



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

#### CHAPTER I

##### RETIREMENT BENEFIT SCHEMES

###### *Approval of schemes*

#### **590 Conditions for approval of retirement benefit schemes**

- (1) Subject to section 591, the Board shall not approve any retirement benefits scheme for the purposes of this Chapter unless the scheme satisfies all of the conditions set out in subsection (2) below.
- (2) The conditions are—
  - (a) that the scheme is bona fide established for the sole purpose of providing relevant benefits in respect of service as an employee, being benefits payable to, or to the widow, children or dependants or personal representatives of, the employee;
  - (b) that the scheme is recognised by the employer and employees to whom it relates, and that every employee who is, or has a right to be, a member of the scheme has been given written particulars of all essential features of the scheme which concern him;
  - (c) that there is a person resident in the United Kingdom who will be responsible for the discharge of all duties imposed on the administrator of the scheme under this Chapter;
  - (d) that the employer is a contributor to the scheme;
  - (e) that the scheme is established in connection with some trade or undertaking carried on in the United Kingdom by a person resident in the United Kingdom;

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- (f) that in no circumstances, whether during the subsistence of the scheme or later, can any amount be paid by way of repayment of an employee's contributions under the scheme.
- (3) Subject to subsection (1) above, the Board shall approve a retirement benefits scheme for the purposes of this Chapter if the scheme satisfies all the conditions of this subsection, that is to say—
- (a) that any benefit for an employee is a pension on retirement at a specified age not earlier than 60 or, if the employee is a woman, 55, and not later than 70, which does not exceed one-sixtieth of the employee's final remuneration for each year of service up to a maximum of 40;
  - (b) that any benefit for any widow of an employee is a pension payable on his death after retirement such that the amount payable to the widow by way of pension does not exceed two-thirds of any pension or pensions payable to the employee;
  - (c) that no other benefits are payable under the scheme;
  - (d) that no pension is capable in whole or in part of surrender, commutation or assignment, except in so far as the scheme allows an employee on retirement to obtain, by commutation of his pension, a lump sum or sums not exceeding in all three-eighths of his final remuneration (disregarding any excess of that remuneration over the permitted maximum) for each year of service up to a maximum of 40.
- In paragraph (d) above "the permitted maximum" means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury.
- (4) The conditions set out in subsections (2) and (3) above are in this Chapter referred to as "the prescribed conditions".
- (5) If in the opinion of the Board the facts concerning any scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.
- (6) Where an alteration has been made in a retirement benefits scheme, no approval given as regards the scheme before the alteration shall apply after the date of the alteration unless the alteration has been approved by the Board.
- (7) For the purpose of determining whether a retirement benefits scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions—
- (a) that scheme shall be considered in conjunction with any other retirement benefits scheme or schemes relating to employees of that class or description, and
  - (b) if those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of each of them, but otherwise those conditions shall be taken to be satisfied in the case of none of them.

## **591 Discretionary approval**

- (1) The Board may, if they think fit having regard to the facts of a particular case, and subject to such conditions, if any, as they think proper to attach to the approval, approve a retirement benefits scheme for the purposes of this Chapter notwithstanding that it does not satisfy one or more of the prescribed conditions; but this subsection has effect subject to subsection (5) below.
- (2) The Board may in particular approve by virtue of this section a scheme—
  - (a) which exceeds the limits imposed by the prescribed conditions as respects benefits for less than 40 years; or
  - (b) which provides pensions for the widows of employees on death in service, or for the children or dependants of employees; or
  - (c) which provides on death in service a lump sum of up to four times the employee's final remuneration (exclusive of any refunds of contributions); or
  - (d) which allows benefits to be payable on retirement within ten years of the specified age, or on earlier incapacity; or
  - (e) which provides for the return in certain contingencies of employees' contributions; or
  - (f) which relates to a trade or undertaking carried on only partly in the United Kingdom and by a person not resident in the United Kingdom; or
  - (g) which provides in certain contingencies for securing relevant benefits (but no other benefits) by means of an annuity contract approved by the Board and made with an insurance company of the employee's choice; or
  - (h) to which the employer is not a contributor and which provides benefits additional to those provided by a scheme to which he is a contributor.
- (3) In subsection (2)(g) above "insurance company" means a company to which Part II of the Insurance Companies Act 1982 applies.
- (4) In applying this section to a scheme which was in existence on 6th April 1980, the Board shall exercise their discretion, in such cases as appear to them to be appropriate, so as to preserve—
  - (a) benefits earned or rights arising out of service before 6th April 1980; and
  - (b) any rights to death-in-service benefits conferred by rules of the scheme in force on 26th February 1970.
- (5) The Board shall not approve a scheme by virtue of this section if to do so would be inconsistent with regulations made for the purposes of this section.
- (6) Regulations made for the purposes of this section may restrict the Board's discretion to approve a scheme by reference to the benefits provided by the scheme, the investments held for the purposes of the scheme, the manner in which the scheme is administered or any other circumstances whatever.

### *Tax reliefs*

## **592 Exempt approved schemes**

- (1) This section has effect as respects—
  - (a) any approved scheme which is shown to the satisfaction of the Board to be established under irrevocable trusts; or

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- (b) any other approved scheme as respects which the Board, having regard to any special circumstances, direct that this section shall apply;  
and any scheme which is for the time being within paragraph (a) or (b) above is in this Chapter referred to as an “exempt approved scheme”.
- (2) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits if, or to such extent as the Board are satisfied that, it is income from investments or deposits held for the purposes of the scheme.
- (3) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of underwriting commissions if, or to such extent as the Board are satisfied that, the underwriting commissions are applied for the purposes of the schemes and would, but for this subsection, be chargeable to tax under Case VI of Schedule D.
- (4) Any sum paid by an employer by way of contribution under the scheme shall, for the purposes of Case I or II of Schedule D and of sections 75 and 76, be allowed to be deducted as an expense, or expense of management, incurred in the chargeable period in which the sum is paid.
- (5) The amount of an employer’s contributions which may be deducted under subsection (4) above shall not exceed the amount contributed by him under the scheme in respect of employees in a trade or undertaking in respect of the profits of which the employer is assessable to tax (that is to say, to United Kingdom income tax or corporation tax).
- (6) A sum not paid by way of ordinary annual contribution shall for the purposes of subsection (4) above be treated, as the Board may direct, either as an expense incurred in the chargeable period in which the sum is paid, or as an expense to be spread over such period of years as the Board think proper.
- (7) Any contribution paid under the scheme by an employee shall, in assessing tax under Schedule E, be allowed to be deducted as an expense incurred in the year of assessment in which the contribution is paid.
- (8) The amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by an employee in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.
- (9) Relief shall not be given under section 266 or 273 in respect of any payment in respect of which an allowance can be made under subsection (7) above.
- (10) Subsection (2) of section 468 and subsection (3) of section 469 shall not apply to any authorised unit trust which is also an exempt approved scheme if the employer is not a contributor to the exempt approved scheme and that scheme provides benefits additional to those provided by another exempt approved scheme to which he is a contributor.
- (11) Nothing in this section shall be construed as affording relief in respect of any sums to be brought into account under section 438.
- (12) This section has effect only as respects income arising or contributions paid at a time when the scheme is an exempt approved scheme.

### **593 Relief by way of deductions from contributions**

- (1) Relief under section 592(7) shall be given in accordance with subsections (2) and (3) below in such cases and subject to such conditions as the Board may prescribe by regulations under section 612(3) in respect of schemes—
  - (a) to which employees, but not their employers, are contributors; and
  - (b) which provide benefits additional to benefits provided by schemes to which their employers are contributors.
- (2) An employee who is entitled to relief under section 592(7) in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate on the contribution.
- (3) The administrator of the scheme—
  - (a) shall accept the amount paid after the deduction in discharge of the employee's liability to the same extent as if the deduction had not been made; and
  - (b) may recover an amount equal to the deduction from the Board.
- (4) Regulations under subsection (3) of section 612 may, without prejudice to the generality of that subsection—
  - (a) provide for the manner in which claims for the recovery of a sum under subsection (3)(b) above may be made;
  - (b) provide for the giving of such information, in such form, as may be prescribed by or under the regulations;
  - (c) provide for the inspection by persons authorised by the Board of books, documents and other records.

### **594 Exempt statutory schemes**

- (1) Any contribution paid by any officer or employee under a statutory scheme established under a public general Act shall, in assessing tax under Schedule E, be allowed to be deducted as an expense incurred in the year of assessment in which the contribution is paid; and relief shall not be given under section 266 or 273 in respect of any contribution allowable as a deduction under this section.
- (2) The amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by a person in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.

#### *Charge to tax in certain cases*

### **595 Charge to tax in respect of certain sums paid by employer etc**

- (1) Subject to the provisions of this Chapter, where, pursuant to a retirement benefits scheme, the employer in any year of assessment pays a sum with a view to the provision of any relevant benefits for any employee of that employer, then (whether or not the accrual of the benefits is dependent on any contingency)—
  - (a) the sum paid, if not otherwise chargeable to income tax as income of the employee, shall be deemed for all purposes of the Income Tax Acts to be income of that employee for that year of assessment and assessable to tax under Schedule E; and

- (b) where the payment is made under such an insurance or contract as is mentioned in section 266, relief, if not otherwise allowable, shall be given to that employee under that section in respect of the payment to the extent, if any, to which such relief would have been allowable to him if the payment had been made by him and the insurance or contract under which the payment is made had been made with him.
- (2) Subject to the provisions of this Chapter, where—
- (a) the circumstances in which any relevant benefits under a retirement benefits scheme are to accrue are not such as will render the benefits assessable to income tax under Schedule E as emoluments of the employee in respect of whom the benefits are paid, and
- (b) the provision of those benefits is not, or is not fully, secured by the payment of sums by the employer with a view to the provision of those benefits,
- then (whether or not the accrual of the benefits is dependent on any contingency) an amount equal to the cost, estimated in accordance with subsection (3) below, of securing the provision by a third person of the benefits or, as the case may be, of the benefits so far as not already secured by the payment of such sums as are mentioned in subsection (1) above, shall be deemed for all purposes of the Income Tax Acts to be income of the employee for the year or years of assessment specified in subsection (3) below and assessable to income tax under Schedule E.
- (3) The cost referred to in subsection (2) above shall be estimated either—
- (a) as an annual sum payable in each year of assessment in which the scheme in question is in force or the employee is serving, up to and including the year of assessment in which the benefits accrue or there ceases to be any possibility of the accrual thereof, or
- (b) as a single sum payable in the year of assessment in which falls the date when the employee acquired the right to the relevant benefits, or the date when he acquired the right to any increase in the relevant benefits;
- as may be more appropriate in the circumstances of the case.
- (4) Where the employer pays any sum as mentioned in subsection (1) above in relation to more than one employee, the sum so paid shall, for the purpose of that subsection, be apportioned among those employees by reference to the separate sums which would have had to be paid to secure the separate benefits to be provided for them respectively, and the part of the sum apportioned to each of them shall be deemed for that purpose to have been paid separately in relation to that one of them.
- (5) Any reference in this section to the provision for an employee of relevant benefits includes a reference to the provision of benefits payable to that employee's wife or widow, children, dependants or personal representatives.

