



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 3

PAYMENTS BY REGISTERED PENSION SCHEMES

Authorised member payments

164 Authorised member payments

[^{F1}(1)] The only payments a registered pension scheme is authorised to make to or in respect of a [^{F2}person who is or has been a] member of the pension scheme are—

- (a) pensions permitted by the pension rules or the pension death benefit rules [^{F3}to be paid to or in respect of a member] (see sections 165 and 167),
- (b) lump sums permitted by the lump sum rule or the lump sum death benefit rule [^{F4}to be paid to or in respect of a member] (see sections 166 and 168),
- (c) recognised transfers (see section 169),
- (d) scheme administration member payments (see section 171),
- (e) payments pursuant to a pension sharing order or provision, and
- (f) payments of a description prescribed by regulations made by the Board of Inland Revenue.

[^{F5}(2)] Regulations under subsection (1)(f) may—

- (a) provide that for the purposes of Part 9 of ITEPA 2003 all or part of a prescribed payment is to be treated as pension under a registered pension scheme, or as a lump sum of a prescribed description,
- (b) provide that all or part of a prescribed payment is subject to the short service refund lump sum charge^{F6} ... or the special lump sum death benefits charge,

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

- (c) provide that a prescribed event in relation to a prescribed payment is to be treated for the purposes of the lifetime allowance charge as a benefit crystallisation event, and make provision as to the amount crystallised by that event,

^{F7}(d)

and “prescribed” means prescribed in regulations under subsection (1)(f).]

[^{F8}(3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

- (a) having the effect that the making of a prescribed authorised payment does not (directly or indirectly) result in an individual first flexibly accessing pension rights for the purposes of sections 227B to 227F,
- (b) having the effect that the making of a prescribed authorised payment is not a relevant withdrawal for the purposes of section 579CA of ITEPA 2003, and
- (c) having the effect that the making of a prescribed payment by a pension scheme that is not a registered pension scheme, where the payment would be an authorised payment if the scheme were a registered pension scheme, is not a relevant withdrawal for the purposes of section 576A of ITEPA 2003.

(4) In subsection (3)—

“authorised payment” means a payment specified in subsection (1), and
“prescribed” means prescribed in regulations under subsection (3).]

Textual Amendments

- F1** S. 164(1): s. 164 renumbered as s. 164(1) (21.7.2008) by [Finance Act 2008 \(c. 9\), Sch. 29 para. 1\(2\)\(a\)](#)
- F2** Words in s. 164 inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 6\(a\)](#)
- F3** Words in s. 164(a) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 6\(b\)](#)
- F4** Words in s. 164(b) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 6\(c\)](#)
- F5** S. 164(2) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), Sch. 29 para. 1\(2\)\(b\)](#)
- F6** Words in [s. 164\(2\)\(b\)](#) omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of [Finance Act 2016 \(c. 24\), Sch. 5 para. 3\(1\)\(a\)](#)
- F7** S. 164(2)(d) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\), s. 75\(2\)\(a\)](#)
- F8** S. 164(3)(4) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 85](#)

Modifications etc. (not altering text)

- C1** S. 164 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), regs. 1, 8](#)
- C2** S. 164(1) modified (6.4.2023) by [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023 \(S.I. 2023/113\), regs. 1\(2\), 23\(2\), 24\(2\), 26\(2\), 28\(2\) \(with reg. 1\(3\)\) \(as amended \(14.9.2023\) by The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023 \(S.I. 2023/912\), regs. 1\(2\), 28\(a\) \(with reg. 1\(3\)\)\)](#)

Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

165 Pension rules

- (1) These are the rules relating to the payment of pensions by a registered pension scheme to a member of the pension scheme (“the pension rules”).

Pension rule 1

No payment of pension may be made before the day on which the member reaches normal minimum pension age, unless the ill-health condition was met immediately before the member became entitled to a pension under the pension scheme.

Pension rule 2

If the member dies before the end of the period of ten years beginning with the day on which the member became entitled to a scheme pension [^{F9}or an annuity], [^{F10}and if in the case of an annuity that day was before 6 April 2015,] payment of the scheme pension [^{F11}or annuity] may continue to be made (to any person) until the end of that period.

[^{F12}If the member becomes entitled to an annuity on or after 6 April 2015 and the annuity is payable until the later of the member's death and the end of a term certain, payment of the annuity may continue to be made (to any person) until the end of that term.]

