

## SCHEDULES

### SCHEDULE 6

#### RETIREMENT BENEFITS SCHEMES

##### PART III

###### APPROVED SCHEMES: ADDITIONAL VOLUNTARY CONTRIBUTIONS

###### *Preliminary*

- 31 (1) Subject to sub-paragraphs (2) to (4) below, this Part of this Schedule applies in relation to any retirement benefits scheme which was approved by the Board before the day on which this Act is passed and which makes provision for the payment by an employee of voluntary contributions.
- (2) Paragraph 32 below only applies where—
- (a) the provision for the payment of voluntary contributions is freestanding, and
  - (b) the scheme is not one to which contributions are made by any employer of the employee.
- (3) The Board may by regulations provide that, in circumstances prescribed in the regulations, this Part of this Schedule or any provision of it shall not apply or shall apply with such modifications as may be so prescribed.
- (4) Regulations under sub-paragraph (3) above—
- (a) may include provision authorising the Board to direct that this Part of this Schedule or any provision of it shall not apply in any particular case where in the opinion of the Board the facts are such that its application would not be appropriate;
  - (b) may make such supplementary provision as appears to the Board to be necessary or expedient.

###### *Abatement of benefits*

- 32 (1) The scheme shall have effect (notwithstanding anything in it to the contrary) as if its rules included a rule imposing, in the case of each benefit provided for the employee, such a limit on the amount of the benefit as is mentioned in sub-paragraph (2) below.
- (2) The limit referred to above is a limit of such an amount as is found by—
- (a) taking the amount of the limit imposed by the main scheme on the provision of any like benefit for the employee by that scheme, and
  - (b) subtracting from that amount an amount equal to the relevant amount.
- (3) For the purposes of sub-paragraph (2) above the relevant amount is—

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*Status: This is the original version (as it was originally enacted).*

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- (a) where the employee is not a member of any other relevant scheme, the amount of any like benefit provided for the employee by the main scheme, and
  - (b) where the employee is a member of another relevant scheme or schemes, an amount equal to the aggregate of the amount mentioned in paragraph (a) above and the amount of any like benefit provided for the employee by the other relevant scheme or schemes.
- (4) In sub-paragraph (3) above, references to the employee being a member of another relevant scheme are references to his being a member of any approved scheme, other than the scheme, which provides additional benefits for him to supplement those provided by the main scheme.
- (5) This paragraph shall have effect in relation to benefits provided on or after the day on which this Act is passed.

*Return of surplus funds*

- 33 (1) The scheme shall have effect (notwithstanding anything in it to the contrary) as if its rules included a rule requiring the administrator, in the circumstances mentioned in sub-paragraph (2) or (3) below, as the case may be, to make to the employee or his personal representatives a payment of an amount equal to the prescribed amount out of funds which are or have been held for the purposes of the scheme.
- (2) Where the provision for the payment of voluntary contributions is freestanding, the circumstances referred to above are that the amount of any benefit provided for the employee by the scheme would have been greater had the amount of any like benefit provided for him by the main scheme, or any other relevant scheme of which he is a member, been less.
- (3) Where the provision for the payment of voluntary contributions is not freestanding, the circumstances referred to above are that the amount of any benefit provided for the employee by virtue of the voluntary contributions would have been greater had the amount of any like benefit provided for him by the principal provisions of the scheme, or any other relevant scheme of which he is a member, been less.
- (4) In sub-paragraph (1) above, the reference to the prescribed amount is to an amount calculated in accordance with the method for the time being specified in regulations made for the purposes of section 591 of the Taxes Act 1988 as the method to be used for calculating the amount of any surplus funds.
- (5) In sub-paragraph (2) above, the reference to the employee being a member of another relevant scheme is a reference to his being a member of any approved scheme, other than the scheme, which provides additional benefits for him to supplement those provided by the main scheme.
- (6) In sub-paragraph (3) above, the reference to the employee being a member of another relevant scheme is a reference to his being a member of any approved scheme, other than the scheme, which provides additional benefits for him to supplement those provided by the principal provisions of the scheme.
- 34 The scheme shall have effect (notwithstanding anything in it to the contrary) as if its rules included a rule enabling the administrator, before making any payment by virtue of paragraph 33 above, to deduct the amount of any tax to which he is charged by section 599A of the Taxes Act 1988 by virtue of making the payment.

*Supplementary*

35 In this Part of this Schedule—

- (a) “administrator”, “approved scheme”, “employee” and “retirement benefits scheme” have the same meanings as in Chapter I of Part XIV of the Taxes Act 1988,
- (b) “freestanding”, in relation to provision for the payment of voluntary contributions, means provision which is contained in a retirement benefits scheme other than the one which provides the benefits which the voluntary contributions are intended to supplement,
- (c) “the main scheme”, in relation to provision for the payment of voluntary contributions which is freestanding, means the retirement benefits scheme which provides the benefits which the voluntary contributions are intended to supplement,
- (d) “principal provisions”, in relation to a retirement benefits scheme which makes provision for the payment of voluntary contributions which is not freestanding, means the provisions of the scheme concerning the provision of the benefits which the voluntary contributions are intended to supplement,
- (e) references to the provision of a benefit for an employee shall, in relation to a deceased employee, be construed as references to the provision of a benefit in respect of him, and
- (f) references to an employee being (or not being) a member of a scheme shall, in relation to a deceased employee, be construed as references to his having been (or not having been) a member of a scheme immediately before the time of his death.