## **596 Exceptions from section 595**

- (1) Neither subsection (1) nor subsection (2) of section 595 shall apply where the retirement benefits scheme in question is—
- (a) an approved scheme, or
- (b) a statutory scheme, or
- (c) a scheme set up by a government outside the United Kingdom for the benefit, or primarily for the benefit of, its employees.

- (2) Neither subsection (1) nor subsection (2) of section 595 shall apply for any year of assessment—
- (a) where the employee performs the duties of his employment in such circumstances that no tax is chargeable under Case I or II of Schedule E in respect of the emoluments of his employment (or would be so chargeable were there such emoluments), or
  - (b) where the emoluments from the employment are foreign emoluments within the meaning of section 192 and the Board are satisfied, on a claim made by the employee, that the retirement benefits scheme in question corresponds to such a scheme as is mentioned in paragraph (a), (b) or (c) of subsection (1) above.
- (3) Where, in respect of the provision for an employee of any relevant benefits—
- (a) a sum has been deemed to be income of his by virtue either of subsection (1) or subsection (2) of section 595, and
  - (b) subsequently, the employee proves to the satisfaction of the Board that—
    - (i) no payment in respect of, or in substitution for, the benefits has been made, and
    - (ii) some event has occurred by reason of which no such payment will be made,and makes application for relief under this subsection within six years from the time when that event occurred,
- the Board shall give relief in respect of tax on that sum by repayment or otherwise as may be appropriate; and if the employee satisfies the Board as mentioned above in relation to some particular part, but not the whole, of the benefits, the Board may give such relief as may seem to them just and reasonable.

#### **597 Charge to tax: pensions**

- (1) Subject to subsection (2) below, all pensions paid under any scheme which is approved or is being considered for approval under this Chapter shall be charged to tax under Schedule E, and section 203 shall apply accordingly.
- (2) As respects any scheme which is approved or is being considered for approval under this Chapter, the Board may direct that, until such date as the Board may specify, pensions under the scheme shall be charged to tax as annual payments under Case III of Schedule D, and tax shall be deductible under sections 348 and 349 accordingly.

#### **598 Charge to tax: repayment of employee's contributions**

- (1) Subject to the provisions of this section, tax shall be charged under this section on any repayment to an employee during his lifetime of any contributions (including interest on contributions, if any) if the payment is made under—
  - (a) a scheme which is or has at any time been an exempt approved scheme, or
  - (b) a statutory scheme established under a public general Act.
- (2) Where any payment is chargeable to tax under this section, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 10 per cent.
- (3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.

- (4) The tax shall be charged on the amount paid or, if the rules permit the administrator to deduct the tax before payment, on the amount before deduction of tax, and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.
- (5) Subsection (1)(a) above shall not apply in relation to a contribution made after the scheme ceases to be an exempt approved scheme (unless it again becomes an exempt approved scheme).
- (6) This section shall not apply where the employee's employment was carried on outside the United Kingdom.
- (7) In relation to a statutory scheme, "employee" in this section includes any officer.

**599 Charge to tax: commutation of entire pension in special circumstances**

- (1) Where a scheme to which this section applies contains a rule allowing, in special circumstances, a payment in commutation of an employee's entire pension, and any pension is commuted, whether wholly or not, under the rule, tax shall be charged on the amount by which the sum receivable exceeds—
  - (a) the largest sum which would have been receivable in commutation of any part of the pension if the scheme had secured that the aggregate value of the relevant benefits payable to an employee on or after retirement, excluding any pension which was not commutable, could not exceed three-eighths of his final remuneration (disregarding any excess of that remuneration over the permitted maximum) for each year of service up to a maximum of 40; or
  - (b) the largest sum which would have been receivable in commutation of any part of the pension under any rule of the scheme authorising the commutation of part (but not the whole) of the pension, or which would have been so receivable but for those special circumstances;
 whichever gives the lesser amount chargeable to tax.
- (2) This section applies to—
  - (a) a scheme which is or has at any time been an approved scheme, or
  - (b) a statutory scheme established under a public general Act.
- (3) Where any amount is chargeable to tax under this section the administrator of the scheme shall be charged to income tax under Case VI of Schedule D on that amount, and section 598(2), (3) and (4) shall apply as they apply to tax chargeable under that section.
- (4) This section shall not apply where the employee's employment was carried on outside the United Kingdom.
- (5) In relation to a statutory scheme, "employee" in this section includes any officer.
- (6) In applying paragraph (a) or (b) of subsection (1) above—
  - (a) the same considerations shall be taken into account, including the provisions of any other relevant scheme, as would have been taken into account by the Board in applying section 590; and
  - (b) where the scheme has ceased to be an approved scheme, account shall only be taken of the rules in force when the scheme was last an approved scheme.
- (7) Where the pension has been secured by means of an annuity contract with an insurance company and the sum receivable is payable under that contract by the insurance



company, the references to the administrator of the scheme in subsection (3) above and in section 598(2) and (4) as applied by that subsection are to be read as references to the insurance company.

- (8) In subsection (7) above “insurance company” means—
- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on long term business and acting through a branch or agency in the United Kingdom; or
  - (b) a society registered as a friendly society under the Friendly Societies Act 1974 or the Friendly Societies Act (Northern Ireland) 1970.
- (9) In relation to payments made under schemes approved or established before 17th March 1987 to employees who became members before that date, subsection (1)(a) above shall have effect with the omission of the words “(disregarding any excess of that remuneration over the permitted maximum)”.

#### **600 Charge to tax: unauthorised payments to or for employees**

- (1) This section applies to any payment to or for the benefit of an employee, otherwise than in course of payment of a pension, being a payment made out of funds which are or have been held for the purposes of a scheme which is or has at any time been approved for the purposes of—
- (a) this Chapter;
  - (b) Chapter II of Part II of the Finance Act 1970; or
  - (c) section 208 or Chapter II of Part IX of the 1970 Act.
- (2) If the payment—
- (a) is not expressly authorised by the rules of the scheme, or
  - (b) is made at a time when the scheme is not approved for the purposes of any of the enactments mentioned in subsection (1) above, and would not have been expressly authorised by the rules of the scheme when it was last so approved,
- the employee (whether or not he is the recipient of the payment) shall be chargeable to tax on the amount of the payment under Schedule E for the year of assessment in which the payment is made.
- (3) Any payment chargeable to tax under this section shall not be chargeable to tax under section 598 or 599 or under the Regulations mentioned in paragraph 8 of Schedule 3 to the Finance Act 1971.
- (4) References in this section to any payment include references to any transfer of assets or other transfer of money’s worth.

#### **601 Charge to tax: payments to employers**

- (1) Subsection (2) below applies where a payment is made to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme and whether or not the payment is made in pursuance of Schedule 22.
- (2) An amount equal to 40 per cent. of the payment shall be recoverable by the Board from the employer.
- (3) Subsection (2) above does not apply to any payment—

- (a) to the extent that, if this section had not been enacted, the employer would have been exempt, or entitled to claim exemption, from income tax or corporation tax in respect of the payment; or
  - (b) made before the scheme became an exempt approved scheme; or
  - (c) of any prescribed description; or
  - (d) made in pursuance of the winding-up of the scheme where the winding-up commenced on or before 18th March 1986; or
  - (e) made in pursuance of an application which —
    - (i) was made to the Board on or before that date and was not withdrawn before the making of the payment, and
    - (ii) sought the Board’s assurance that the payment would not lead to a withdrawal of approval under section 19(3) of the Finance Act 1970;
- (4) Subsection (2) above does not apply where the employer is a charity (within the meaning of section 506).
- (5) Where any payment is made or becomes due to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme then—
- (a) if the scheme relates to a trade, profession or vocation carried on by the employer, the payment shall be treated for the purposes of the Tax Acts as a receipt of that trade, profession or vocation receivable when the payment falls due or on the last day on which the trade, profession or vocation is carried on by the employer, whichever is the earlier;
  - (b) if the scheme does not relate to such a trade, profession or vocation, the employer shall be charged to tax on the amount of the payment under Case VI of Schedule D.
- This subsection shall not apply to a payment which fell due before the scheme became an exempt approved scheme or to a payment to which subsection (2) above applies or would apply but for subsection (3)(a) or (4) above.
- (6) In this section—
- (a) references to any payment include references to any transfer of assets or other transfer of money’s worth; and
  - (b) “prescribed” means prescribed by regulations made by the Treasury.

## **602 Regulations relating to pension fund surpluses**

- (1) In relation to an amount recoverable as mentioned in section 601(2), the Treasury may by regulations make any of the provisions mentioned in subsection (2) below; and for this purpose the amount shall be treated as if it were—
- (a) an amount of income tax chargeable on the employer under Case VI of Schedule D for the year of assessment in which the payment is made; or
  - (b) where the employer is a company, an amount of corporation tax chargeable on the company for the accounting period in which the payment is made.
- (2) The provisions are—
- (a) provision requiring the administrator of the scheme or the employer (or both) to furnish to the Board, in respect of the amount recoverable and of the payment concerned, information of a prescribed kind;

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- (b) provision enabling the Board to serve a notice or notices requiring the administrator or employer (or both) to furnish to the Board, in respect of the amount and payment, particulars of a prescribed kind;
  - (c) provision requiring the administrator to deduct out of the payment the amount recoverable and to account to the Board for it;
  - (d) provision as to circumstances in which the employer may be assessed in respect of the amount recoverable;
  - (e) provision that, in a case where the employer has been assessed in respect of an amount recoverable but has not paid it (or part of it) within a prescribed period, the administrator may be assessed and charged (in the employer's name) in respect of the amount (or part unpaid);
  - (f) provision that, in a case where the amount recoverable (or part of it) has been recovered from the administrator by virtue of an assessment in the employer's name, the administrator is entitled to recover from the employer a sum equal to the amount (or part);
  - (g) provision enabling the employer or administrator (as the case may be) to appeal against an assessment made on him in respect of the amount recoverable;
  - (h) provision as to when any sum in respect of the amount recoverable is payable to the Board by the administrator or employer and provision requiring interest to be paid on any sum so payable;
  - (j) provision that an amount paid to the Board by the administrator shall be treated as paid on account of the employer's liability under section 601(2).
- (3) For the purpose of giving effect to any provision mentioned in subsection (2)(c) to (j) above, regulations under this section may include provision applying (with or without modifications) provisions of the enactments relating to income tax and corporation tax.
- (4) Subject to any provision of regulations under this section—
- (a) a payment to which section 601(2) applies shall not be treated as a profit or gain brought into charge to income tax or corporation tax and shall not be treated as part of the employer's income for any purpose of this Act; and
  - (b) the amount recoverable shall not be subject to any exemption or reduction (by way of relief, set-off or otherwise) or be available for set-off against other tax.
- (5) If the employer is a company and a payment to which section 601(1) and (2) applies is made at a time not otherwise within an accounting period of the company, an accounting period of the company shall for the purposes of subsection (1)(b) above be treated as beginning immediately before the payment is made.

### **603 Reduction of surpluses**

Schedule 22 (which provides for the reduction of certain pension fund surpluses) shall have effect.

