Status: *Point in time view as at 22/02/2007.*
Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2004, Part 2. (See end of Document for details)*

SCHEDULES

SCHEDULE 28

REGISTERED PENSION SCHEMES: AUTHORISED PENSIONS—SUPPLEMENTARY

Modifications etc. (not altering text)

C1 Sch. 28 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), **14**

PART 2

PENSION DEATH BENEFIT RULES

Defined benefits and money purchase arrangements

Meaning of "dependant"

15 (1) A person who was married to **[**F1, or a civil partner of,**]** the member at the date of the member's death is a dependant of the member.

[F2(1A) If the rules of the pension scheme so provide, a person who was married to **[**F3, or a civil partner of,**]** the member when the member first became entitled to a pension under the pension scheme is a dependant of the member.**]**

(2) A child of the member is a dependant of the member if the child—

(a) has not reached the age of 23, or

(b) has reached that age and, in the opinion of the scheme administrator, was at the date of the member's death dependant on the member because of physical or mental impairment.

(3) A person who was not married to **[**F4, or a civil partner of,**]** the member at the date of the member's death and is not a child of the member is a dependant of the member if, in the opinion of the scheme administrator, at the date of the member's death—

(a) the person was financially dependant on the member,

(b) the person's financial relationship with the member was one of mutual dependence, or

(c) the person was dependant on the member because of physical or mental impairment.

Textual Amendments

F1 Words in Sch. 28 para. 15(1) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **180(a)**

F2 Sch. 28 para. 15(1A) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 26**, 64(1)

F3 Words in Sch. 28 para. 15(1A) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), **regs. 1(1)**, 180(b)

F4 Words in Sch. 28 para. 15(3) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **180(c)**

Modifications etc. (not altering text)

C2 Sch. 28 para. 15(2) modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), **34**

C3 Sch. 28 para. 15(2)(b) modified (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

C4 Sch. 28 para. 15(3) modified (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), 3(1)(2), **Sch. 3 Pt. 1**

Dependants' scheme pension

16 F5(1) . . . .

(2) [F6A] pension payable to a dependant is a dependants' scheme pension if—

(a) it is payable by the scheme administrator or by an insurance company selected by the scheme administrator, F7...

F7(b) . . . .

[F8(2A) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' scheme pension payable to a dependant of a member of a registered pension scheme by an insurance company ("the original dependants' scheme pension") ceases to be payable and in consequence of that—

(a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' scheme pension (a "new dependants' scheme pension") or a scheme pension, lifetime annuity, short-term annuity, dependants' annuity or dependants' short-term annuity by the other insurance company, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(2B) The regulations may provide that—

(a) in a case where a new dependants' scheme pension becomes payable, 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, and

(b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(2C) For the purposes of sub-paragraphs (2A) and (2B) a registered pension scheme is the relevant registered pension scheme if the original dependants' scheme pension was acquired using sums or assets held for the purposes of the pension scheme.]

F9(3) . . . .

F9(4) . . . .

F9(5) . . . .

F9(6) . . . .

Textual Amendments

F5 Sch. 28 para. 16(1) repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 27(2), 64(1), **Sch. 11 Pt. 4**

F6 Word in Sch. 28 para. 16(2) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 27(3)(a)**, 64(1)

F7 Sch. 28 para. 16(2)(b) and word repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 27(3)(b), 64(1), **Sch. 11 Pt. 4**

F8 Sch. 28 para. 16(2A)-(2C) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 27(4)**, 64(1)

F9 Sch. 28 para. 16(3)-(6) repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 27(5), 64(1), **Sch. 11 Pt. 4**

[F10 16A (1) Paragraphs 16B and 16C apply where—

(a) the member dies after 5th April 2006,

(b) he has reached the age of 75 before his death, and

(c) at the time of his death he is actually or prospectively entitled to one or more scheme pensions under the pension scheme.

(2) References in this paragraph and paragraph 16B to a scheme pension include a pension payable before 6th April 2006 which would be a scheme pension if payable after that date.

Textual Amendments

F10 Sch. 28 paras. 16A-16C inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 28**, 64(1)

Modifications etc. (not altering text)

C5 Sch. 28 para. 16A modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), **arts. 1(1)**, 24

16B (1) Where a pension is payable under the pension scheme to a dependant of the member in the period of 12 months beginning with the date of the member's death (“the post-death year”), so much of the pension as exceeds the initial member pension limit is not a dependants' scheme pension.