[^{F13}Except as provided by the preceding provisions of this rule, no] payment of the member's pension may be made after the member's death.

Pension rule 3

No payment of pension other than a scheme pension may be made in respect of a defined benefits arrangement [^{F14}or a collective money purchase arrangement].

Pension rule 4

[^{F15}No payment of pension] other than—

- (a) a scheme pension,
- (b) a lifetime annuity, or
- (c) [^{F16}drawdown pension]

may be made in respect of a money purchase arrangement [^{F17}that is not a collective money purchase arrangement]; but a scheme pension may only be paid if the member had an opportunity to select a lifetime annuity instead.

[^{F18}Pension rule 5

The total amount of drawdown pension paid in each drawdown pension year [^{F19}from, or under a short-term annuity purchased using sums or assets out of, the member's drawdown pension fund] in respect of a money purchase arrangement must not exceed [^{F20}150%] of the basis amount for the drawdown pension .]

F21

F21

- (2) In this Part “pension”, in relation to a registered pension scheme, includes—
- (a) an annuity, and
 - (b) income withdrawal.
- (3) For the purposes of this Part, a person becomes entitled to a pension under a registered pension scheme—

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- (a) in the case of income withdrawal under the pension scheme, whenever sums or assets held for the purposes of an arrangement under the pension scheme are designated as available for the payment of [^{F22}drawdown pension], and
- (b) in any other case, when the person first acquires an actual (rather than a prospective) right to receive the pension

[^{F23}and, for this purpose, the abatement of a scheme pension under a public service pension scheme is not to be taken to affect the right to receive it].

^{F24}(3A)

^{F24}(3B)

- (4) Part 1 of Schedule 28 gives the meaning of expressions used in the pension rules.

Textual Amendments

- F9** Words in s. 165(1) substituted (with effect as specified in Sch. 19 para. 29(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 2(2)(a)**
- F10** Words in s. 165(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 41(a)**
- F11** Words in s. 165(1) substituted (with effect as specified in Sch. 19 para. 29(1) to the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 2(2)(b)**
- F12** Words in s. 165(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 41(b)**
- F13** Words in s. 165(1) substituted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 41(c)**
- F14** Words in s. 165(1) inserted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), **Sch. 5 paras. 3(2)**, 25(1); S.I. 2022/874, reg. 2
- F15** Words in s. 165(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(a)(i)**
- F16** Words in s. 165(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(a)(ii)**
- F17** Words in s. 165(1) inserted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), **Sch. 5 paras. 3(3)**, 25(1); S.I. 2022/874, reg. 2
- F18** Words in s. 165(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(b)**
- F19** Words in s. 165(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 1**
- F20** Word in s. 165(1) substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **s. 41(1)**
- F21** Words in s. 165(1) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 1(2)(c)**; and omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(a)(4)**
- F22** Words in s. 165(3)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 16 para. 64**
- F23** Words in s. 165(3) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 7**, 64(1)
- F24** S. 165(3A)(3B) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), **Sch. 1 para. 32(1)(b)(4)**

Modifications etc. (not altering text)

- C3** S. 165 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), **6**
- C4** S. 165 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), **Sch. 3 para. 2(1)(2)(a)** (with [Sch. 2 para. 2\(1\)](#))

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

- C5** S. 165 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 90\(2\)\(a\)](#)
- C6** S. 165 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 91\(2\)\(a\)](#)
- C7** S. 165 modified by The Pensions Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (S.I. 2006/207), reg. 6 (as substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2012/1795](#), [regs. 1\(1\), 3](#))
- C8** S. 165(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [arts. 1\(1\), 3, 4\(1\)\(2\)](#)

Commencement Information

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

166 Lump sum rule

- (1) This is the rule relating to the payment of lump sums by a registered pension scheme to a member of the pension scheme (“the lump sum rule”).