#### *Supplementary provisions*

### **604 Application for approval of a scheme**

- (1) An application for the approval for the purposes of this Chapter of any retirement benefits scheme shall be made in writing by the administrator of the scheme to the

Board before the end of the first year of assessment for which approval is required, and shall be accompanied by—

- (a) two copies of the instrument or other document constituting the scheme; and
  - (b) two copies of the rules of the scheme and, except where the application is being sought on the setting up of the scheme, two copies of the accounts of the scheme for the last year for which such accounts have been made up; and
  - (c) such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the setting up of the scheme) as the Board may consider relevant.
- (2) The form in which an application for approval is to be made, or in which any information is to be given, in pursuance of this section may be prescribed by the Board.

### **605 Information**

- (1) In the case of every approved scheme, the administrator of the scheme, and every employer who pays contributions under the scheme, shall, within 30 days from the date of a notice from the inspector requiring them so to do —
- (a) furnish to the inspector a return containing such particulars of contributions paid under the scheme as the notice may require;
  - (b) prepare and deliver to the inspector a return containing particulars of all payments under the scheme, being —
    - (i) payments by way of return of contributions (including interest on contributions, if any);
    - (ii) payments by way of commutation of, or in lieu of, pensions, or other lump sum payments;
    - (iii) other payments made to an employer;
  - (c) furnish to the inspector a copy of the accounts of the scheme up to the last date previous to the notice to which such accounts have been made up together with such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the conduct of the scheme during the period to which the accounts relate) as the inspector considers relevant.
- (2) Where benefits provided for an employee under an approved scheme or a statutory scheme have been secured by means of an annuity contract with an insurance company (within the meaning given by section 599(8)), the insurance company shall, within 30 days from the date of a notice from the inspector requiring it to do so, prepare and deliver to the inspector a return containing particulars of—
- (a) any payments under the contract by way of commutation of, or in lieu of, a pension, or any other lump sum payments under the contract; and
  - (b) any payments made under the contract to the employer.
- (3) It shall be the duty of every employer—
- (a) if there subsists in relation to any of his employees a retirement benefits scheme to which he contributes and which is neither an approved scheme nor a statutory scheme, to deliver particulars of that scheme to the Board within three months beginning with the date on which the scheme first comes into operation in relation to any of his employees, and

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- (b) when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to—
  - (i) any retirement benefits scheme relating to the employer which is neither an approved scheme nor a statutory scheme; and
  - (ii) the employees of his to whom any such scheme relates.
- (4) It shall be the duty of the administrator of a retirement benefits scheme which is neither an approved scheme nor a statutory scheme, when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to the scheme.

#### **606 Responsibilities of administrator of scheme, and employer**

- (1) If the administrator of a retirement benefits scheme defaults or cannot be traced or dies, the employer shall be responsible in his place for the discharge of all duties imposed on the administrator under this Chapter and shall be liable for any tax due from him in his capacity as administrator.

This subsection does not apply if the employer is not a contributor to the scheme.

- (2) No liability incurred under this Chapter by the administrator of a scheme, or by an employer, shall be affected by the termination of the scheme or by it ceasing to be an approved scheme, or to be an exempt approved scheme.
- (3) References in this section to the employer include, where the employer is resident outside the United Kingdom, references to any branch or agent of the employer in the United Kingdom, and in this subsection “branch or agent” has the meaning given by section 118(1) of the Management Act.
- (4) This section does not apply for the purposes of sections 602 and 603 and Schedule 22.

#### **607 Pilots' benefit fund**

- (1) The Board may, if they think fit, and subject to such conditions as they think proper to attach to the approval, approve a pilots' benefit fund for the purposes of this Chapter as if it were a retirement benefits scheme and notwithstanding that it does not satisfy one or more of the conditions set out in section 590(2) and (3).
- (2) If a fund is approved by virtue of this section—
  - (a) sections 592, 597 to 600 and 604 to 606 shall have effect in relation to the fund with the modifications specified in subsection (3) below;
  - (b) pensions paid out of the fund and any sums chargeable to tax in connection with the fund under section 600 shall be treated for the purposes of the Income Tax Acts as earned income; and
  - (c) Chapter III of this Part shall have effect as if a member of the fund were the holder of a pensionable office or employment and his earnings as a pilot (estimated in accordance with the provisions of Case II of Schedule D) were remuneration from such an office or employment.
- (3) The modifications referred to in subsection (2)(a) above are as follows—
  - (a) in section 592, for the references in subsection (7) to an employee and Schedule E there shall be substituted respectively references to a member of

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the fund and Schedule D, and subsections (4) to (6), and in subsection (7) the words from “incurred” onwards, shall be omitted;

- (b) in sections 597 to 606 (except sections 601 to 603)—
  - (i) for references to an employee there shall be substituted references to a member or former member of the fund;
  - (ii) in section 599(1)(a) for the reference to a year of service there shall be substituted a reference to a year as a pilot licensed by a pilotage authority or authorised by a competent harbour authority;
  - (iii) section 606(1) and (3) and so much of any other provision as applies to an employer shall be omitted; and
  - (iv) in section 600, for references to Schedule E there shall be substituted references to Case VI of Schedule D.

- (4) In this section “pilots' benefit fund” means a fund established under section 15(1)(i) of the Pilotage Act 1983 or any scheme supplementing or replacing any such fund.

#### **608 Superannuation funds approved before 6th April 1980**

- (1) This section applies to any fund which immediately before 6th April 1980 was an approved superannuation fund for the purposes of section 208 of the 1970 Act if—
  - (a) it has not been approved under this Chapter (or under Chapter II of Part II of the Finance Act 1970); and
  - (b) no sum has been paid to it by way of contribution since 5th April 1980.
- (2) Subject to subsection (3) below, exemption from income tax shall, on a claim being made in that behalf, be allowed to a fund to which this section applies in respect of—
  - (a) income derived from investments or deposits of the fund;
  - (b) any underwriting commissions which apart from this subsection would be chargeable to tax under Case VI of Schedule D; and
  - (c) any profits or gains which (apart from this subsection) would be chargeable to tax under Case VI of Schedule D by virtue of section 56(1)(a) and (2);
 if, or to such extent as the Board are satisfied that, the income, commissions, profits or gains are applied for the purposes of the fund.
- (3) No claim under subsection (2) above shall be allowed unless the Board are satisfied that the terms on which benefits are payable from the fund have not been altered since 5th April 1980.
- (4) An annuity paid out of a fund to which this section applies shall be charged to tax under Schedule E and section 203 shall apply accordingly.

#### **609 Schemes approved before 23rd July 1987**

Schedule 23 to this Act, which makes provision with respect to retirement benefit schemes approved before 23rd July 1987, shall have effect.

#### **610 Amendments of schemes**

- (1) This section applies to any amendment of a retirement benefits scheme proposed in connection with an application for the Board's approval for the purposes of this Chapter which is needed in order to ensure that approval is so given, or designed to

enhance the benefits under the scheme up to the limits suitable in a scheme for which approval is sought.

- (2) A provision, however expressed, designed to preclude any amendment of a scheme which would have prejudiced its approval under section 208 or 222 of the 1970 Act shall not prevent any amendment to which this section applies.
- (3) In the case of a scheme which contains no powers of amendment, the administrator of the scheme may, with the consent of all the members of the scheme, and of the employer (or of each of the employers), make any amendment to which this section applies.

### **611 Definition of “retirement benefits scheme”**

- (1) In this Chapter “retirement benefits scheme” means, subject to the provisions of this section, a scheme for the provision of benefits consisting of or including relevant benefits, but does not include any national scheme providing such benefits.
- (2) References in this Chapter to a scheme include references to a deed, agreement, series of agreements, or other arrangements providing for relevant benefits notwithstanding that it relates or they relate only to—
  - (a) a small number of employees, or to a single employee, or
  - (b) the payment of a pension starting immediately on the making of the arrangements.
- (3) The Board may, if they think fit, treat a retirement benefits scheme relating to employees of two or more different classes or descriptions as being for the purposes of this Chapter two or more separate retirement benefits schemes relating respectively to such one or more of those classes or descriptions of those employees as the Board think fit.
- (4) For the purposes of this section, and of any other provision of this Chapter—
  - (a) employees may be regarded as belonging to different classes or descriptions if they are employed by different employers; and
  - (b) a particular class or description of employee may consist of a single employee, or any number of employees, however small.
- (5) Without prejudice to subsections (3) and (4) above, the Board may continue to treat as two different schemes, for the purposes of this Chapter, any retirement benefits scheme which, in pursuance of paragraph 5 of Schedule 3 to the Finance Act 1971 (schemes in existence before 5th April 1973), they treated, immediately before the coming into force of this Chapter, as two separate schemes for the purposes of Chapter II of Part II of the Finance Act 1970.

### **612 Other interpretative provisions, and regulations for purposes of this Chapter**

- (1) In this Chapter, except where the context otherwise requires—
  - “administrator”, in relation to a retirement benefits scheme, means the person or persons having the management of the scheme;
  - “approved scheme” means a retirement benefits scheme for the time being approved by the Board for the purposes of this Chapter;
  - “director” in relation to a company includes—

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- (a) in the case of a company the affairs of which are managed by a board of directors or similar body, a member of that board or body,
- (b) in the case of a company the affairs of which are managed by a single director or similar person, that director or person,
- (c) in the case of a company the affairs of which are managed by the members themselves, a member of that company;

and includes a person who is to be or has been a director;

“employee”—

- (a) in relation to a company, includes any officer of the company, any director of the company and any other person taking part in the management of the affairs of the company, and
- (b) in relation to any employer, includes a person who is to be or has been an employee;

and “employer” and other cognate expressions shall be construed accordingly;

“exempt approved scheme” has the meaning given by section 592(1);

“final remuneration” means the average annual remuneration of the last three years' service;

“pension” includes annuity;

“the permitted maximum” has the meaning given by section 590(3);

“relevant benefits” means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, or to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a person occurring during his service or of his death by accident so occurring and for no other reason;

“remuneration” does not include—

- (a) anything in respect of which tax is chargeable under Schedule E and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares; or
- (b) anything in respect of which tax is chargeable by virtue of section 148;

“service” means service as an employee of the employer in question and other expressions, including “retirement”, shall be construed accordingly; and

“statutory scheme” means a retirement benefits scheme established by or under any enactment—

- (a) the particulars of which are set out in any enactment, or in any regulations made under any enactment, or
- (b) which has been approved as an appropriate scheme by a Minister or government department (including the head of a Northern Ireland department or a Northern Ireland department).

- (2) Any reference in this Chapter to the provision of relevant benefits, or of a pension, for employees of an employer includes a reference to the provision of relevant benefits or a pension by means of a contract between the administrator or the employer or the employee and a third person; and any reference to pensions or contributions paid, or payments made, under a scheme includes a reference to pensions or contributions paid, or payments made, under such a contract entered into for the purposes of the scheme.



- (3) The Board may make regulations generally for the purpose of carrying the preceding provisions of this Chapter into effect.