(2) But if—

(a) more than one pension is so payable to one of the dependants of the member in the post-death year, or

(b) pensions are so payable to more than one dependant of the member in the post-death year,

(or both), so much of any of the pensions as exceeds the appropriate portion of the initial member pension limit is not a dependants' scheme pension.

(3) The “initial member pension limit” is (subject to sub-paragraph (4)) the sum of—

(a) the aggregate of the amounts of the scheme pensions to which the member is actually entitled under the pension scheme immediately before his death payable to the member in the period of 12 months ending with the date of his death (“the pre-death year”),

(b) the aggregate of the amounts of the scheme pensions to which the member is prospectively entitled under the pension scheme at that time which would have been so payable if he had been actually entitled to the pensions throughout the pre-death year, and

(c) 5% of the aggregate of the amounts of the lump sums on which there is no liability to income tax to which the member has become entitled in connection with scheme pensions under the pension scheme before his death.

(4) But if the member became (actually) entitled to a scheme pension under the pension scheme during the pre-death year, sub-paragraph (3)(a) has effect as if the amount of that scheme pension which was payable to the member under the pension scheme in the pre-death year were the amount which would have been payable to him in the period of 12 months beginning with the date on which he became entitled to it had he not died.

(5) The "appropriate portion" of the initial member pension limit, in relation to any pension payable under the pension scheme to a dependant of the member in the post-death year, is—

PAP

where—

P is the amount of that pension payable in the post-death year, and

AP is the aggregate of the amounts of each of the pensions payable under the pension scheme to dependants of the member in the post-death year.

Textual Amendments

F10 Sch. 28 paras. 16A-16C inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 28**, 64(1)

16C (1) Where a pension is payable under the pension scheme to a dependant of the member, otherwise than in excepted circumstances, in—

(a) the period of 12 months beginning with the end of the post-death year, or

(b) any succeeding period of 12 months,

("the 12 months in question"), so much of the pension as exceeds the current member pension limit is not a dependants' scheme pension.

(2) But if—

(a) more than one pension is so payable to one of the dependants in the 12 months in question, or

(b) pensions are so payable to more than one dependant of the member in the 12 months in question,

(or both), so much of any of the pensions as exceeds the appropriate portion of the current member pension limit is not a dependants' scheme pension.

(3) "Excepted circumstances" means—

(a) that at the beginning of the period of 12 months in question there are at least 50 pensioner members of the pension scheme, and

(b) that the condition in subsection (4) is met.

(4) The condition in this subsection is met if —

(a) the difference between CYP and PYP in the case of each relevant existing pension is the same amount,

(b) the difference between CYP and PYP in the case of each relevant existing pension is the same percentage of PYP, or

(c) in the case of each relevant existing pension the difference between CYP and PYP is the aggregate of a percentage of PYP and an amount which are both the same as those the aggregate of which make up the difference between CYP and PYP in the case of each other relevant existing pension.

(5) In this section—

"relevant existing pension" means a pension payable to any dependant of any member under the pension scheme throughout the 12 months in question and the immediately preceding period of 12 months,

"CYP", in relation to a relevant existing pension, is the current year pension, that is the amount of the pension payable in the 12 months in question, and

"PYP", in relation to a relevant existing pension, is the previous year pension, that is the amount of the pension payable in the immediately preceding period of 12 months.

(6) The "current member pension limit", in relation to the 12 month period in question, is the initial member pension limit increased by the aggregate of—

(a) the permitted margin, and

(b) the excepted circumstances amount.

(7) The "permitted margin" is the amount by which the initial member pension limit would be greater if it had been increased by whichever of calculation A and calculation B gives the greater amount.

(8) Calculation A involves increasing the initial member pension limit by the relevant annual percentage rate for the whole of the period—

(a) beginning with the first month beginning after the end of the post-death year ("the opening month"), and

(b) ending with the first month of the 12 months in question ("the closing month").

(9) The relevant annual percentage rate is—

(a) if the relevant valuation factor in relation to the pension scheme is a number greater than 20, the annual rate agreed by the Inland Revenue and the scheme administrator, and

(b) otherwise, 5% per annum.

(10) Calculation B involves increasing the initial member pension limit by the relevant indexation percentage.

(11) If the retail prices index for the closing month is higher than it was for the opening month, the relevant indexation percentage is the percentage increase in the retail prices index.

(12) If it is not, the relevant indexation percentage is 0%.