Lump sum rule

No lump sum may be paid other than—

- (a) a pension commencement lump sum,
 - (b) a serious ill-health lump sum,
 - ^[F25](ba) an uncrystallised funds pension lump sum,
 - (c) a short service refund lump sum,
 - (d) a refund of excess contributions lump sum,
 - (e) a trivial commutation lump sum,
 - (f) a winding-up lump sum, ^{F26}...
 - (g) a lifetime allowance excess lump sum^[F27], or
 - (h) a transitional 2013/14 lump sum.]
- (2) For the purposes of this Part, a person becomes entitled to a lump sum under a registered pension scheme—
- ^[F28](za) in the case of a pension commencement lump sum to which paragraph 1B of Schedule 29 applies (certain sums paid before 6 April 2015), immediately before the person becomes entitled to the actual pension (see paragraph 1B(2)(h) of that Schedule),
 - (a) in the case ^[F29]of any other] pension commencement lump sum, immediately before the person becomes entitled to the pension in connection with which it is paid ^[F30](or, if the person dies before becoming entitled to the pension in connection with which it was anticipated it would be paid, immediately before death),
 - ^[F31](aa) in the case of an uncrystallised funds pension lump sum, immediately before it is paid,] and
 - (b) in any other case, when the person acquires an actual (rather than a prospective) right to receive the lump sum.
- (3) Part 1 of Schedule 29 gives the meaning of expressions used in the lump sum rule.
- (4) Schedule 36 contains (in Part 3) transitional provisions about lump sums.

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

- [^{F32}(5) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend Part 1 of Schedule 29, or Part 3 of Schedule 36, in connection with cases involving a lump sum within subsection (6).
- (6) A lump sum is within this subsection if—
- (a) the sum is paid on or after 19 September 2013 and before 6 April 2015, or
 - (b) the sum is paid before 19 September 2013, a contract for a lifetime annuity is entered into to provide the pension in connection with which the sum is paid, and on or after 19 March 2014 the contract is cancelled.
- (7) The provision that may be made under subsection (5) includes provision altering the effect of amendments made by the Finance Act 2014.]

Textual Amendments

- F25** S. 166(1)(ba) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 54](#)
- F26** Word in s. 166(1) omitted (19.3.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 5\(1\), 15](#)
- F27** S. 166(1)(h) and preceding word inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 5\(1\), 15](#)
- F28** S. 166(2)(za) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 2\(2\)\(a\), 15](#)
- F29** Words in s. 166(2)(a) substituted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 2\(2\)\(b\), 15](#)
- F30** Words in s. 166(2)(a) inserted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 9, 24\(3\)](#)
- F31** S. 166(2)(aa) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 55](#)
- F32** S. 166(5)-(7) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 13, 15](#)

Modifications etc. (not altering text)

- C9** S. 166 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [11](#)
- C10** S. 166(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), [25\(1\)-\(3\)](#)
- C11** S. 166(2) modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [art. 23B](#) (as inserted (1.6.2009) by [S.I. 2009/1172](#), arts. 1, [3](#))
- C12** S. 166(2)(a) modified by [S.I. 2006/572](#), art. 23ZE(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), [3](#))
- C13** S. 166(2)(a) modified by [S.I. 2006/572](#), art. 23ZC(2) (as inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Taxation of Pension Schemes \(Transitional Provisions\) \(Amendment\) Order 2011 \(S.I. 2011/732\)](#), arts. 1(1), [3](#))

Commencement Information

- I3** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

167 Pension death benefit rules

- (1) These are the rules relating to the payment of pension death benefits by a registered pension scheme in respect of a member of the pension scheme (“the pension death benefit rules”).

Pension death benefit rule 1

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No payment of pension death benefit may be made otherwise than to a dependant^[F33], or nominee or successor,] of the member.

Pension death benefit rule 2

No payment of pension death benefit other than a dependants' scheme pension may be made in respect of a defined benefits arrangement ^[F34]or a collective money purchase arrangement].

Pension death benefit rule 3

^[F35]No payment of pension death benefit] other than—

- (a) a dependants' scheme pension,
- (b) a dependants' annuity, or
- (c) ^[F36]dependants' drawdown pension,]

may be made to ^[F37]a dependant] in respect of a money purchase arrangement ^[F38]that is not a collective money purchase arrangement]; but a dependants' scheme pension may only be paid if the member or dependant had an opportunity to select a dependants' annuity instead.

^[F39]Pension death benefit rule 3A

No payment of pension death benefit, other than ^[F40]a nominees' annuity in respect of a money purchase arrangement or] nominees' drawdown pension in respect of a money purchase arrangement, may be made to a nominee of the member.]

^[F39]Pension death benefit rule 3B

No payment of pension death benefit, other than ^[F41]a successors' annuity in respect of a money purchase arrangement or] successors' drawdown pension in respect of a money purchase arrangement, may be made to a successor of the member.]