## CHAPTER II

### OTHER PENSION FUNDS AND SOCIAL SECURITY BENEFITS AND CONTRIBUTIONS

#### 613 Parliamentary pension funds

- (1) The salary of a Member of the House of Commons shall, for all the purposes of the Income Tax Acts, be treated as reduced by the amounts deducted in pursuance of section 1 of the House of Commons Members' Fund Act 1939; but a Member shall not by reason of any such deduction be entitled to relief under any other provision of the Income Tax Acts.
- (2) In subsection (1) above the reference to salary shall be construed as mentioned in subsection (3) of section 1 of the House of Commons Members' Fund Act 1939, the reference to amounts deducted includes a reference to amounts required to be set aside under that subsection, and “deduction” shall be construed accordingly.
- (3) Periodical payments granted out of the House of Commons Members' Fund (including periodical payments granted out of sums appropriated from that Fund or out of the income from those sums) shall be charged to income tax under Schedule E.
- (4) The respective trustees of—
- (a) the House of Commons Members' Fund established under section 1 of that Act of 1939;
  - (b) the Parliamentary Contributory Pension Fund;
  - (c) the Members' Contributory Pension (Northern Ireland) Fund constituted under section 3(2) of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965; and
  - (d) the Assembly Contributory Pension Fund constituted under the Assembly Pensions (Northern Ireland) Order 1976;

shall be entitled to exemption from income tax in respect of all income derived from those Funds or any investment of those Funds.

A claim under this subsection shall be made to the Board.

#### 614 Exemptions and reliefs in respect of income from investments etc. of certain pension schemes

- (1) All income receivable from any source whatsoever for the purposes of any supplementary scheme under section 158 of the Social Security Act 1975 or section 149 of the Social Security (Northern Ireland) Act 1975, or under the enactments replaced by those sections, by the body charged with the administration of the scheme shall be exempt from income tax.
- (2) Any interest or dividends received by the person in whom is vested any of the Family Pension Funds mentioned in section 273 of the Government of India Act 1935, and having effect as a scheme made under section 2 of the Overseas Pensions Act 1973, on sums forming part of that fund shall be exempt from income tax.

- (3) Income derived from investments or deposits of any fund referred to in paragraph (b), (c), (d) or (f) of subsection (2) of section 615 shall not be charged to income tax, and any income tax deducted from any such income shall be repaid by the Board to the persons entitled to receive the income.
- (4) In respect of income derived from investments or deposits of the Overseas Service Pensions Fund established pursuant to section 7(1) of the Overseas Aid Act 1966, the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (5) In respect of dividends and other income derived from investments, deposits or other property of a superannuation fund to which section 615(3) applies the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (6) A claim under this section shall be made to the Board.

#### **615 Exemption from tax in respect of certain pensions**

- (1) A pension to which this subsection applies shall not be liable to charge to income tax if it is the income of a person who satisfies the Board that he is not resident in the United Kingdom.

A claim under this subsection shall be made to the Board.

- (2) Subsection (1) above applies to any of the following pensions—
  - (a) a pension paid under the authority of the Pensions (India, Pakistan and Burma) Act 1955 (which has effect, by virtue of subsection (3) of section 2 of the Overseas Pensions Act 1973, as a scheme made under that section);
  - (b) a pension paid out of any fund established in the United Kingdom by the government of any country which is, or forms part of, a country to which this paragraph applies, an associated state, a colony, a protectorate, a protected state or a United Kingdom trust territory, or by a government constituted for two or more such countries, if the fund was established for the sole purpose of providing pensions, whether contributory or not, payable in respect of service under that government;
  - (c) a pension paid out of the fund formed under the Overseas Superannuation Scheme (formerly known as the Colonial Superannuation Scheme);
  - (d) a pension paid under section 1 of the Overseas Pensions Act 1973, whether or not paid out of a fund established under a scheme made under that section;
  - (e) so much of any pension paid to or in respect of any person—
    - (i) under an order made under section 2 of the Overseas Service Act 1958 and having effect as if it were a scheme under section 2 of the Overseas Pensions Act 1973 or under a pension scheme originally provided and maintained under such an order and having such effect, or
    - (ii) under section 4(2) of the Overseas Service Act 1958, which has effect as if it were a scheme under section 2 of the Overseas Pensions Act 1973,

- as may be certified by the Secretary of State to be attributable to the employment of that person in the public services of an overseas territory;
- (f) a pension paid out of the fund established under the name “the Central African Pension Fund” by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963;
- (g) a pension paid out of the Overseas Service Pensions Fund established under section 7(1) of the Overseas Aid Act 1966.
- (3) Where an annuity is paid from a superannuation fund to which this subsection applies to a person who is not resident in the United Kingdom, income tax shall not be deducted from any payment of the annuity or accounted for under section 349(1) by the trustees or other persons having the control of the fund.
- (4) Subsection (1) above shall not apply to so much of any pension falling within paragraph (a) or (d) of subsection (2) above as is paid by virtue of the application to the pension of the Pensions (Increase) Acts.
- (5) Paragraph (b) of subsection (2) above applies to any country mentioned in Schedule 3 to the British Nationality Act 1981 except Australia, Canada, New Zealand, India, Sri Lanka and Cyprus.
- (6) Subsection (3) above applies to any superannuation fund which—
- is bona fide established under irrevocable trusts in connection with some trade or undertaking carried on wholly or partly outside the United Kingdom;
  - has for its sole purpose the provision of superannuation benefits in respect of persons' employment in the trade or undertaking wholly outside the United Kingdom; and
  - is recognised by the employer and employed persons in the trade or undertaking;
- and for the purposes of this subsection duties performed in the United Kingdom the performance of which is merely incidental to the performance of other duties outside the United Kingdom shall be treated as performed outside the United Kingdom.
- (7) In this section—
- “pension” includes a gratuity or any sum payable on or in respect of death or, in the case of a pension falling within subsection (2)(g) above, ill-health, and a return of contributions with or without interest thereon or any other addition thereto;
- “overseas territory” means any territory or country outside the United Kingdom;
- “the Pensions (Increase) Acts” means the Pensions (Increase) Act 1971 and any Act passed after that Act for purposes corresponding to the purposes of that Act;
- “United Kingdom trust territory” means a territory administered by the government of the United Kingdom under the trusteeship system of the United Nations.
- (8) In this section—
- references to a government constituted for two or more countries include references to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more countries;

- (b) any reference to employment in the public services of an overseas territory shall be construed as if it occurred in the Overseas Development and Cooperation Act 1980 and section 10(2) of that Act shall apply accordingly; and
- (c) any reference to an enactment or order having effect as if it were a scheme constituted under section 2 of the Overseas Pensions Act 1973 includes a reference to a scheme made under that section and certified by the Secretary of State for the purpose of the 1970 Act or this Act to correspond to that enactment or order.

## 616 Other overseas pensions

- (1) If and so long as provision is made by double taxation relief arrangements for a pension of a description specified in subsection (2) below to be exempt from tax in the United Kingdom and, by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for the pension, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973, then, to the extent that those payments are made to, or to the widow or widower of, an existing pensioner, the provision made under the arrangements shall apply in relation to the pension, exclusive of any statutory increases in it, as if it continued to be paid by the government which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.
- (2) The pensions referred to in subsection (1) above are pensions paid by—
  - (a) the Government of Malawi for services rendered to that Government or to the Government of the Federation of Rhodesia and Nyasaland in the discharge of governmental functions;
  - (b) the Government of Trinidad and Tobago in respect of services rendered to that Government in the discharge of governmental functions;
  - (c) the Government of the Republic of Zambia for services rendered to that Government or to the Government of Northern Rhodesia or to the Government of the Federation of Rhodesia and Nyasaland in the discharge of governmental functions.
- (3) If—
  - (a) immediately before 6th April 1973 a person resident in the United Kingdom was entitled to receive a pension as or as the widow or widower of an existing pensioner, and
  - (b) by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for the pension, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973,
 then, if and so long as the pension is received by that person or, where that person is an existing pensioner, by his or her widow or widower, the provisions of this Act shall apply in relation to it, exclusive of any statutory increases in it, as if it continued to be paid by the government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.
- (4) In this section—
 

“double taxation relief arrangements” means arrangements specified in an Order in Council making any such provisions as are referred to in section 788;

“existing pensioner”, in relation to a pension, means a person by virtue of whose service the pension is payable and who retired from that service before 6th April 1973; and

“statutory increases”, in relation to a pension, means so much (if any) of the pension as is paid by virtue of the application to it of any provision of the Pensions (Increase) Act 1971;

and in this subsection “pension” has the same meaning as in section 1 of the Overseas Pensions Act 1973.

## **617 Social security benefits and contributions**

- (1) Payments of benefit under Chapters I to III of Part II of the Social Security Act 1975, Part II of the Social Security Pensions Act 1975, Chapters I to III of Part II of the Social Security (Northern Ireland) Act 1975 or Part III of the Social Security Pensions (Northern Ireland) Order 1975, except—
  - (a) sickness benefit, invalidity benefit, attendance allowance, mobility allowance, severe disablement allowance, maternity allowance, widow’s payments, child’s special allowance and guardian’s allowance; and
  - (b) so much of any benefit as is attributable to an increase in respect of a child, shall be charged to income tax under Schedule E.
- (2) The following payments shall not be treated as income for any purpose of the Income Tax Acts—
  - (a) payments of income support, family credit or housing benefit under the Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986 other than payments of income support which are taxable by virtue of section 151;
  - (b) payments of child benefit; and
  - (c) payments excepted by subsection (1) above from the charge to tax imposed by that subsection.
- (3) Subject to subsection (4) and (5) below, no relief or deduction shall be given or allowed in respect of any contribution paid by any person under—
  - (a) Part I of the Social Security Act 1975, or
  - (b) Part I of the Social Security (Northern Ireland) Act 1975.
- (4) Subsection (3) above shall not apply to any secondary Class I contributions within the meaning of the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975 which is allowable as a deduction in computing profits or gains, in computing expenses of management under section 75 or under that section as applied by section 76 or in computing expenses of management or supervision under section 121.
- (5) An individual making a claim in that behalf shall be entitled, in computing his total income for any year of assessment, to deduct one-half of any amount (as finally settled) which is determined under subsection (2) of section 9 of the Social Security Act 1975 or of the Social Security (Northern Ireland) Act 1975 and which he is liable to pay in respect of that year by way of Class 4 contributions under either of those sections.
- (6) Until such day as may be appointed by the Secretary of State by order made by statutory instrument, subsection (1)(a) above shall have effect with the omission of the words “widow’s payments”.

## CHAPTER III

### RETIREMENT ANNUITIES

#### **618 Termination of relief under this Chapter, and transitional provisions**

- (1) Nothing in this Chapter shall apply in relation to—
  - (a) a contract made or trust scheme established on or after 4th January 1988; or
  - (b) a person by whom contributions are first paid on or after that date under a trust scheme established before that date.
- (2) Subject to subsection (4) below, the terms of a contract made, or the rules of a trust scheme established, on or after 17th March 1987 and before 4th January 1988 and approved by the Board under section 620 shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to the individual by whom the contract is made, or an individual paying contributions under the scheme, of a lump sum exceeding £150,000 or such other sum as may for the time being be specified in an order under section 635(4).
- (3) Subject to subsection (5) below, the rules of a trust scheme established before 17th March 1987 and approved by the Board under section 620 shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to any person first paying contributions under the scheme on or after 17th March 1987 of a lump sum such as is mentioned in subsection (2) above.
- (4) Subsection (2) above shall not apply—
  - (a) to a contract if, before the end of January 1988, the persons by and to whom premiums are payable under it jointly give notice to the Board that subsection (2) is not to apply; or
  - (b) to a scheme if, before the end of January 1988, the trustees or other persons having the management of the scheme give notice to the Board that subsection (2) is not to apply;

and where notice is given to the Board under this subsection, the contract or scheme shall, with effect from the date with effect from which it was approved, cease to be approved.
- (5) Subsection (3) above shall not apply in the case of any person paying contributions under a scheme if, before the end of January 1988, he and the trustees or other persons having the management of the scheme jointly give notice to the Board that subsection (3) is not to apply; and where notice is given to the Board, the scheme shall cease to be approved in relation to the contributor with effect from the date on which he first paid a contribution under it or (if later) the date with effect from which it was approved.