(13) The "excepted circumstances amount" is the aggregate of the amounts of the relevant increases in pensions which were payable under the pension scheme to dependants of

the member in excepted circumstances in any period or periods within subsection (1)(a) or (b).

(14) The relevant increase in the case of any pension payable in relation to any 12 month period under the pension scheme to a dependant of the member is the difference between CYP and PYP (for this purpose reading the references in subsection (5) to the 12 months in question as references to the 12 month period).

(15) The "appropriate portion" of the current member pension limit, in relation to any pension payable under the pension scheme to a dependant of the member in the 12 months in question, is—

PAP

where—

P is the amount of that pension payable in the 12 months in question, and

AP is the aggregate of the amounts of each of the pensions payable under the pension scheme to one or more dependants of the member in the 12 months in question.]

Textual Amendments

F10 Sch. 28 paras. 16A-16C inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 28**, 64(1)

Money purchase arrangements

Dependants' annuity

17 (1) [F11For the purposes of this Part an] annuity payable to a dependant is a dependants' annuity if—

[F12(za) it is purchased either together with a lifetime annuity payable to the member or after the member's death,]

(a) it is payable by an insurance company,

(b) the member or dependant had an opportunity to select the insurance company,

[F13(c) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue,]

(d) where the dependant is not the member's child, it is payable until the dependant's death or until the earlier of the dependant's marrying[F14, entering into a civil partnership] or dying, and

(e) where the dependant is the member's child, it is payable until the earlier of the dependant's ceasing to be a dependant or dying, or until the earliest of the dependant's marrying[F15, entering into a civil partnership], ceasing to be a dependant or dying.

[F16(1A) For the purposes of sub-paragraph (1)(za) a dependants' annuity is purchased together with a lifetime annuity if the dependant's annuity is related to the lifetime annuity.]

[F17(2) An annuity does not fail to satisfy sub-paragraph (1)(c) by reason of the operation of a pension sharing order or provision.

(3) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' annuity payable to a person ("the original dependants' annuity") ceases to be payable and in consequence of that—

(a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' annuity (a "new dependants' annuity") or a scheme pension, lifetime annuity, short-term annuity, dependants' scheme pension or dependants' short-term annuity by the other insurance company, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(4) The regulations may provide that—

(a) in a case where a new dependants' annuity becomes payable, the new dependants' annuity 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' annuity, and

(b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(5) For the purposes of sub-paragraphs (3) and (4) a registered pension scheme is the relevant registered pension scheme if the original dependants' annuity was acquired using sums or assets held for the purposes of the pension scheme.**]**

Textual Amendments

F11 Words in Sch. 28 para. 17(1) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 15(2)**, 64(1)

F12 Sch. 28 para. 17(1)(za) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 29(2)**, 64(1)

F13 Sch. 28 para. 17(1)(c) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 15(3)**, 64(1)

F14 Words in Sch. 28 para. 17(1)(d) inserted (22.2.2007) by The Tax and Civil Partnership Regulations 2007 (S.I. 2007/493), regs. 1, **2(3)**

F15 Words in Sch. 28 para. 17(1)(e) inserted (22.2.2007) by The Tax and Civil Partnership Regulations 2007 (S.I. 2007/493), regs. 1, **2(3)**

F16 Sch. 28 para. 17(1A) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 29(3)**, 64(1)

F17 Sch. 28 para. 17(2)-(5) substituted for Sch. 28 para. 17(2) (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 15(4)**, 64(1)

Dependants' unsecured pension and dependants' alternatively secured pension

18 "Dependants' unsecured pension" means—

(a) a dependants' short-term annuity, or

(b) dependants' income withdrawal.

19 "Dependants' alternatively secured pension" means dependants' income withdrawal.

Dependants' short-term annuity

20 (1) **[**F18For the purposes of this Part an**]** annuity payable to a dependant is a dependants' short-term annuity if—

(a) it is purchased by the application of sums or assets representing the whole or any part of the dependant's unsecured pension fund in respect of an arrangement,

(b) it is payable by an insurance company,

(c) the dependant had an opportunity to select the insurance company,

(d) it is payable for a term which does not exceed five years and ends before the dependant reaches the age of 75 or dies, and

[F19(e) its amount either cannot decrease or falls to be determined in any manner prescribed by regulations made by the Board of Inland Revenue.]

[F20(1A) An annuity does not fail to satisfy sub-paragraph (1)(e) by reason of the operation of a pension sharing order or provision.

