

# FINANCE ACT 2009

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 5 Schedule 1: Abolition of Personal Allowances for Non-Residents*

#### Summary

1. [Section 5](#) and Schedule 1 provide for the withdrawal of personal allowances and reliefs from income tax for individuals not resident in the UK who have entitlement to those allowances or reliefs solely because they are Commonwealth citizens.

#### Details of the Schedule

2. Paragraph 1 sets out the sections in the Income and Corporation Taxes Act 1988 (ICTA) which are to be repealed in full. These cover, respectively, general provisions relating to basic and age-related personal allowances, provisions on married couple's allowance and blind person's allowance, provisions on payments securing annuities and the provision of allowances for non-resident individuals. Paragraphs 1(a) to (h) currently only have relevance to what is left of section 278 of ICTA, which is to be repealed by paragraph 1(i). The qualifying conditions for UK personal allowances and reliefs from income tax for non-resident persons will continue to apply as set out in section 56(3) of the Income Tax Act 2007 (ITA). The provisions for payments securing annuities continue through section 459 of ITA.
3. Paragraph 2 provides for a number of consequential amendments required to section 266 of ICTA (life assurance premiums) as a result of the changes made in paragraph 1.
4. Sub-paragraph (3) introduces new section 266(1A), which defines an eligible individual as either being resident in the UK, or, if not resident, meeting the conditions set out in section 56(3) of ITA. These conditions are that, at any time in a tax year, an individual:
  - a. is resident in the Isle of Man or the Channel Islands;
  - b. has previously resided in the United Kingdom and is resident abroad for the sake of the health of:
    - i. the individual; or
    - ii. a member of the individual's family who is resident with the individual;
  - c. is a person who is or has been employed in the service of the Crown;
  - d. is employed in the service of any territory under Her Majesty's protection;
  - e. is employed in the service of a missionary society; or
  - f. is a person whose late spouse or late civil partner was employed in the service of the Crown.

*These notes refer to the Finance Act 2009 (c.10)  
which received Royal Assent on 21 July 2009*

5. Section 266 of ICTA will now no longer be available to any individual who does not also meet the conditions set out in section 266(1A).
6. Sub-paragraphs (4)-(6) remove references to section 266(7) of ICTA which relate to payments to a trade union or a police organisation. These provisions continue through sections 457 and 458 of ITA.
7. Sub-paragraph 7 removes the reference to section 278 (personal allowances for non-residents) and introduces a reference to new section 266(1A).
8. Paragraph 3 provides for a number of consequential amendments required to 274 of ICTA as a result of the changes made in paragraph 1 and for changes to section 266 of ICTA made in paragraph 2. Subparagraphs (2), (3)(b) and (5) each omit the wording of 'other sum' or 'sums' because section 274 will apply only to life assurance premiums and to no other payments (specifically, it will not apply to the sum currently referred to in section 266(7) of ICTA). Sub-paragraph 3(c) further sets out the current rate of relief on qualifying life assurance premiums at 12.5 per cent, previously set out in section 274(3)(a). Sub-paragraph 4 repeals section 274(3) which becomes otiose.
9. Sub-paragraphs 3(a) and 6 remove references to section 273 of ICTA (Payments securing widow's and children's annuities) which is to be repealed. The provisions continue through section 459 of ITA.
10. Paragraph 4 omits a reference to section 266(7) of ICTA in Schedule 14 of that Act as that subsection is itself now omitted by this section/Schedule.
11. Paragraph 5 provides for a number of amendments in various Taxes Acts needed as a result of repealing certain sections in ICTA provided for in paragraphs 1 to 3 of this Schedule.
12. Paragraph 6 sets out the effective commencement of the change.

**Background Note**

13. Generally, individuals who are not resident in the UK have no entitlement to claim UK personal allowances or reliefs from income tax. However there are a number of conditions, either set out in the Taxes Acts or under Double Taxation Agreements (DTA) supported by Statutory Instrument, which allow people who are not resident and who are subject to income tax in the UK to claim personal allowances and reliefs.
14. Previously, there was an entitlement for some individuals to claim purely by virtue of being a Commonwealth citizen but by meeting no other condition. Commonwealth citizens will no longer qualify for personal allowances, married couple's allowance, blind person's allowance and relief for life assurance premiums by reference to their Commonwealth citizenship status alone. They may, of course, continue to qualify under the other conditions or through DTA provisions if appropriate.
15. This change will mainly affect citizens of the following countries: Bahamas; Cameroon; Cook Islands; Dominica; Maldives; Mozambique; Nauru; Niue; St Lucia; St Vincent & the Grenadines; Samoa; Tanzania; Tonga; and Vanuatu.