#### **619 Exemption from tax in respect of qualifying premiums**

- (1) Where in any year of assessment an individual is (or would but for an insufficiency of profits or gains be) chargeable to income tax in respect of relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and pays a qualifying premium, then—
  - (a) relief from income tax shall be given under this section in respect of that qualifying premium, but only on a claim made for the purpose, and where relief is to be so given, the amount of that premium shall, subject to the

provisions of this section, be deducted from or set off against his relevant earnings for the year of assessment in which the premium is paid; and

- (b) any annuity payable to the same or another individual shall be treated as earned income of the annuitant to the extent to which it is payable in return for any amount on which relief is so given.

Paragraph (b) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the annuity contract under which it is paid.

- (2) Subject to the provisions of this section and section 626, the amount which may be deducted or set off in any year of assessment (whether in respect of one or more qualifying premiums, and whether or not including premiums in respect of a contract approved under section 621) shall not be more than 17½ per cent. of the individual's net relevant earnings for that year.
- (3) Subject to the provisions of this section, the amount which may be deducted or set off in any year of assessment in respect of qualifying premiums paid under a contract approved under section 621 (whether in respect of one or more such premiums) shall not be more than 5 per cent. of the individual's net relevant earnings for that year.
- (4) An individual who pays a qualifying premium in a year of assessment (whether or not a year for which he has relevant earnings) may before the end of that year elect that the premium shall be treated as paid—
- (a) in the last preceding year of assessment; or
  - (b) if he had no net relevant earnings in the year referred to in paragraph (a) above, in the last preceding year of assessment but one;

and where an election is made under this subsection in respect of a premium the other provisions of this Chapter shall have effect as if the premium had been paid in the year specified in the election and not in the year in which it was actually paid.

- (5) Where relief under this section for any year of assessment is claimed and allowed (whether or not relief then falls to be given for that year), and afterwards there is made any assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax, there shall be made also such adjustments, if any, as are consequential thereon in the relief allowed or given under this section for that or any subsequent year of assessment.
- (6) Where relief under this section is claimed and allowed for any year of assessment in respect of any payment, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or a later year of assessment nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract; and references in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section.
- (7) If any person, for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this section, knowingly makes any false statement or false representation, he shall be liable to a penalty not exceeding £500.

## 620 Qualifying premiums

- (1) In this Chapter “qualifying premium” means, subject to subsection (5) below, a premium or other consideration paid by an individual—

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- (a) under an annuity contract for the time being approved by the Board under this section as having for its main object the provision for the individual of a life annuity in old age, or
  - (b) under a contract for the time being approved under section 621.
- (2) Subject to subsection (3) and (4) below, the Board shall not approve a contract under this section unless it appears to them to satisfy the conditions that it is made by the individual with a person lawfully carrying on in the United Kingdom the business of granting annuities on human life, and that it does not—
- (a) provide for the payment by that person during the life of the individual of any sum except sums payable by way of annuity to the individual; or
  - (b) provide for the annuity payable to the individual to commence before he attains the age of 60 or after he attains the age of 75; or
  - (c) provide for the payment by that person of any other sums except sums payable by way of annuity to the individual's widow or widower and any sums which, in the event of no annuity becoming payable either to the individual or to a widow or widower, are payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits; or
  - (d) provide for the annuity, if any, payable to a widow or widower of the individual to be of a greater annual amount than that paid or payable to the individual; or
  - (e) provide for the payment of any annuity otherwise than for the life of the annuitant;
- and that it does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.
- (3) A contract shall not be treated as not satisfying the requirements of subsection (2) above by reason only that it—
- (a) gives the individual the right to receive, by way of commutation of part of the annuity payable to him, a lump sum not exceeding three times the annual amount of the remaining part of the annuity, taking, where the annual amount is or may be different in different years, the initial annual amount, and
  - (b) makes any such right depend on the exercise by the individual of an election at or before the time when the annuity first becomes payable to him.
- (4) The Board may, if they think fit, and subject to any conditions they think proper to impose, approve, under this section, a contract otherwise satisfying the preceding conditions, notwithstanding that the contract provides for one or more of the following matters—
- (a) for the payment after the individual's death of an annuity to a dependant not the widow or widower of the individual;
  - (b) for the payment to the individual of an annuity commencing before he attains the age of 60, if the annuity is payable on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted;
  - (c) if the individual's occupation is one in which persons customarily retire before attaining the age of 60, for the annuity to commence before he attains that age;
  - (d) for the annuity payable to any person to continue for a term certain (not exceeding ten years), notwithstanding his death within that term, or for the annuity payable to any person to terminate, or be suspended, on marriage (or re-marriage) or in other circumstances;



- (e) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will, and in the event of any person dying entitled to it, for it to be assignable by his personal representatives in the distribution of the estate so as to give effect to a testamentary disposition, or to the rights of those entitled on intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.
- (5) Subject to section 621(5), section 619 and subsections (1) to (4) above shall apply in relation to a contribution under a trust scheme approved by the Board as they apply in relation to a premium under an annuity contract so approved, with the modification that, for the condition as to the person with whom the contract is made, there shall be substituted a condition that the scheme—
- (a) is established under the law of any part of, and administered in, the United Kingdom; and
  - (b) is established for the benefit of individuals engaged in or connected with a particular occupation (or one or other of a group of occupations), and for the purpose of providing retirement annuities for them, with or without subsidiary benefits for their families or dependants; and
  - (c) is so established under irrevocable trusts by a body of persons comprising or representing a substantial proportion of the individuals so engaged in the United Kingdom, or of those so engaged in England, Wales, Scotland or Northern Ireland;
- and with the necessary adaptations of other references to the contract or the person with whom it is made.
- (6) Exemption from income tax shall be allowed in respect of income derived from investments or deposits of any fund maintained for the purpose mentioned in subsection (5)(b) above under a scheme for the time being approved under that subsection.
- (7) The Board may at any time, by notice given to the persons by and to whom premiums are payable under any contract for the time being approved under this section, or to the trustees or other persons having the management of any scheme so approved, withdraw that approval on such grounds and from such date as may be specified in the notice.
- (8) Nothing in sections 4 and 6 of the Policies of Assurance Act 1867 (obligations of assurance companies in respect of notices of assignment of policies of life assurance) shall be taken to apply to any contract approved under this section.
- (9) For the purposes of any provision applying this subsection “approved annuities” means—
- (a) annuities under contracts approved by the Board under this section, being annuities payable wholly in return for premiums or other consideration paid by a person who (when the premiums or other consideration are or is payable) is, or would but for an insufficiency of profits or gains be, chargeable to tax in respect of relevant earnings from a trade, profession, vocation, office or employment carried on or held by him; and
  - (b) annuities or lump sums under approved personal pension arrangements within the meaning of Chapter IV of this Part.

## **621 Other approved contracts**

- (1) The Board may approve under this section—
  - (a) a contract the main object of which is the provision of an annuity for the wife or husband of the individual, or for any one or more dependants of the individual,
  - (b) a contract the sole object of which is the provision of a lump sum on the death of the individual before he attains the age of 75.
- (2) The Board shall not approve the contract unless it appears to them that it is made by the individual with a person lawfully carrying on in the United Kingdom the business of granting annuities on human life.
- (3) The Board shall not approve a contract under subsection (1)(a) above unless it appears to them to satisfy all the following conditions, that is to say—
  - (a) that any annuity payable to the wife or husband or dependant of the individual commences on the death of the individual,
  - (b) that any annuity payable to the individual commences at a time after the individual attains the age of 60, and, unless the individual's annuity is one to commence on the death of a person to whom an annuity would be payable under the contract if that person survived the individual, cannot commence after the time when the individual attains the age of 75;
  - (c) that the contract does not provide for the payment by the person contracting with the individual of any sum, other than any annuity payable to the individual's wife or husband or dependant, or to the individual, except, in the event of no annuity becoming payable under the contract, any sums payable by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits;
  - (d) that the contract does not provide for the payment of any annuity otherwise than for the life of the annuitant;
  - (e) that the contract does include provision securing that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment.
- (4) The Board may, if they think fit, and subject to any conditions that they think proper to impose, approve a contract under subsection (1)(a) above notwithstanding that, in one or more respects, they are not satisfied that the contract complies with the provisions of paragraphs (a) to (e) of subsection (3) above.
- (5) The main purpose of a trust scheme, or part of a trust scheme, within section 620(5) may be to provide annuities for the wives, husbands and dependants of the individuals, or lump sums payable on death and in that case—
  - (a) approval of the trust scheme shall be subject to subsections (1) to (4) above with any necessary modifications, and not subject to section 620(2) to (4);
  - (b) the provisions of this Chapter shall apply to the scheme or part of the scheme when duly approved as they apply to a contract approved under this section; and
  - (c) section 620(6) shall apply to any duly approved trust scheme, or part of a trust scheme.
- (6) Except as otherwise provided in this Chapter (and in particular except in section 620), any reference in the Tax Acts to a contract or scheme approved under that section shall include a reference to a contract or scheme approved under this section.

**622 Substituted retirement annuity contracts**

- (1) The Board may, if they think fit, and subject to any conditions they think proper to impose, approve an annuity contract under section 620 notwithstanding that the contract provides that the individual by whom it is made—
  - (a) may agree with the person with whom it is made that a sum representing the value of the individual's accrued rights under it should be applied as the premium or other consideration either under another annuity contract made between them and approved by the Board under section 620, or under personal pension arrangements made between them and approved by the Board under Chapter IV of this Part; or
  - (b) may require the person with whom it is made to pay such a sum to such other person as the individual may specify, to be applied by that other person as the premium or other consideration either under an annuity contract made between the individual and him and approved by the Board under section 620, or under personal pension arrangements made between the individual and him and approved by the Board under Chapter IV of this Part.
- (2) References in subsection (1) above to the individual by whom the contract is made include references to any widow, widower or dependant having accrued rights under the contract.
- (3) Where in pursuance of any such provision as is mentioned in subsection (1) above of an annuity contract approved under section 620, or of a corresponding provision of a contract approved under section 621(1)(a), a sum representing the value of accrued rights under one contract ("the original contract") is paid by way of premium or other consideration under another contract ("the substituted contract"), any annuity payable under the substituted contract shall be treated as earned income of the annuitant to the same extent that an annuity payable under the original contract would have been so treated.

**623 Relevant earnings**

- (1) For the purposes of this Chapter, a married woman's relevant earnings shall not be treated as her husband's relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.
- (2) Subject to subsection (1) above, "relevant earnings", in relation to any individual, means, for the purposes of this Chapter, any income of his chargeable to tax for the year of assessment in question, being either—
  - (a) income arising in respect of remuneration from an office or employment held by him other than a pensionable office or employment; or
  - (b) income from any property which is attached to or forms part of the emoluments of any such office or employment held by him; or
  - (c) income which is chargeable under Schedule B or Schedule D and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation either as an individual or, in the case of a partnership, as a partner personally acting therein; or
  - (d) income treated as earned income by virtue of section 529;but does not include any remuneration as director of a company whose income consists wholly or mainly of investment income (construed in accordance with paragraph 7 of Schedule 19), being a company of which he is a controlling director.