(1B) The Board of Inland Revenue may by regulations make provision in relation to cases in which a dependants' short-term annuity payable to a person ("the original dependants' short-term annuity") ceases to be payable and in consequence of that—

(a) sums or assets (or both) are transferred from the insurance company to another insurance company and are applied towards the provision of either another dependants' short-term annuity (a "new dependants' short-term annuity") or a scheme pension, lifetime annuity, short-term annuity, dependants' scheme pension or dependants' annuity by the other insurance company, or

(b) sums or assets are transferred to the relevant registered pension scheme.

(1C) The regulations may provide that—

(a) in a case where a new dependants' short-term annuity becomes payable, the new dependants' short-term annuity 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' short-term annuity, and

(b) in any other case, the relevant registered pension scheme is to be treated as making an unauthorised payment in respect of the member of an amount equal to the aggregate of the amount of the sums, and the market value of the assets, transferred.

(1D) For the purposes of sub-paragraphs (1B) and (1C) a registered pension scheme is the relevant registered pension scheme if the original dependants' short-term annuity was acquired using sums or assets held for the purposes of the pension scheme.]

F21(2) . . . .

Textual Amendments

F18 Words in Sch. 28 para. 20(1) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 16(2)**, 64(1)

F19 Sch. 28 para. 20(1)(e) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 16(3)**, 64(1)

F20 Sch. 28 para. 20(1A)-(1D) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 16(4)**, 64(1)

F21 Sch. 28 para. 20(2) repealed (6.4.2006) by Finance Act 2005 (c. 7), Sch. 10 paras. 16(5), 64(1), **Sch. 11 Pt. 4**

Dependants' income withdrawal

21 Dependants' income withdrawal means—

(a) if the dependant has not reached the age of 75, an amount (other than an annuity) which the dependant is entitled to be paid from the dependant's unsecured pension fund in respect of an arrangement, and

(b) if the dependant has reached the age of 75, an amount which the dependant is entitled to be paid from the dependant's alternatively secured pension fund in respect of an arrangement.

Dependant's unsecured pension fund

22 (1) For the purposes of this Part a dependant's unsecured pension fund in respect of an arrangement consists of such of the sums and assets held for the purposes of the arrangement—

[F22(a) as are dependant-designated funds, and

(b) have not been applied towards the provision of a dependants' scheme pension.]

[F23(2) For the purposes of this Part sums or assets held for the purposes of an arrangement are dependant-designated funds if they—

(a) have been designated at any time under the arrangement as available for the payment of dependant's unsecured pension to the dependant, or

(b) arise, or (directly or indirectly) derive, from sums or assets which have been so designated or which so arise or derive.

(3) If any sums or assets representing a dependant's unsecured pension fund in respect of an arrangement under the pension scheme would (apart from this sub-paragraph)—

(a) come to be taken to represent another dependant's unsecured pension fund of his under the pension scheme, or an unsecured pension fund of his under the pension scheme, or

(b) are applied towards the provision of a scheme pension or a lifetime annuity,

they are to be treated as not doing so.]

Textual Amendments

F22 Sch. 28 para. 22(1)(a)(b) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 21(2)**, 64(1)

F23 Sch. 28 para. 22(2)(3) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 21(3)**, 64(1)

Modifications etc. (not altering text)

C6 Sch. 28 para. 22 modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), **30(1)-(3)**

Unsecured pension year and basis amount for unsecured pension year

23 (1) "Unsecured pension year" means—

(a) the period of 12 months beginning with the day on which the dependant first becomes entitled to dependants' unsecured pension in respect of the arrangement, and

(b) each succeeding period of 12 months.

(2) But when the dependant reaches the age of 75 or dies before reaching that age, the current unsecured pension year is the last unsecured pension year and ends immediately before the dependant's death or 75th birthday.

Modifications etc. (not altering text)

C7 Sch. 28 para. 23(1) modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), **30(1)**(2)(4)

24 (1) The period of five unsecured pension years beginning with the first unsecured pension year, and each succeeding period of five unsecured pension years, is a "reference period"; and the first day of each reference period is, in relation to that period, "the reference date".

(2) For the first unsecured pension year falling within a reference period, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's unsecured pension fund on the nominated date (but subject to sub-paragraph (5)).

(3) "The nominated date"—

(a) in relation to the first reference period, is the reference date, and

(b) in relation to any subsequent reference period, is such day, within the period of 60 days ending with the reference date, as is nominated by the scheme administrator (or if no day is nominated by the scheme administrator, is the reference date).

