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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Paragraph 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 22

#### PENSION SCHEMES: INHERITANCE TAX

##### *Dispositions*

- 2 In section 12 (dispositions conferring retirement benefits), after subsection (2) insert—
- “(2A) Subsection (2B) below applies where a person who is a member of a registered pension scheme, and who has not reached the age of 75, has omitted to exercise pension rights under the pension scheme and, if the words “(or latest time)” were omitted from subsection (3) of section 3 above,—
- (a) that subsection would have treated the person as having made a disposition by reason of omitting to exercise the pension rights, but
  - (b) section 10 above would have prevented the disposition being a transfer of value.
- (2B) Section 3(3) above does not actually treat the person as making a disposition by reason of omitting to exercise the pension rights (at the latest time when the person could have exercised them) unless the condition in subsection (2C) below is satisfied.
- (2C) That condition is that—
- (a) the person makes an actual pensions disposition under the pension scheme which is not prevented from being a transfer of value by section 10 above within the period of two years ending with the date of his death, and
  - (b) it is not shown that, when he made the actual pensions disposition, he had no reason to believe that he would die within that period.
- (2D) A disposition treated by virtue of section 3(3) above as made by any person who is a member of a registered pension scheme, and who has not reached the age of 75, by reason of omitting to exercise pension rights under the pension scheme is not a transfer of value to the extent that it results in—
- (a) the provision of a lump sum death benefit or pension death benefit (or both) to a relevant dependant, or
  - (b) the making of a payment to a charity.
- (2E) A disposition made by a person who is a member of a registered pension scheme, and who has reached the age of 75, is not a transfer of value if the disposition consists in the person—
- (a) making an actual pensions disposition under the pension scheme, or
  - (b) omitting to exercise pension rights under the pension scheme.
- (2F) For the purposes of this section—

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- (a) a person omits to exercise pension rights under a pension scheme if he does not become entitled to the whole or any part of a pension or lump sum (or both) under the pension scheme at a time when he was eligible to become so entitled (whether or not he does become entitled to any other benefits under the pension scheme); and
- (b) a person makes an actual pensions disposition under a registered pension scheme if he makes a disposition within section 3(1) above by doing anything in relation to, or to rights under, the pension scheme.

(2G) In this section—

“entitled”, in relation to a pension or lump sum, shall be construed in accordance with section 165(3) or 166(2) of the Finance Act 2004;

“lump sum death benefit” has the same meaning as in Part 4 of that Act (see section 168(2) of that Act);

“pension” has the same meaning as in that Part of that Act (see section 165(2) of that Act);

“pension death benefit” has the meaning given by section 167(2) of that Act; and

“relevant dependant”, in relation to a person, means a dependant (within the meaning given by paragraph 15 of Schedule 28 to that Act) who is the person's spouse or civil partner immediately before his death or someone who is financially dependent on the person at that time.”;

and, in the sidenote, for “retirement benefits” substitute “ benefits under pension scheme ”.

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