^[F42]Pension death benefit rule 4

The total amount of dependants' drawdown pension paid to a dependant in each drawdown pension year ^[F43]from, or under a dependants' short-term annuity purchased using sums or assets out of, the dependant's drawdown pension fund] in respect of a money purchase arrangement must not exceed ^[F44]150%] of the basis amount for the drawdown pension year.

^{F45} ...]

^{F46}

^{F46}

^[F47](1A) For the purposes of this Part, a person becomes entitled to dependants' income withdrawal, nominees' income withdrawal or successors' income withdrawal under a registered pension scheme whenever sums or assets held for the purposes of an arrangement under the pension scheme are designated as available for the payment of (as the case may be) dependants' drawdown pension, nominees' drawdown pension or successors' drawdown pension.]

(2) ^[F48]In this part “pension] death benefit” means a pension payable on the death of the member (other than a member’s pension payable after the member’s death under pension rule 2: see section 165)^[F49], or a pension payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member].

^{F50}(2A)

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

F50(2B)

- (3) Part 2 of Schedule 28 gives the meaning of expressions used in the pension death benefit rules.

Textual Amendments

- F33** Words in s. 167 inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(2\)](#)
- F34** Words in s. 167(1) inserted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), [Sch. 5 paras. 4\(2\)](#), 25(1); S.I. 2022/874, reg. 2
- F35** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(a\)\(i\)](#)
- F36** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(a\)\(ii\)](#)
- F37** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(a\)\(iii\)](#)
- F38** Words in s. 167(1) inserted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), [Sch. 5 paras. 4\(3\)](#), 25(1); S.I. 2022/874, reg. 2
- F39** Words in s. 167 inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(3\)](#)
- F40** Words in s. 167(1) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 2\(2\)](#)
- F41** Words in s. 167(1) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 2\(3\)](#)
- F42** Words in s. 167(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(b\)](#)
- F43** Words in s. 167(1) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 6](#)
- F44** Word in s. 167(1) substituted (with effect in accordance with s. 41(6) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 41\(2\)](#)
- F45** Words in s. 167(1) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(c\)\(4\)](#)
- F46** Words in s. 167(1) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 11\(2\)\(c\)](#)
- F47** S. 167(1A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(4\)](#)
- F48** Words in s. 167(2) substituted (retrospective to 6.4.2006) by [Finance Act 2007 \(c. 11\)](#), [Sch. 20 paras. 22\(1\)](#), 24(3)
- F49** Words in s. 167(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 2\(5\)](#)
- F50** S. 167(2A)(2B) omitted (6.4.2015) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 32\(1\)\(d\)\(4\)](#)

Modifications etc. (not altering text)

- C14** Pt. 4 modified (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 18 para. 14\(3\)](#)
- C15** S. 167 modified (6.4.2006) by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), regs. 1(1), 7
- C16** S. 167 modified (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\)](#), [Sch. 3 para. 2\(1\)\(2\)\(c\)](#) (with [Sch. 2 para. 2\(1\)](#))
- C17** S. 167 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 99\(2\)\(a\)](#)
- C18** S. 167 modified (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 98\(2\)\(a\)](#)
- C19** S. 167 modified by [The Pensions Schemes \(Application of UK Provisions to Relevant Non-UK Schemes\) Regulations 2006 \(S.I. 2006/207\)](#), reg. 7 (as substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [S.I. 2012/1795](#), regs. 1(1), 4)
- C20** S. 167(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), 3, 4(3)(4)

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

Commencement Information

- I4** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

168 Lump sum death benefit rule

- (1) This is the rule relating to the payment of lump sum death benefits by a registered pension scheme in respect of a member of the pension scheme (“the lump sum death benefit rule”).

Lump sum death benefit rule

No lump sum death benefit may be paid other than—

- (a) a defined benefits lump sum death benefit,
- (b) a pension protection lump sum death benefit,
- (c) an uncrystallised funds lump sum death benefit,
- (d) an annuity protection lump sum death benefit,
- ^{F51}(e) a drawdown pension fund lump sum death benefit,]
- ^{F52}(ea) a flexi-access drawdown fund lump sum death benefit,]
- (f) a charity lump sum death benefit,
- ^{F53}(g)
- (h) a trivial commutation lump sum death benefit, or
- (i) a winding-up lump sum death benefit.

- (2) In this Part “lump sum death benefit” means a lump sum payable on the death of the member ^{F54}, or a lump sum payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member.]

- (3) Part 2 of Schedule 29 gives the meaning of expressions used in the lump sum death benefit rule.

