

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

SCHEDULES

SCHEDULE 6

RETIREMENT BENEFITS SCHEMES

PART I

AMENDMENTS OF TAXES ACT

Preliminary

1 The Taxes Act 1988 shall be amended as mentioned in the following provisions of this Part of this Schedule.

Amendments

F12

Textual Amendments

F1 Sch. 6 para. 2 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the amending Act) by 1995 c. 4, s. 162, Sch. 29 Pt. VIII(5), note 2

- 3 (1) Section 590 (conditions for approval of schemes) shall be amended as follows.
- (2) In subsection (3)(d) (condition to be satisfied as to lump sum) the words “(disregarding any excess of that remuneration over the permitted maximum)” shall be omitted.
- (3) In subsection (3) for the words from “In paragraph (d) above” to the end there shall be substituted—
- “(e) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of pension in respect of service in any one of them may not, when aggregated with any amount payable by way of pension in respect of service in the other or others, exceed the relevant amount;
 - (f) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of commuted pension in respect of service in any one of them may not, when aggregated with any amount payable by way of commuted pension in respect of service in the other or others, exceed the relevant amount;
 - (g) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

of which is) an approved scheme, the amount payable by way of pension under the scheme may not, when aggregated with any amount payable by way of pension under the other scheme or schemes, exceed the relevant amount;

- (h) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of commuted pension may not, when aggregated with any amount payable by way of commuted pension under the other scheme or schemes, exceed the relevant amount.”

(4) For subsection (7) there shall be substituted—

“(7) Subsections (8) to (10) below apply where the Board are considering whether a retirement benefits scheme satisfies or continues to satisfy the prescribed conditions.

(8) For the purpose of determining whether the scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions, that scheme shall be considered in conjunction with—

- (a) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) approved for the purposes of this Chapter,
- (b) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) at the same time before the Board in order for them to decide whether to give approval for the purposes of this Chapter,
- (c) any section 608 scheme or schemes relating to employees of that class or description, and
- (d) any relevant statutory scheme or schemes relating to employees of that class or description.

(9) If those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of the scheme mentioned in subsection (7) above (as well as the other or others).

(10) If those conditions are not satisfied in the case of both or all of those schemes taken together, they shall not be taken to be satisfied in the case of the scheme mentioned in subsection (7) above.

(11) The reference in subsection (8)(c) above to a section 608 scheme is a reference to a fund to which section 608 applies.”

4 The following sections shall be inserted after section 590—

“590A Section 590: supplementary provisions.

(1) For the purposes of section 590(3)(e) and (f) two or more employments are relevant associated employments if they are employments in the case of which—

- (a) there is a period during which the employee has held both or all of them,

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

- (b) the period counts under the scheme in the case of both or all of them as a period in respect of which benefits are payable, and
 - (c) the period is one during which both or all of the employers in question are associated.
- (2) For the purposes of section 590(3)(g) and (h) the scheme is connected with another scheme in relation to an employee if—
- (a) there is a period during which he has been the employee of two persons who are associated employers,
 - (b) the period counts under both schemes as a period in respect of which benefits are payable, and
 - (c) the period counts under one scheme by virtue of service with one employer and under the other scheme by virtue of service with the other employer.
- (3) For the purposes of subsections (1) and (2) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (4) In subsection (3) 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.

590B Section 590: further supplementary provisions.

- (1) For the purposes of section 590(3)(e) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{A \times C}{60}$$

- (2) For the purposes of section 590(3)(f) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3 \times A \times C}{80}$$

- (3) For the purposes of section 590(3)(g) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{B \times C}{60}$$

- (4) For the purposes of section 590(3)(h) the relevant amount, in relation to an employee, shall be found by applying the following formula—

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

$$\frac{3 \times B \times C}{80}$$

- (5) For the purposes of this section A is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of the scheme at the time the benefits in respect of service in the employment become payable.
- (6) But where the same year (or part of a year) counts for the purposes of the scheme by virtue of more than one of the relevant associated employments it shall be counted only once in calculating the aggregate number of years service for the purposes of subsection (5) above.
- (7) For the purposes of this section B is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of any of the following—
- (a) the scheme, and
 - (b) the other scheme or schemes with which the scheme is connected in relation to him,
- at the time the benefits become payable.
- (8) But where the same year (or part of a year) counts for the purposes of more than one scheme it shall be counted only once in calculating the aggregate number of years service for the purpose of subsection (7) above.
- (9) For the purposes of this section C is the permitted maximum in relation to the year of assessment in which the benefits in question become payable, that is, the figure found for that year by virtue of subsections (10) and (11) below.
- (10) For the years 1988-89 and 1989-90 the figure is £60,000.
- (11) For 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) and (5).

590C Earnings cap.