(4) For each other unsecured pension year falling within a reference period, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's unsecured pension fund—

(a) if there has been no recent annuity purchase **[**[F24], recent additional fund designation or recent pension sharing event**]**, on the nominated date, and

(b) otherwise, immediately after the last annuity purchase **[**[F25], additional fund designation or pension sharing event**]**,

(but subject to sub-paragraph (5)).

(5) On the occasion of each additional fund designation during an unsecured pension year, the basis amount for that unsecured pension year is to be recalculated in accordance with sub-paragraph (6).

(6) The basis amount for the unsecured pension year is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's unsecured pension fund immediately after the additional fund designation.

(7) "Annuity purchase" means the purchase of a dependants' scheme pension or dependants' annuity by the application of sums or assets representing the whole or part of the dependant's unsecured pension fund.

(8) "Additional fund designation" means the designation under the arrangement of further sums and assets held for the purposes of the arrangement as available for the payment of unsecured dependants' pension to the dependant.

[[F26](8A) "Pension sharing event" means the coming into operation of a pension sharing order or provision relating to the sums and assets representing the dependant's unsecured pension fund.**]**

(9) An annuity purchase **[**[F27], additional fund designation or pension sharing event**]** is "recent" if it took place during the period—

(a) beginning with the reference date, and

(b) ending with the last day of the immediately preceding unsecured pension year.

(10) Paragraph 14 defines "relevant annuity".

Textual Amendments

F24 Words in Sch. 28 para. 24(4)(a) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 22(2)(a)**, 64(1)

F25 Words in Sch. 28 para. 24(4)(b) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 22(2)(b)**, 64(1)

F26 Sch. 28 para. 24(8A) inserted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 22(3)**, 64(1)

F27 Words in Sch. 28 para. 24(9) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 22(4)**, 64(1)

Modifications etc. (not altering text)

C8 Sch. 28 para. 24 modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), **3**, 5(1)(3)

Dependant's alternatively secured pension fund

25 (1) For the purposes of this Part a dependant's alternatively secured pension fund in respect of an arrangement consists of such of the sums and assets held for the purposes of the arrangement as—

(a) meet condition A or B, and

(b) have not been subsequently applied **[**F28towards the provision of a dependants' scheme pension**]**.

[F29(2) Condition A is that they—

(a) were part of the dependant's unsecured pension fund in respect of the arrangement when the dependant reached the age of 75, or

(b) arise, or (directly or indirectly) derive, from sums or assets within paragraph (a) or which so arise or derive.

(3) Condition B is that they have at any time since the dependant reached the age of 75 been designated as available for the payment of alternatively secured dependants' pension to the dependant or arise, or (directly or indirectly) derive, from sums or assets which have been so designated or which so arise or derive.

(4) If any sums or assets representing a dependant's alternatively secured pension fund in respect of an arrangement under the pension scheme would (apart from this sub-paragraph) come to be taken to represent another dependant's alternatively secured pension fund of his under the pension scheme, or an alternatively secured pension fund of his under the pension scheme, they are to be treated as not doing so.**]**

Textual Amendments

F28 Words in Sch. 28 para. 25(1)(b) substituted (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 23(2)**, 64(1)

F29 Sch. 28 para. 25(2)-(4) substituted for Sch. 28 para. 25(2)(3) (6.4.2006) by Finance Act 2005 (c. 7), **Sch. 10 paras. 23(3)**, 64(1)

Modifications etc. (not altering text)

C9 Sch. 28 para. 25(1) modified (6.4.2006) by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), arts. 1(1), **32**

Alternatively secured pension year and basis amount for alternatively secured pension year

26 (1) "Alternatively secured pension year" means—

(a) the period of 12 months beginning with the day on which the dependant first becomes entitled to alternatively secured pension in respect of the arrangement, and

(b) each succeeding period of 12 months.

(2) When the dependant dies, the current alternatively secured pension year is the last alternatively secured pension year and ends immediately before the dependant's death.

27 (1) For the first alternatively secured pension year, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's alternatively secured pension fund on the date on which the dependant first became entitled to dependants' alternatively secured pension in respect of the arrangement.

(2) For each other alternatively secured pension year, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the dependant's alternatively secured pension fund on the nominated date.

(3) "The nominated date"is such day within the period of 60 days ending with the first day of the alternatively secured pension year as is nominated by the scheme administrator (but if no day is nominated by the scheme administrator, is the first day of the alternatively secured pension year).

(4) Paragraph 14 defines "relevant annuity".