those matters;
 - (c) provision enabling the Board to serve a notice requiring prescribed persons to produce to the Board, within a prescribed time, documents relating to any of those matters;
 - (d) provision enabling the Board to serve a notice requiring prescribed persons to make available for inspection on behalf of the Board books, documents and other records, being books, documents and records which relate to any of those matters;
 - (e) provision requiring prescribed persons to preserve for a prescribed time books, documents and other records, being books, documents and records which relate to any of those matters.
- (2) The matters referred to in subsection (1) above are—
 - (a) any personal pension scheme which is or has been approved; and
 - (b) any personal pension arrangements which are or have been approved.
- (3) A person who fails to comply with regulations made under subsection (1)(e) above shall be liable to a penalty not exceeding £3,000.

Status: Point in time view as at 11/05/2001.

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(4) Regulations under this section may make different provision for different descriptions of case.

(5) In this section “prescribed” means prescribed by regulations made under this section.]

Textual Amendments

F153 S. 651A inserted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 96\(1\)](#)

652 Information about payments.

F154

Textual Amendments

F154 S. 652 repealed (1.10.2000) by [Finance Act 1998 \(c. 36\), s. 96\(4\), Sch. 27 Pt. 3\(21\)](#), Note, [S.I. 2000/2319, art. 2](#)

653 Information: penalties.

^{M37}A person who knowingly makes a false statement or false representation on making an application under section 631 or for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this Chapter shall be liable to a penalty not exceeding [^{F155}£3,000].

Textual Amendments

F155 1989 s.170(4)(b) *in relation to things done or omitted to be done on or after 27 July 1989. Previously “£500”.*

Marginal Citations

M37 Source-1987 (No.2) s.51(1)

[^{F156}**653A Notices to be given to scheme administrator.**

(1) Where—

- (a) the Board, or any officer of the Board, is authorised or required by or in consequence of any provision of this Chapter to give a notice to the person who is the scheme administrator of a personal pension scheme, but
- (b) there is for the time being no scheme administrator for that scheme or the person who is the scheme administrator for that scheme cannot be traced,

that power or duty may be exercised or performed by giving that notice, instead, to the person specified in subsection (2) below.

(2) That person is—

- (a) the person who established the scheme; or
- (b) any person by whom that person has been directly or indirectly succeeded in relation to the provision of benefits under the scheme.

Status: Point in time view as at 11/05/2001.

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- (3) The giving of a notice in accordance with this section shall have the same effect as the giving of that notice to the scheme administrator and, without prejudice to section 650A(5), shall not impose an additional obligation or liability on the person to whom the notice is actually given.]

Textual Amendments

F156 S. 653A inserted (with effect in accordance with s. 97(2) of the amending Act) by Finance Act 1998 (c. 36), s. 97(1)

654 Remuneration of Ministers and other officers.

- ^{M38}(1) This section applies to any salary—
- (a) payable to the holder of a qualifying office who is also a Member of the House of Commons; and
 - (b) 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.
- (2) So much of any salary to which this section applies 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 (4)(a) below) is payable to him as a Member holding that qualifying office, shall be treated for the purposes of this Chapter as remuneration from the office of Member and not from the qualifying office.
- (3) 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 paragraph (b), (c) or (d) of subsection (2) of section 2 of the ^{M39}Parliamentary and other 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.
- (4) In subsection (3) 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

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- (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)

- C9** S. 654 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

- M38** Source-1987 (No.2) s.52
M39 1987 c. 45.

655 Transitional provisions.

- (1) ^{M40}Where approved personal pension arrangements are made by an individual who pays qualifying premiums within the meaning of section 620(1)—
- (a) the amount [^{F157}of contributions in respect of which relief may be given] by virtue of section 639(1) in any year of assessment shall be reduced by the amount of any qualifying premiums which are paid in the year by the individual and in respect of which relief is given for the year under section 619(1)(a); and
 - (b) the relief which, by virtue of section 625, may be given under section 619 by reference to the individual's unused relief for any year shall be reduced by the amount of any contributions paid by him in that year under the approved personal pension arrangements.
- (2) Where an individual elects under section 641 that a contribution or part of a contribution shall be treated as paid in the year of assessment [^{F158}1985-86, 1986-87 or 1987-88], the payment shall be treated as the payment of a qualifying premium for the purposes of Chapter III of this Part; and in such a case references in section 641 to an amount of unused relief shall be construed in accordance with section 625.
- (3) The references in section 642 to unused relief for any year are, for years of assessment before [^{F159}1988-89], references to unused relief within the meaning of section 625.
- (4) ^{M41}The Board shall not grant any application under section 631 so as to approve a scheme with effect from a date earlier than [^{F159}1st July] 1988.
- (5) The Board may by regulations make provision for applications for approval of personal pension schemes to be granted provisionally *in cases where the applications are made before 1st* [^{F159}February 1990] notwithstanding that the Board have not satisfied themselves that the schemes comply with the requirements of sections 632 to 638; and such regulations may, in particular, provide—
- (a) for the contents and form of certificates or other documents which the Board may require the applicant to give them before they grant an application provisionally;
 - (b) for the making of such amendments of the rules of the scheme after the provisional grant of an application as are necessary to enable the scheme to comply with the requirements of sections 632 to 638, and for those amendments to have effect as from the date of approval of the scheme;

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- (c) for the withdrawal of approval of the scheme as from that date if it does not comply with the requirements of sections 632 to 638 and such amendments as are mentioned in paragraph (b) above are not made;
and may make such supplementary provision as appears to the Board to be necessary or expedient.

Textual Amendments

- F157** Words in s. 655(1)(a) substituted (with effect in accordance with Sch. 13 para. 25(3) of the amending Act) by Finance Act 2000 (c. 17), Sch. 13 para. 25(2) (with Sch. 13 Pt. 2)
- F158** 1988(F) s.54 (which also specifies changes to ss.20, 54, 55 and 56 of 1987 (No.2)). Deemed always to have had effect. Previously
“1984-85, 1985-86 or 1986-87”.
- F159** 1988(F) s.54 (which also specifies changes to ss.20, 54, 55 and 56 of 1987 (No.2)). Deemed always to have had effect. Previously
“1987-88”, “4th January”
and
“August 1989”
respectively.
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Modifications etc. (not altering text)

- C10** For regulations see S.I. 1987 No.1765 in Part III Vol.5.
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Marginal Citations

- M40** Source-1987 (No.2) s.55.
M41 Source-1987 (No.2) s.56

Status:

Point in time view as at 11/05/2001.

Changes to legislation:

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