- (1) In arriving at an employee's final remuneration for the purposes of section 590(3)(a) or (d), any excess of what would be his final remuneration (apart from this section) over the permitted maximum for the year of assessment in which his participation in the scheme ceases shall be disregarded.
- (2) In subsection (1) above "the permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the years 1988-89 and 1989-90 the figure is £60,000.
- (4) For any subsequent year of assessment the figure is also £60,000, subject to subsection (5) below.
- (5) If the retail prices index for the month of December preceding a year of assessment falling within subsection (4) above is higher than it was for

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

the previous December, the figure for that year shall be an amount arrived at by—

- (a) increasing the figure for the previous year of assessment by the same percentage as the percentage increase in the retail prices index, and
- (b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.

(6) The Treasury shall in the year of assessment 1989-90, and in each subsequent year of assessment, make an order specifying the figure which is by virtue of this section the figure for the following year of assessment.”

- 5 (1) Section 592 (exempt approved schemes) shall be amended as follows.
- (2) In subsection (8) there shall be inserted at the beginning the words “Subject to subsection (8A) below,”.
- (3) After subsection (8) there shall be inserted—
- “(8A) Where an employee’s remuneration for a year of assessment includes remuneration in respect of more than one employment, the amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by the employee in that year by virtue of any employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that employment.”
- (4) After subsection (8A) there shall be inserted—
- “(8B) In arriving at an employee’s remuneration for a year of assessment for the purposes of subsection (8) or (8A) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.
- (8C) In subsection (8B) above “permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of subsections (8D) and (8E) below.
- (8D) For the year 1989-90 the figure is £60,000.
- (8E) For 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) and (5).”
- 6 (1) Section 594 (exempt statutory schemes) shall be amended as follows.
- (2) In subsection (1) the word “relevant” shall be inserted before the words “statutory scheme”.
- (3) In subsection (2) there shall be inserted at the beginning the words “Subject to subsection (3) below,”.
- (4) After subsection (2) there shall be inserted—
- “(3) Where a person’s remuneration for a year of assessment includes remuneration in respect of more than one office or employment, the amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by the person in that year by virtue of any

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

office or employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that office or employment.”

(5) After subsection (3) there shall be inserted—

“(4) In arriving at a person’s remuneration for a year of assessment for the purposes of subsection (2) or (3) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.

(5) In subsection (4) above “permitted maximum”, in relation to a year of assessment, means the figure found for that year by virtue of subsections (6) and (7) below.

(6) For the year 1989-90 the figure is £60,000.

(7) For 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) and (5).”

7 Section 595(2) and (3) (charge to tax in certain cases) shall be omitted.

8 (1) Section 596 (exceptions from section 595) shall be amended as follows.

(2) In subsection (1)—

(a) for the words “Neither subsection (1) nor subsection (2) of section 595 shall” there shall be substituted the words “Section 595(1) shall not”; and

(b) in paragraph (b) the word “relevant” shall be inserted before the words “statutory scheme”.

(3) In subsection (2) for the words “Neither subsection (1) nor subsection (2) of section 595 shall” there shall be substituted the words “Section 595(1) shall not”.

(4) In subsection (3)(a) the words “either” and “or subsection (2)” shall be omitted.

9 The following section shall be inserted after section 596—

“596A Charge to tax: benefits under non-approved schemes.

(1) Where in any year of assessment a person receives a benefit provided under a retirement benefits scheme which is not of a description mentioned in section 596(1) (a), (b) or (c), tax shall be charged in accordance with the provisions of this section.

(2) Where the benefit is received by an individual, he shall be charged to tax under Schedule E for that year.

(3) Where the benefit is received by a person other than an individual, the administrator of the scheme shall be charged to tax under Case VI of Schedule D for that year.

(4) The amount to be charged to tax is—

(a) in the case of a cash benefit, the amount received, and

(b) in the case of a benefit in kind, an amount equal to whatever is the cash equivalent of the benefit.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

- (5) In the case of the charge under Case VI of Schedule D, the rate of tax is 40 per cent. or such other rate (whether higher or lower) as may for the time being be specified by the Treasury by order.
- (6) Tax shall not be charged under this section in the case of a benefit which is chargeable to tax under Schedule E by virtue of section 19(1)1.
- (7) But where the amount chargeable to tax by virtue of section 19(1)1 is less than the amount which would be chargeable to tax under this section—
 - (a) subsection (6) above shall not apply, and
 - (b) the amount chargeable to tax under this section shall be reduced by the amount chargeable to tax by virtue of section 19(1)1.
- (8) Tax shall not be charged under this section to the extent that the benefit received is attributable to the payment of a sum—
 - (a) which is deemed to be the income of a person by virtue of section 595(1), and
 - (b) in respect of which that person has been assessed to tax.
- (9) For the purpose of subsection (8) above the provision of a benefit shall be presumed not to be attributable to the payment of such a sum as is mentioned in that subsection unless the contrary is shown.