- (4) Schedule 36 contains (in Part 3) transitional provision about lump sum death benefits.

Textual Amendments

- F51** S. 168(1)(e) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 65](#)
- F52** S. 168(1)(ea) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 7](#)
- F53** S. 168(1)(g) repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 5](#), [Sch. 27 Pt. 3\(1\)](#)
- F54** Words in [s. 168\(2\)](#) inserted (15.7.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 22\(9\)\(13\)](#)

Modifications etc. (not altering text)

- C21** S. 168 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), [regs. 1, 14](#)
- C22** S. 168(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [arts. 1\(1\), 6, 8\(1\)\(2\)](#)

Commencement Information

- I5** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

169 Recognised transfers

- (1) A “recognised transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme so as to become held for the purposes of, or to represent rights under—
- (a) another registered pension scheme, or
 - (b) a qualifying recognised overseas pension scheme,
- in connection with a member of that pension scheme.
- [^{F55}(1A) A transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme to an insurance company is to be treated as a recognised transfer if the sums or assets had been applied by the pension scheme towards the provision of a scheme pension or a dependants' scheme pension (but subject to regulations under subsections (1B) and (1C)).
- (1B) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a scheme pension to which a member of a registered pension scheme has become entitled (“the original scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a scheme pension (a “new scheme pension”), and
 - (b) if they are so applied, the new scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original scheme pension.
- (1C) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a dependants' scheme pension to which a dependant of a member of a registered pension scheme has become entitled in respect of the member (“the original dependants' scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a dependants' scheme pension (a “new dependants' scheme pension”), and
 - (b) if they are so applied, the new dependants' scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' scheme pension.
- (1D) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent—
- (a) a [^{F56}member's drawdown pension fund or dependant's drawdown pension fund], ^{F57}... [^{F58}or
 - (aa) a member's flexi-access drawdown fund or dependant's flexi-access drawdown fund,]^{F59} or
 - (ab) a nominee's flexi-access drawdown fund, or
 - (ac) a successor's flexi-access drawdown fund,]
 - ^{F57}(b)
- under an arrangement (“the old arrangement”), the transfer is not a recognised transfer unless all of those sums and assets become held under an arrangement under which no other sums or assets are held (“the new arrangement”).

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- (1E) If regulations so provide they may make in relation to cases in which the sums and assets become so held provision as to the treatment for the purposes of any provision of this Part of—
- (a) the sums and assets transferred, and
 - (b) the new arrangement,
- including provision for treating the sums and assets transferred as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, sums and assets held under the old arrangement.]
- [^{F60}(1F) The Commissioners for His Majesty’s Revenue and Customs may by regulations make provision as to the treatment for the purposes of any provision of this Part of a CMP-derived drawdown pension.
- (1G) The provision that may be made under subsection (1F) includes provision for treating sums or assets held for the purposes of a CMP-derived drawdown pension as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, held for the purposes of the collective money purchase arrangement under the pension scheme from which they were transferred.]
- (2) For the purposes of this Part a recognised overseas pension scheme is a qualifying recognised overseas pension scheme if—
- (a) the scheme manager has given to the Inland Revenue notification that it is a recognised overseas pension scheme and has provided any such evidence that it is a recognised overseas pension scheme as the Inland Revenue may require,
 - (b) the scheme manager has undertaken to the Inland Revenue to inform the Inland Revenue if it ceases to be a recognised overseas pension scheme,
 - [^{F61}(ba) the scheme manager has confirmed to an officer of Revenue and Customs that the scheme manager understands the scheme manager's potential liability to overseas transfer charge and has undertaken to such an officer to operate the charge including by meeting the scheme manager's liabilities to the charge,]
 - (c) the scheme manager has undertaken to the Inland Revenue to comply with [^{F62}any requirements imposed under subsection (4)], and
 - (d) the recognised overseas pension scheme is not excluded from being a qualifying recognised overseas pension scheme by subsection (5).
- [^{F63}(2A) Regulations may make provision as to—
- (a) information that is to be included in, or is to accompany, a notification under subsection (2)(a);
 - (b) the way and form in which such a notification, or any required information or evidence, is to be given or provided.]

(3) In this Part “scheme manager”, in relation to a pension scheme, means the person or persons administering, or responsible for the management of, the pension scheme.