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- (3) For the purposes of this Chapter, an office or employment is a pensionable office or employment if, and only if, service in it is service to which a sponsored superannuation scheme relates (not being a scheme under which the benefits provided in respect of that service are limited to a lump sum payable on the termination of the service through death or disability before the age of 75 or some lower age); but references to a pensionable office or employment apply whether or not the duties are performed wholly or partly in the United Kingdom or the holder is chargeable to tax in respect of it.
- (4) Service in an office or employment shall not for the purposes of subsection (3) above be treated as service to which a sponsored superannuation scheme relates by reason only of the fact that the holder of the office or employment might (though he does not) participate in the scheme by exercising or refraining from exercising an option open to him by virtue of that service.
- (5) For the purposes of relief under section 619, an individual's relevant earnings are those earnings before giving effect to any capital allowances, other than deductions allowable in computing profits or gains, but after taking into account the amounts on which charges fall to be made under any of the Capital Allowances Acts; and references to income in the following provisions of this section (other than references to total income) shall be construed similarly.
- (6) Subject to the following provisions of this section "net relevant earnings" means, in relation to an individual, the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions falling to be made from the relevant earnings in computing for the purposes of income tax his total income for that year, being—
- (a) deductions which but for section 74(m), (p) or (q) could be made in computing his profits or gains; or
  - (b) deductions in respect of relief under Schedule 9 of the Finance Act 1981 (stock relief); or
  - (c) deductions in respect of losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual or of the individual's wife or husband.
- (7) Where in any year of assessment for which an individual claims and is allowed relief under section 619—
- (a) there falls to be made in computing the total income of the individual or that of his wife or her husband a deduction in respect of any such loss or allowance of the individual as is mentioned in subsection (6)(c) above; and
  - (b) the deduction or part of it falls to be so made from income other than relevant earnings,
- the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment (being deducted as far as may be from those of the immediately following year, whether or not he claims or is entitled to claim relief under this section for that year, and so far as it cannot be so deducted, then from those of the next year, and so on).
- (8) An individual's net relevant earnings for any year of assessment are to be computed without regard to any relief which falls to be given for that year under section 619 either to that individual or to that individual's wife or husband.

- (9) An individual's relevant earnings, in the case of partnership profits, shall be taken to be his share of the partnership income, estimated in accordance with the Income Tax Acts, but the amount to be included in respect of those earnings in arriving at his net relevant earnings shall be his share of that income after making therefrom all such deductions (if any) in respect of payments made by the partnership or of relief given to the partnership under Schedule 9 of the Finance Act 1981 (stock relief) or in respect of capital allowances falling to be made to the partnership as would be made in computing the tax payable in respect of that income.

#### **624 Sponsored superannuation schemes and controlling directors**

- (1) In section 623 “a sponsored superannuation scheme” means a scheme or arrangement—
- (a) relating to service in particular offices or employments, and
  - (b) having for its object or one of its objects to make provision in respect of persons serving in those offices or employments against future retirement or partial retirement, against future termination of service through death or disability, or against similar matters,
- being a scheme or arrangement under which any part of the cost of the provision so made is or has been borne otherwise than by those persons by reason of their service (whether it is the cost or part of the cost of the benefits provided, or of paying premiums or other sums in order to provide those benefits, or of administering or instituting the scheme or arrangement).
- (2) For the purposes of subsection (1) above a person shall be treated as bearing by reason of his service the cost of any payment made or agreed to be made in respect of his service, if that payment or the agreement to make it is treated under the Income Tax Acts as increasing his income, or would be so treated if he were chargeable to tax under Case I of Schedule E in respect of his emoluments from that service.
- (3) In section 623 “controlling director” means a director of a company, the directors of which have a controlling interest in the company, who is the beneficial owner of, or able either directly or through the medium of other companies or by any other indirect means to control, more than 5 per cent. of the ordinary share capital of the company; and for the purposes of this definition—
- “company” means one within the Companies Act 1985 or the Companies (Northern Ireland) Order 1986; and
- “director” means—
- (a) in relation to a body corporate the affairs of which are managed by a board of directors or similar body, a member of that board or similar body;
  - (b) in relation to a body corporate the affairs of which are managed by a single director or similar person, that director or person;
  - (c) in relation to a body corporate the affairs of which are managed by the members themselves, a member of the body corporate;
- and includes any person who is to be or has been a director.

#### **625 Carry-forward of unused relief under section 619**

- (1) Where—

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

- (a) in any year of assessment an individual is (or would but for an insufficiency of profits or gains be) chargeable to income tax in respect of relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, but
- (b) there is unused relief for that year, that is to say, an amount which could have been deducted from or set off against the individual's relevant earnings for that year under subsection (1) of section 619 if—
- (i) he had paid a qualifying premium in that year; or
- (ii) the qualifying premium or premiums paid by him in that year had been greater;
- then, subject to section 655(1)(b), relief may be given under that section, up to the amount of the unused relief, in respect of so much of any qualifying premium or premiums paid by the individual in any of the next six years of assessment as exceeds the maximum applying for that year under subsection (2) of that section.
- (2) Relief by virtue of this section shall be given for an earlier year rather than a later year, the unused relief taken into account in giving relief for any year being deducted from that available for giving relief in subsequent years and unused relief derived from an earlier year being exhausted before unused relief derived from a later year.
- (3) Where a relevant assessment to tax in respect of a year of assessment becomes final and conclusive more than six years after the end of that year and there is an amount of unused relief for that year which results from the making of the assessment—
- (a) that amount shall not be available for giving relief by virtue of this section for any of the six years following that year, but
- (b) the individual may, within the period of six months beginning with the date on which the assessment becomes final and conclusive, elect that relief shall be given under section 619, up to that amount, in respect of so much of any qualifying premium or premiums paid by him within that period as exceeds the maximum applying under subsection (2) of that section for the year of assessment in which they were paid;
- and to the extent to which relief in respect of any premium or premiums is given by virtue of this subsection it shall not be given by virtue of subsection (1) above.
- (4) In this section “a relevant assessment to tax” means an assessment on the individual's relevant earnings or on the profits or gains of a partnership from which the individual derives relevant earnings.

## 626 Modification of section 619 in relation to persons over 50

In the case of an individual whose age at the beginning of a year of assessment is within a range specified in the first column of the Table set out below, section 619(2) shall have effect for that year with the substitution for the reference to 17½ per cent. of a reference to the relevant percentage specified in the second column of the Table.

TABLE

<i>Age range</i>	<i>Percentage</i>
51 to 55	20
56 to 60	22½

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<i>Age range</i>	<i>Percentage</i>
61 or more	27½

### **627 Lloyd’s underwriters**

- (1) Where for any year of assessment an individual—
  - (a) is chargeable to income tax in respect of relevant earnings derived from Lloyd’s underwriting activities; and
  - (b) there is an amount of unused relief attributable to those earnings,  
the individual may, subject to subsection (2) below, elect that there shall be treated as paid in that year any qualifying premium paid by him in the next year of assessment but two.
- (2) An election under this section shall not have effect in relation to so much of any qualifying premium as exceeds the amount of unused relief referred to in subsection (1)(b) above.
- (3) Any election under this section shall be made before the end of the year of assessment in which the premium is paid.
- (4) Where an election is made under this section the provisions of this Chapter, other than section 619(4), shall have effect as if the premium or, as the case may be, the part of the premium in question had been paid in the year specified in the election and not in the year in which it was actually paid.
- (5) In this section—

“unused relief” has the same meaning as in section 625; and  
“relevant earnings derived from Lloyd’s underwriting activities” means relevant earnings as an underwriting member of Lloyd’s or by way of commission calculated by reference to the profits of Lloyd’s underwriting business.

### **628 Partnership retirement annuities**

- (1) Where a person (“the former partner”) has ceased to be a member of a partnership on retirement, because of age or ill-health or on death and, under—
  - (a) the partnership agreement; or
  - (b) an agreement replacing the partnership agreement or supplementing it or supplementing an agreement replacing it; or
  - (c) an agreement made with an individual who acquires the whole or part of the business carried on by the partnership;annual payments are made for the benefit of the former partner or his widow or a dependant of his and are for the purposes of income tax income of the person for whose benefit they are made, the payments shall be treated as earned income of that person, except to the extent that they exceed the limit specified in subsection (2) below.
- (2) The limit mentioned in subsection (1) above is 50 per cent. of the average of the amounts which, in the best three of the relevant years of assessment, were the former partner’s shares of the relevant profits or gains; and for this purpose—

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- (a) the former partner's share in any year of the relevant profits or gains is, subject to subsection (3) below, so much of the relevant profits or gains as fell to be included in a return of his income for that year; and
  - (b) the relevant profits or gains are the profits or gains of any trade, profession or vocation on which the partnership or any other partnership of which the former partner was a member was assessed to income tax; and
  - (c) the relevant years of assessment are the last seven years of assessment in which he was required to devote substantially the whole of his time to acting as a partner in the partnership or those partnerships; and
  - (d) the best three of the relevant years of assessment are those three of them in which the amounts of his shares of the relevant profits were highest;
- but where, in any of the relevant years, the circumstances were such that any of the profits or gains of a partnership were not assessable to income tax, paragraphs (a), (b) and (d) above shall apply as they would apply had those profits or gains been so assessable.
- (3) If the retail prices index for the month of December in the last of the seven years referred to in paragraph (c) of subsection (2) above is higher than it was for the month of December in any of the other years referred to in that paragraph, the amount which, for that other year, was the former partner's share of the relevant profits or gains shall be treated for the purposes of that subsection as increased by the same percentage as the percentage increase in that index.
  - (4) If the retail prices index for the month of December preceding a year of assessment after that in which the former partner ceased to be a member of the partnership is higher than it was for the month of December in the year of assessment in which he ceased to be such a member, the amount which under subsection (2) above is the limit for the first-mentioned year of assessment shall be treated as increased by the same percentage as the percentage increase in that index.
  - (5) Where the former partner ceased to be a member of the partnership before the year 1974-75, subsection (4) above shall have effect as if he had ceased to be a member in that year.

## **629 Annuity premiums of Ministers and other officers**

- (1) For the purposes of this Chapter so much of any salary which—
  - (a) is payable to the holder of a qualifying office who is also a Member of the House of Commons, and
  - (b) is payable for a period in respect of which the holder is not a participant in relation to that office in arrangements contained in the Parliamentary pension scheme but is a participant in relation to his membership of the House of Commons in any such arrangements, or for any part of such a period,
 as is equal to the difference between a Member's pensionable salary and the salary which (in accordance with any such resolution as is mentioned in subsection (3)(a) below) is payable to him as a Member holding that qualifying office shall be treated as remuneration from the office of Member and not from the qualifying office.
- (2) In this section—
 

“Member's pensionable salary” means a Member's ordinary salary under any resolution of the House of Commons which, being framed otherwise than as an expression of opinion, is for the time being in force relating to



the remuneration of Members or, if the resolution provides for a Member's ordinary salary thereunder to be treated for pension purposes as being at a higher rate, a notional yearly salary at that higher rate;

“qualifying office” means an office mentioned in section 2(2)(b), (c) or (d) of the Parliamentary and other Pensions Act 1987;

“the Parliamentary pension scheme” has the same meaning as in that Act; and without prejudice to the power conferred by virtue of paragraph 13 of Schedule 1 to that Act, regulations under section 2 of that Act may make provision specifying the circumstances in which a person is to be regarded for the purposes of this section as being or not being a participant in relation to his Membership of the House of Commons, or in relation to any office, in arrangements contained in the Parliamentary pension scheme.