596B Section 596A: supplementary provisions.

- (1) For the purposes of section 596A the cash equivalent of a benefit in kind is—
 - (a) in the case of a benefit other than living accommodation, the amount which would be the cash equivalent of the benefit under Chapter II of Part V if it were chargeable under the appropriate provision of that Chapter (treating any sum made good by the recipient as made good by the employee), and
 - (b) in the case of living accommodation, an amount equal to the value of the accommodation to the recipient determined in accordance with the following provisions of this section less so much of any sum made good by him to those at whose cost the accommodation is provided as is properly attributable to the provision of the accommodation.
- (2) Where the cost of providing the accommodation does not exceed £75,000, the value of the accommodation to the recipient in any period is the rent which would have been payable for the period if the premises had been let to him at an annual rent equal to their annual value as ascertained under section 837.
- (3) But for a period in which those at whose cost the accommodation is provided pay rent at an annual rate greater than the annual value as so ascertained, the value of the accommodation to the recipient is an amount equal to the rent payable by them for the period.
- (4) Where the cost of providing the accommodation does exceed £75,000, the value of the accommodation to the recipient shall be taken to be the aggregate of the value of the accommodation to him determined in accordance with subsections (2) and (3) above and the additional value of the accommodation to him determined in accordance with subsections (5) and (6) below.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

- (5) The additional value of the accommodation to the recipient in any period is the rent which would have been payable for that period if the premises had been let to him at an annual rent equal to the appropriate percentage of the amount by which the cost of providing the accommodation exceeds £75,000.
- (6) Where throughout the period of six years ending with the date when the recipient first occupied the property any estate or interest in the property was held by a relevant person (whether or not it was the same estate, interest or person throughout), the additional value shall be calculated as if in subsection (7) below—
- (a) the amount referred to in paragraph (a) were the market value of that property as at that date, and
 - (b) the amount referred to in paragraph (b) did not include expenditure on improvements made before that date.
- (7) For the purposes of this section, the cost of providing any living accommodation shall be taken to be the aggregate of—
- (a) the amount of any expenditure incurred in acquiring the estate or interest in the property held by a relevant person, and
 - (b) the amount of any expenditure incurred by a relevant person before the year of assessment in question on improvements to the property.
- (8) The aggregate amount mentioned in subsection (7) above shall be reduced by the amount of any payment made by the recipient to a relevant person, so far as that amount represents a reimbursement of any such expenditure as is mentioned in paragraph (a) or (b) of that subsection or represents consideration for the grant to the recipient of a tenancy of the property.
- (9) For the purposes of this section, any of the following persons is a relevant person—
- (a) the person providing the accommodation;
 - (b) any person, other than the recipient, who is connected with a person falling within paragraph (a) above.
- (10) In this section—
- “the appropriate percentage” means the rate applicable for the purposes of section 160 as at the beginning of the year of assessment in question;
- “market value”, in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market with vacant possession, no reduction being made, in estimating the market value, on account of any option in respect of the property held by the recipient, or a person connected with him, or by any of the persons mentioned in subsection (9) above;
- “property”, in relation to any living accommodation, means the property consisting of that living accommodation;
- “tenancy” includes a sub-tenancy;
- and section 839 shall apply for the purposes of this section.”

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

- 10 In section 598(1)(b) (charge to tax: repayment of employee's contributions) the word "relevant" shall be inserted before the words "statutory scheme".
- 11 (1) Section 599 (charge to tax: commutation of entire pension in special circumstances) shall be amended as follows.
- (2) In subsection (2)(b) the word "relevant" shall be inserted before the words "statutory scheme".
- (3) After subsection (9) there shall be inserted—
- “(10) In subsection (1)(a) above “the permitted maximum” means, as regards a charge to tax arising under this section in a particular year of assessment, the figure found for that year by virtue of subsections (11) and (12) below.
- (11) For the years 1988-89 and 1989-90 the figure is £60,000.
- (12) For 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) and (5).”
- 12 (1) The following section shall be inserted after section 599—

“599A Charge to tax: payments out of surplus funds.