[^{F64}(4) Regulations may require the scheme manager of a QROPS or former QROPS to—

 - (a) give the Commissioners information of a prescribed description,
 - (b) give the Commissioners such evidence as they may require of a prescribed matter,
 - [^{F65}(ba) give information of a prescribed description to the scheme manager of a QROPS or former QROPS,
 - (bb) give information of a prescribed description to the scheme administrator of a registered pension scheme,

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- (bc) give information of a prescribed description to a member, or former member, of the QROPS or former QROPS,] and
 - (c) give a prescribed authority, in prescribed circumstances, information of a prescribed description.
- [^{F66}(4ZA) Regulations may require a member, or former member, of a QROPS or former QROPS to give information of a prescribed description to the scheme manager of a QROPS or former QROPS.]
- (4A) Regulations under subsection (4) [^{F67}or (4ZA)] may make provision as to—
- (a) the way and form in which information or evidence is to be given, and
 - (b) the times or intervals at which information or evidence is to be given.
- (4B) The regulations may apply any provision of Part 7 of Schedule 36 to FA 2008 (penalties), with or without modifications, in relation to requirements imposed under the regulations on a former QROPS.]
- [^{F68}(4C) Provision under subsection (2A)(b) or (4A)(a) may, in particular, provide for use of a way or form specified by the Commissioners.]
- (5) A recognised overseas pension scheme is excluded from being a qualifying recognised overseas pension scheme by this subsection if [^{F69}the Commissioners have] decided that—
- (a) [^{F70}any of the following conditions is met in relation to the scheme—
 - (i) there has been a failure to comply with a relevant requirement and the failure is significant,
 - (ii) any information given pursuant to a relevant requirement is [^{F71}inaccurate] in a material respect,
 - (iii) any declaration given pursuant to a relevant requirement is false in a material respect,
 - (iv) there is no scheme manager,] and
 - (b) by reason of [^{F72}that condition being met] it is not appropriate that transfers of sums or assets held for the purposes of, or representing accrued rights under, registered pension schemes so as to become held for the purposes of, or to represent rights under, the recognised overseas pension scheme should be recognised transfers,
- and has notified the person or persons appearing to be the scheme manager of that decision (but subject to subsection (7) and section 170).
- [^{F73}(6) A failure to comply with a requirement is significant if—
- (a) it is a failure to give information or evidence that is (or may be) of significance, or
 - (b) there are reasonable grounds for believing that the failure prejudices (or might prejudice) the assessment or collection of tax by the Commissioners.]
- (7) The Inland Revenue—
- (a) may at any time after a recognised overseas pension scheme becomes excluded from being a qualifying recognised overseas pension scheme decide that the pension scheme is to cease to be so excluded, and
 - (b) must notify the scheme manager of the decision.
- [^{F74}(7A) Regulations may, in a case where—

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- (a) any of the sums and assets transferred by a relevant overseas transfer represent rights in respect of a pension to which a person has become entitled under the transferring scheme (“the original pension”), and
- (b) those sums and assets are, after the transfer, applied towards the provision of a pension under the other scheme (“the new pension”),

provide that the new pension is to be treated, to such extent as is prescribed and for such of the purposes of this Part as are prescribed, as if it were the original pension.

(7B) For the purposes of subsection (7A), a “relevant overseas transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a relevant overseas scheme (“the transferring scheme”) so as to become held for the purposes of, or to represent rights under—

- (a) another relevant overseas scheme, or
- (b) a registered pension scheme,

in connection with a member of that pension scheme.

(7C) In subsection (7B) “relevant overseas scheme” means—

- (a) a QROPS, or
- (b) a relevant non-UK scheme (see paragraph 1(5) of Schedule 34).

(7D) Regulations under subsection (7A) may—

- (a) apply generally or only in specified cases, and
- (b) make different provision for different cases.]

[^{F75}(8) In subsections (4) to (6) [^{F76}, (7A) to (7D)] and this subsection—

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“prescribed” means prescribed by regulations;

“QROPS” means a qualifying recognised overseas pension scheme, and “former QROPS” means a scheme that has at any time been a QROPS;

“regulations” means regulations made by the Commissioners;

“relevant requirement” means—

- (a) a requirement imposed by regulations under subsection (4), or
- (b) a requirement imposed by virtue of Part 1 of Schedule 36 to FA 2008 (powers to obtain information and documents)^[F77], or
- (c) a requirement to pay overseas transfer charge, or interest on overseas transfer charge, imposed by regulations under section 244L(2) or by an assessment under such regulations.]]