- (3) In subsection (2) above “a Member's ordinary salary”, in relation to any resolution of the House of Commons, means—
- (a) if the resolution provides for salary to be paid to Members at different rates according to whether or not they are holders of particular offices, or are in receipt of salaries or pensions as the holders or former holders of particular offices, a Member's yearly salary at the higher or highest rate; and
  - (b) in any other case, a Member's yearly salary at the rate specified in or determined under the resolution.

## CHAPTER IV

### PERSONAL PENSION SCHEMES

#### *Preliminary*

#### **630 Interpretation**

In this Chapter—

“approved”—

- (a) in relation to a scheme, means approved by the Board under this Chapter; and
- (b) in relation to arrangements, means made in accordance with a scheme which is for the time being, and was when the arrangements were made, an approved scheme;

but does not refer to cases in which approval has been withdrawn;

“authorised insurance company” means either—

- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on long term business and acting through a branch or office in the United Kingdom; or
- (b) a society registered as a friendly society under the Friendly Societies Act 1974 or the Friendly Societies Act (Northern Ireland) 1970;

“member”, in relation to a personal pension scheme, means an individual who makes arrangements in accordance with the scheme;

“personal pension arrangements” means arrangements made by an individual in accordance with a personal pension scheme;

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

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“personal pension scheme” means a scheme whose sole purpose is the provision of annuities or lump sums under arrangements made by individuals in accordance with the scheme;

“scheme administrator” means the person referred to in section 638(1).

### **631 Approval of schemes**

- (1) An application to the Board for their approval of a personal pension scheme shall be in such form, shall contain such information, and shall be accompanied by such documents, in such form, as the Board may prescribe.
- (2) The Board may at their discretion grant or refuse an application for approval of a personal pension scheme, but their discretion shall be subject to the restrictions set out in sections 632 to 638.
- (3) The Board shall give notice to the applicant of the grant or refusal of an application; and in the case of a refusal the notice shall state the grounds for the refusal.
- (4) If an amendment is made to an approved scheme without being approved by the Board, their approval of the scheme shall cease to have effect.

#### *Restrictions on approval*

### **632 Establishment of schemes**

- (1) The Board shall not approve a personal pension scheme established by any person other than—
  - (a) a person who is authorised under Chapter III of Part I of the Financial Services Act 1986 to carry on investment business and who carries on business of a kind mentioned in subsection (2) below;
  - (b) a building society within the meaning of the Building Societies Act 1986;
  - (c) an institution authorised under the Banking Act 1987;
  - (d) a recognised bank or licensed institution within the meaning of the Banking Act 1979.
- (2) The kinds of business referred to in subsection (1)(a) above are—
  - (a) issuing insurance policies or annuity contracts;
  - (b) managing unit trust schemes authorised under section 78(1) of the Financial Services Act 1986.
- (3) Subsection (1) above shall not apply in relation to a scheme approved by the Board by virtue of section 620(5) if it was established before 4th January 1988.
- (4) The Treasury may by order amend this section as it has effect for the time being.

### **633 Scope of benefits**

- (1) The Board shall not approve a personal pension scheme which makes provision for any benefit other than—
  - (a) the payment of an annuity satisfying the conditions in section 634;
  - (b) the payment to a member of a lump sum satisfying the conditions in section 635;

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- (c) the payment after the death of a member of an annuity satisfying the conditions in section 636;
  - (d) the payment on the death of a member of a lump sum satisfying either the conditions in section 637(1) or those in section 637(2).
- (2) Subsection (1) above shall not prevent the approval of a scheme which makes provision for insurance against a risk relating to the non-payment of contributions.

#### **634 Annuity to member**

- (1) The annuity must be payable by an authorised insurance company which may be chosen by the member.
- (2) Subject to subsection (3) below, the annuity must not commence before the member attains the age of 50 or after he attains the age of 75.
- (3) The annuity may commence before the member attains the age of 50 if—
  - (a) it is payable on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted; or
  - (b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.
- (4) Subject to subsection (5) below, the annuity must be payable to the member for his life.
- (5) The annuity may continue for a term certain not exceeding ten years, notwithstanding the member's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the member and before expiry of that term, on the happening of any of the following—
  - (a) the marriage of the annuitant;
  - (b) his attaining the age of 18;
  - (c) the later of his attaining that age and ceasing to be in full-time education.
- (6) The annuity must not be capable of assignment or surrender, except that an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

#### **635 Lump sum to member**

- (1) The lump sum must be payable only if the member so elects on or before the date on which an annuity satisfying the conditions in section 634 is first payable to him under the arrangements made in accordance with the scheme.
- (2) The lump sum must be payable when that annuity is first payable.
- (3) The lump sum must not exceed one quarter of the total value, at the time when the lump sum is paid, of the benefits for the member provided for by the arrangements made by him in accordance with the scheme.
- (4) The lump sum must not exceed £150,000 or such other sum as may for the time being be specified in an order made by the Treasury.
- (5) The right to payment of the lump sum must not be capable of assignment or surrender.

### **636 Annuity after death of member**

- (1) The annuity must be payable by an authorised insurance company which may be chosen by the member or by the annuitant.
- (2) The annuity must be payable to the surviving spouse of the member, or to a person who was at the member's death a dependant of his.
- (3) The aggregate annual amount (or, if that amount varies, the aggregate of the initial annual amounts) of all annuities to which this section applies and which are payable under the same personal pension arrangements shall not exceed—
  - (a) where before his death the member was in receipt of an annuity under the arrangements, the annual amount (or, if it varied, the highest annual amount) of that annuity; or
  - (b) where paragraph (a) does not apply, the highest annual amount of the annuity that would have been payable under the arrangements to the member (ignoring any entitlement of his to commute part of it for a lump sum) if it had vested on the day before his death.
- (4) Subject to subsections (5) to (9) below, the annuity must be payable for the life of the annuitant.
- (5) Where the annuity is payable to the surviving spouse of the member and at the time of the member's death the surviving spouse is under the age of 60, the annuity may be deferred to a time not later than—
  - (a) the time when the surviving spouse attains that age; or
  - (b) where the member's annuity is payable to the surviving spouse for a term certain as mentioned in section 634(5) and the surviving spouse attains the age of 60 before the time when the member's annuity terminates, that time.
- (6) The annuity may cease to be payable on the marriage of the annuitant.
- (7) Where the annuity is payable to the surviving spouse of the member, it may cease before the death of the surviving spouse if—
  - (a) the member was survived by one or more dependants under the age of 18 and at the time of the member's death the surviving spouse was under the age of 45; and
  - (b) at some time before the surviving spouse attains that age no such dependant remains under the age of 18.
- (8) Where the annuity is payable to a person who is under the age of 18 when it is first payable, it must cease to be payable either—
  - (a) on his attaining that age; or
  - (b) on the later of his attaining that age and ceasing to be in full-time education, unless he was a dependant of the member otherwise than by reason only that he was under the age of 18.
- (9) The annuity may continue for a term certain not exceeding ten years, notwithstanding the original annuitant's death within that term; and for this purpose an annuity shall be regarded as payable for a term certain notwithstanding that it may terminate, after the death of the original annuitant and before the expiry of that term, on the happening of any of the following—
  - (a) the marriage of the annuitant to whom it is payable;
  - (b) his attaining the age of 18;

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- (c) the later of his attaining that age and ceasing to be in full-time education.
- (10) The annuity must not be capable of assignment or surrender, except that an annuity for a term certain may be assigned by will or by the annuitant's personal representatives in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of those entitled on an intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

### **637 Lump sum on death of member**

- (1) The lump sum—
  - (a) must be payable by an authorised insurance company; and
  - (b) must be payable on the death of the member before he attains the age of 75.
- (2) The lump sum—
  - (a) must be payable only if no annuity satisfying the conditions in either section 634 or section 636 has become payable; and
  - (b) subject to subsection (3) below, must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits.
- (3) To the extent that contributions are invested in units under a unit trust scheme, the lump sum referred to in subsection (2) above may represent the sale or redemption price of the units.

### **638 Other restrictions on approval**

- (1) The Board shall not approve a personal pension scheme unless they are satisfied that there is a person resident in the United Kingdom who will be responsible for the management of the scheme.
- (2) The Board shall not approve a personal pension scheme unless it makes such provision for the making, acceptance and application of transfer payments as satisfies any requirements imposed by or under regulations made by the Board.
- (3) The Board shall not approve a personal pension scheme unless it makes provision, in relation to arrangements made in accordance with the scheme, for ensuring that—
  - (a) the aggregate amount of the contributions that may be made in a year of assessment by the member and an employer of his under the arrangements, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member, does not exceed the permitted maximum for that year; and
  - (b) any excess is repaid to the member to the extent of his contributions and otherwise to his employer.
- (4) In subsection (3) above “the permitted maximum” for a year of assessment means an amount equal to the aggregate of—
  - (a) the relevant percentage of the member's net relevant earnings for the year; and
  - (b) so much of any relief given under section 639(1) for that year as is given by virtue of section 642;

and references in subsection (3) to contributions by the member do not include references to contributions treated by virtue of section 649(3) as paid by him.

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- (5) In subsection (4) above “the relevant percentage” means 17.5 per cent. or, in a case where section 640(2) applies, the relevant percentage there specified.
- (6) The Board shall not approve a personal pension scheme which permits the acceptance of contributions other than—
- (a) contributions by members;
  - (b) contributions by employers of members;
  - (c) minimum contributions paid by the Secretary of State under Part I of the Social Security Act 1986 or by the Department of Health and Social Services for Northern Ireland under Part II of the Social Security (Northern Ireland) Order 1986.
- (7) The Board shall not approve a personal pension scheme which permits the acceptance of minimum contributions paid as mentioned in subsection (6)(c) above in respect of an individual’s service—
- (a) as director of the company, if his emoluments as such are within section 644(5); or
  - (b) in an office or employment to which section 645 applies.