- (1) This subsection applies to any payment which is made to or for the benefit of an employee or to his personal representatives out of funds which are or have been held for the purposes of—
- (a) a scheme which is or has at any time been an exempt approved scheme, or
- (b) a relevant statutory scheme established under a public general Act, and which is made in pursuance of a duty to return surplus funds.
- (2) On the making of a payment to which subsection (1) above applies, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D at the relevant rate on such amount as, after deduction of tax at that rate, would equal the amount of the payment.
- (3) Subject to subsection (4) below, the relevant rate shall be 35 per cent.
- (4) The Treasury may by order from time to time increase or decrease the relevant rate.
- (5) Where a payment made to or for the benefit of an employee is one to which subsection (1) above applies, it shall be treated in computing the total income of the employee for the year in which it is made as income for that year which is—
- (a) received by him after deduction of income tax at the basic rate from a corresponding gross amount, and
- (b) chargeable to income tax under Case VI of Schedule D.
- (6) But, subject to subsection (7) below, no assessment to income tax shall be made on, and no repayment of income tax shall be made to, the employee.
- (7) Subsection (6) above shall not prevent an assessment in respect of income tax at a rate other than the basic rate.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

- (8) Subsection (5) above applies whether or not the employee is the recipient of the payment.
- (9) Any payment chargeable to tax under this section shall not be chargeable to tax under section 598, 599 or 600 or under the Regulations mentioned in paragraph 8 of Schedule 3 to the Finance Act 1971.
- (10) In this section—
“employee”, in relation to a relevant statutory scheme, includes any officer;
references to any payment include references to any transfer of assets or other transfer of money’s worth.”
- 13 (1) Section 600 (charge to tax: unauthorised payments to or for employees) shall be amended as follows.
- (2) In subsection (1) the words “or have been” and “or has at any time been” shall be omitted.
- (3) In subsection (2) for paragraphs (a) and (b) there shall be substituted the words “is not expressly authorised by the rules of the scheme or by virtue of paragraph 33 of Schedule 6 to the Finance Act 1989.”
- 14 In section 605 (information) the word “relevant” shall be inserted before the words “statutory scheme” in subsections (2), (3)(a) and (b)(i) and (4).
- 15 The following section shall be inserted after section 611—

“611A Definition of relevant statutory scheme.

- (1) In this Chapter any reference to a relevant statutory scheme is a reference to a statutory scheme—
(a) established before 14th March 1989, or
(b) established on or after that date and entered in the register maintained by the Board for the purposes of this section.
- (2) The Board shall maintain a register for the purposes of this section and shall enter in it the relevant particulars of any statutory scheme established on or after 14th March 1989 which is reported to the Board by the authority responsible for establishing it as a scheme the provisions of which correspond with those of an approved scheme.
- (3) The reference in subsection (2) above to the relevant particulars, in relation to a scheme, is a reference to—
(a) the identity of the scheme,
(b) the date on which it was established,
(c) the authority responsible for establishing it, and
(d) the date on which that authority reported the scheme to the Board.
- (4) Where the Board enter the relevant particulars of a scheme in the register maintained by them for the purposes of this section, they shall inform the authority responsible for establishing the scheme of the date of the entry.”
- 16 In section 828(4) (orders) after “377(8)” there shall be inserted “590C(6)”.

Status: Point in time view as at 01/05/1995.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, Part I. (See end of Document for details)

- 17 Paragraph 8 of Schedule 23 (benefits under scheme for additional voluntary contributions causing benefits under main scheme to abate if aggregate benefits exceed limits) shall be omitted.

Effect of amendments

- 18 (1) Paragraphs 2, 6(2), 8(2)(b), 10, 11(2), 14 and 15 above shall be deemed to have come into force on 14th March 1989.
- (2) Paragraphs 3(2) and (3) and 4 above shall have effect in relation to a scheme not approved by the Board before the day on which this Act is passed; but if the scheme came into existence before 14th March 1989 those provisions shall not have effect as regards an employee who became a member of the scheme before 1st June 1989.
- (3) Paragraph 3(4) above shall have effect where a determination is made on or after the day on which this Act is passed.
- (4) Paragraphs 5 and 6(3), (4) and (5) above shall have effect for the year 1989-90 and subsequent years of assessment, but paragraphs 5(4) and 6(5) above shall not have effect as regards a person's remuneration in respect of an office or employment in such circumstances as the Board may by regulations prescribe for the purposes of this sub-paragraph.
- (5) Paragraphs 7 and 8(2)(a) and (3) above shall have effect for the year 1988-89 and subsequent years of assessment.
- (6) Paragraph 8(4) above shall not have effect where a sum has been deemed to be income of a person by virtue of section 595(2) before 6th April 1988.
- (7) Paragraph 9 above shall have effect in relation to payments made and benefits provided on or after the day on which this Act is passed.
- (8) Paragraph 11(3) above shall have effect where the charge to tax under section 599 arises on or after 14th March 1989, but not where the scheme came into existence before that date and the employee became a member of it before 1st June 1989.
- (9) Paragraphs 12 and 13 above shall have effect in relation to payments made on or after the day on which this Act is passed.
- (10) Paragraph 17 above shall have effect in relation to benefits provided on or after the day on which this Act is passed.

Modifications etc. (not altering text)

C1 For regulations see Part III Vol. 5 (under "Retirement benefit schemes: tax relief on contributions")

Status:

Point in time view as at 01/05/1995.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1989, Part I.