Textual Amendments

- F55** S. 169(1A)-(1E) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 36, 64\(1\)](#)
- F56** Words in s. 169(1D)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 66\(a\)](#)
- F57** S. 169(1D)(b) and preceding word omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 66\(b\)](#)
- F58** S. 169(1D)(aa) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 8](#)
- F59** S. 169(1D)(ab)(ac) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 4](#)
- F60** S. 169(1F)(1G) inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [s. 24\(3\)](#)

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- F61** S. 169(2)(ba) inserted (with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 paras. 13\(2\), 25\(3\)](#)
- F62** Words in s. 169(2)(c) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(3\)](#)
- F63** S. 169(2A) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(3\)](#)
- F64** S. 169(4)-(4B) substituted for s. 169(4) (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(4\)](#)
- F65** S. 169(4)(ba)-(bc) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\), Sch. 1 para. 92](#)
- F66** S. 169(4ZA) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(4\)](#)
- F67** Words in s. 169(4A) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(5\)](#)
- F68** S. 169(4C) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(6\)](#)
- F69** Words in s. 169(5) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(5\)\(a\)](#)
- F70** S. 169(5)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(5\)\(b\)](#)
- F71** Word in s. 169(5)(a)(ii) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\), Sch. 7 para. 23\(a\)](#)
- F72** Words in s. 169(5)(b) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(5\)\(c\)](#)
- F73** S. 169(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(6\)](#)
- F74** S. 169(7A)-(7D) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(7\)](#)
- F75** S. 169(8) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 53\(7\)](#)
- F76** Words in s. 169(8) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(8\)\(a\)](#)
- F77** Words in s. 169(8) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 4 para. 13\(8\)\(b\)](#)

Commencement Information

- I6** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

170 Appeal against decision to exclude recognised overseas pension scheme

- (1) This section applies where a recognised overseas pension scheme is excluded from being a qualifying recognised overseas pension scheme by a decision of the Inland Revenue under section 169(5).
- (2) The scheme manager may appeal against the decision.
- ^{F78}(3)
- ^{F78}(4)
- (5) An appeal under this section against a decision must be brought within the period of 30 days beginning with the day on which the notification of the decision was given.
- (6) [^{F79}On an appeal that is notified to the tribunal, the tribunal] must consider whether the recognised overseas pension scheme ought to have been excluded from being a qualifying recognised overseas pension scheme.
- (7) If [^{F80}the tribunal decides] that the recognised overseas pension scheme ought to have been excluded from being a qualifying recognised overseas pension scheme, [^{F81}the tribunal must] dismiss the appeal.

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- (8) If [^{F82}the tribunal decides] that the recognised overseas pension scheme ought not to have been excluded from being a qualifying recognised overseas pension scheme, the recognised overseas pension scheme is to be treated as having remained a qualifying recognised overseas pension scheme (but subject to any further appeal ^{F83}...).

Textual Amendments

- F78** S. 170(3)(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 425(2)**
- F79** Words in s. 170(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 425(3)**
- F80** Words in s. 170(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 425(4)(a)**
- F81** Words in s. 170(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 425(4)(b)**
- F82** Words in s. 170(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 425(5)(a)**
- F83** Words in s. 170(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 425(5)(b)**

Commencement Information

- I7** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

171 Scheme administration member payments

- (1) A “scheme administration member payment” is a payment by a registered pension scheme to or in respect of a [^{F84}person who is or has been a] member of the pension scheme which is made for the purposes of the administration or management of the pension scheme.
- (2) But if a payment falling within subsection (1) exceeds the amount which might be expected to be paid to a person who was at arm’s length, the excess is not a scheme administration member payment.
- (3) Scheme administration member payments include in particular—
- the payment of wages, salaries or fees to persons engaged in administering the pension scheme, and
 - payments made for the purchase of assets to be held for the purposes of the pension scheme.
- (4) A loan to or in respect of a [^{F85}person who is or has been a] member of the pension scheme is not a scheme administration member payment.
- (5) Regulations made by the Board of Inland Revenue may provide that payments of a description specified in the regulations are, or are not, scheme administration member payments.

Textual Amendments

- F84** Words in s. 171(1) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), **Sch. 23 para. 7**

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Authorised member payments. (See end of Document for details)

F85 Words in s. 171(4) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 7](#)

Commencement Information

I8 Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

Status:

Point in time view as at 11/07/2023.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Cross Heading:
Authorised member payments.