#### *Tax reliefs*

### **639 Member’s contributions**

- (1) A contribution paid by an individual under approved personal pension arrangements made by him shall, subject to the provisions of this Chapter, be deducted from or set off against any relevant earnings of his for the year of assessment in which the payment is made.
- Except where subsections (2) to (4) below apply, relief under this subsection in respect of a contribution shall be given only on a claim made for the purpose.
- (2) In such cases and subject to such conditions as the Board may prescribe in regulations, relief under subsection (1) above shall be given in accordance with subsections (3) and (4) below.
- (3) An individual who is entitled to such relief in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate on the contribution.
- (4) The scheme administrator—
- (a) shall accept the amount paid after the deduction in discharge of the individual’s liability to the same extent as if the deduction had not been made; and
  - (b) may recover an amount equal to the deduction from the Board.
- (5) Regulations under this section may make provision for carrying subsections (3) and (4) above into effect and, without prejudice to the generality of that, may provide—
- (a) for the manner in which claims for the recovery of a sum under subsection (4) (b) may be made;
  - (b) for the giving of such information, in such form, as may be prescribed by or under the regulations;

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- (c) for the inspection by persons authorised by the Board of books, documents and other records.
- (6) Where relief under this section for any year of assessment is claimed and allowed (whether or not it then falls to be given for that year), and afterwards an assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax is made, there shall also be made such consequential adjustments in the relief allowed or given under this section for that or any subsequent year as are appropriate.
- (7) Where relief under this section is claimed and allowed for any year of assessment in respect of a contribution, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or any subsequent year, nor (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.
- (8) References in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section.

#### **640 Maximum amount of deductions**

- (1) The maximum amount that may be deducted or set off in any year of assessment by virtue of section 639(1) shall be 17.5 per cent. of the individual's net relevant earnings for that year.
- (2) In the case of an individual whose age at the beginning of the year of assessment is within a range specified in the first column of the following table, subsection (1) above shall have effect with the substitution for 17.5 per cent. of the relevant percentage specified in the second column.

51 to 55	20 per cent.
56 to 60	22.5 per cent.
61 or more	27.5 per cent.

- (3) Without prejudice to subsection (1) above, the maximum amount that may be deducted or set off in any year of assessment in respect of contributions paid by an individual to secure benefits satisfying the conditions in section 637(1) shall be 5 per cent. of the individual's net relevant earnings for that year.
- (4) Where personal pension arrangements are made by an employee whose employer makes contributions under the arrangements, the maximum amount that may be deducted or set off in any year of assessment shall be reduced by the amount of the employer's contributions in the year.
- (5) Any minimum contributions treated by virtue of section 649(3) as paid by the individual in respect of whom they are paid shall be disregarded for the purposes of this section.

#### **641 Carry-back of contributions**

- (1) An individual who pays a contribution under approved personal pension arrangements in a year of assessment (whether or not a year for which he has relevant earnings) may elect that the contribution, or part of it, shall be treated as paid—
- (a) in the year of assessment preceding that year; or

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- (b) if he had no net relevant earnings in that preceding year of assessment, in the year of assessment before that.
- (2) Where for any year of assessment an individual—
- (a) has relevant earnings as an underwriting member of Lloyd's or by way of commission calculated by reference to the profits of Lloyd's underwriting business; and
  - (b) there is an amount of unused relief attributable to those earnings,
- the individual may elect that there shall be treated as paid in that year so much of any contributions paid by him under approved personal pension arrangements in the next year of assessment but two as does not exceed the amount of the unused relief.
- (3) Subject to section 655(2), references in subsection (2) above to an amount of unused relief attributable to the earnings mentioned in subsection (2)(a) are to an amount which could have been deducted from or set off against those earnings under section 639(1) if—
- (a) the individual had paid contributions under approved personal pension arrangements in the year of assessment for which he has the earnings; or
  - (b) any such contributions paid by him in that year had been greater.
- (4) An election under this section must be made not later than three months after the end of the year of assessment in which the contributions treated as paid in another year are actually paid.
- (5) Where an election is made under this section in respect of a contribution or part of a contribution, the other provisions of this Chapter shall have effect as if the contribution or part had been paid in the year specified in the election and not in the year in which it was actually paid.

## **642 Carry-forward of relief**

- (1) Where—
- (a) for any year of assessment an individual has relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and
  - (b) there is an amount of unused relief for that year,
- relief may be given under section 639(1), up to the amount of the unused relief, in respect of so much of any contributions paid by him under approved personal pension arrangements in any of the next six years of assessment as exceeds the maximum applying for that year under section 640.
- (2) In this section, references to an amount of unused relief for any year are to an amount which could have been deducted from or set off against the individual's relevant earnings for that year under section 639(1) if—
- (a) the individual had paid contributions under approved personal pension arrangements in that year; or
  - (b) any such contributions paid by him in that year had been greater.
- (3) Relief by virtue of this section shall be given for an earlier year rather than a later year, the unused relief taken into account in giving relief for any year being deducted from that available for giving relief in subsequent years and unused relief derived from an earlier year being exhausted before unused relief derived from a later year.



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- (4) Where a relevant assessment to tax in respect of a year of assessment becomes final and conclusive more than six years after the end of that year and there is an amount of unused relief for that year which results from the making of the assessment—
- (a) that amount shall not be available for giving relief by virtue of this section for any of the six years following that year; but
  - (b) the individual may, within the period of six months beginning with the date on which the assessment becomes final and conclusive, elect that relief shall be given under section 639(1), up to that amount, in respect of so much of any contributions paid by him under approved personal pension arrangements within that period as exceeds the maximum applying under section 640 for the year of assessment in which they are paid;
- and to the extent to which relief in respect of any contributions is given by virtue of this subsection it shall not be given by virtue of subsection (1) above.
- (5) In this section “a relevant assessment to tax” means an assessment on the individual’s relevant earnings or on the profits or gains of a partnership from which the individual derives relevant earnings.

#### **643 Employer’s contributions and personal pension income etc**

- (1) Where contributions are paid by an employer under approved personal pension arrangements made by his employee, those contributions shall not be regarded as emoluments of the employment chargeable to tax under Schedule E.
- (2) Income derived by a person from investments or deposits held by him for the purposes of an approved personal pension scheme shall be exempt from income tax.
- (3) An annuity payable under approved personal pension arrangements shall be treated as earned income of the annuitant.
- (4) Subsection (3) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the arrangements.

#### **644 Meaning of “relevant earnings”**

- (1) In this Chapter, “relevant earnings”, in relation to an individual, means any income of his which is chargeable to tax for the year of assessment in question and is within subsection (2) below.
- (2) Subject to subsections (3) to (5) below, income is within this subsection if it is—
  - (a) emoluments chargeable under Schedule E from an office or employment held by the individual;
  - (b) income from any property which is attached to or forms part of the emoluments of an office or employment held by him;
  - (c) income which is chargeable under Schedule D and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation (either as an individual or as a partner acting personally in a partnership);
  - (d) income treated as earned income by virtue of section 529.
- (3) Where section 645 applies to an office or employment held by the individual, neither emoluments from the office or employment nor income from any property which is attached to it or forms part of its emoluments are within subsection (2) above.

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- (4) The following are not income within subsection (2) above—
- (a) anything in respect of which tax is chargeable under Schedule E and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares;
  - (b) anything in respect of which tax is chargeable by virtue of section 148.
- (5) Emoluments of an individual as director of a company are not income within subsection (2) above if—
- (a) the income of the company consists wholly or mainly of investment income; and
  - (b) the individual, either alone or together with any other persons who are or have been at any time directors of the company, controls the company;
- and section 840 shall apply for the purposes of this subsection.
- (6) For the purposes of subsection (5) above—
- “director” includes any person occupying the position of director by whatever name called; and
- “investment income” shall be construed in accordance with paragraph 7 of Schedule 19.
- (7) For the purposes of this Chapter, a married woman’s relevant earnings shall not be treated as her husband’s relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.

#### **645 Earnings from pensionable employment**

- (1) This section applies to an office or employment held by an individual if—
- (a) service in it is service to which a relevant superannuation scheme relates; and
  - (b) the individual is a participant in the scheme; and
  - (c) neither subsection (4) nor subsection (5) below applies to his participation in the scheme.
- (2) This section applies whether or not the duties of the office or employment are performed wholly or partly in the United Kingdom or the individual is chargeable to tax in respect of it.
- (3) In subsection (1) above “a relevant superannuation scheme” means a scheme or arrangement—
- (a) the object or one of the objects of which is the provision, in respect of persons serving in particular offices or employments, of relevant benefits within the meaning of section 612; and
  - (b) which is established by a person other than the individual.
- (4) This subsection applies to an individual’s participation in a scheme if the scheme provides no benefits in relation to him other than—
- (a) an annuity payable to his surviving spouse or a dependant of his;
  - (b) a lump sum payable on his death in service.
- (5) This subsection applies to an individual’s participation in a scheme if any sums paid pursuant to the scheme with a view to the provision of relevant benefits for him are treated as his income for the purposes of the Income Tax Acts.

## **646 Meaning of “net relevant earnings”**

- (1) Subject to subsections (3) to (7) below, in this Chapter “net relevant earnings”, in relation to an individual, means the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions within subsection (2) below which fall to be made from the relevant earnings in computing for the purposes of income tax his total income for that year.
- (2) Deductions are within this subsection if they are—
  - (a) deductions which but for section 74(m), (p) or (q) could be made in computing the profits or gains of the individual;
  - (b) deductions made by virtue of section 198, 201 or 332(3);
  - (c) deductions in respect of relief under Schedule 9 to the Finance Act 1981 (stock relief);
  - (d) deductions in respect of losses or capital allowances, being losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual or the individual’s wife or husband.
- (3) For the purposes of this section, an individual’s relevant earnings shall be taken to be those earnings before giving effect to any capital allowances, other than deductions allowable in computing profits or gains, but after taking into account the amounts on which charges fall to be made under the 1968 Act (including the enactments which under this Act or the 1970 Act are to be treated as contained in Part I of the 1968 Act); and in subsections (4) and (5) below, references to income (other than references to total income) shall be construed similarly.
- (4) In the case of an individual’s partnership profits, the amount to be included in arriving at his net relevant earnings shall be his share of the partnership income (estimated in accordance with the Income Tax Acts) after making from it any such deductions in respect of—
  - (a) payments made by the partnership;
  - (b) relief given to the partnership under Schedule 9 to the Finance Act 1981; or
  - (c) capital allowances falling to be made to the partnership,as would be made in computing the tax payable in respect of that income.
- (5) Where, in a year of assessment for which an amount is deducted or set off under section 639(1) against the net relevant earnings of an individual—
  - (a) a deduction in respect of such a loss or allowance of the individual as is mentioned in subsection (2)(d) above falls to be made in computing the total income of the individual or the individual’s wife or husband; and
  - (b) the deduction or part of it falls to be so made from income other than relevant earnings;the amount of the deduction made from that other income shall be treated as reducing the individual’s net relevant earnings for subsequent years of assessment in accordance with subsection (6) below.
- (6) The deduction shall be made so far as possible from the individual’s net relevant earnings for the first of the subsequent years of assessment (whether or not he is entitled to relief under section 639(1) for that year), and then, so far as it cannot be so made, from those of the next year, and so on.

- (7) An individual's net relevant earnings for any year of assessment shall be computed without regard to any deduction or set off under section 639(1) which falls to be made for that year in respect of the individual or the individual's wife of husband.

*Charge to tax*

**647 Unauthorised payments**

- (1) This section applies to any payment within subsection (2) below which is made—
- (a) out of funds which are or have been held for the purposes of a personal pension scheme which is or has at any time been approved; and
  - (b) to or for the benefit of an individual who has made personal pension arrangements in accordance with the scheme.
- (2) A payment is within this subsection if—
- (a) it is not expressly authorised by the rules of the scheme; or
  - (b) it is made at a time when the scheme or the arrangements are not approved and it would not have been expressly authorised by the rules of the scheme or by the arrangements when the scheme, or as the case may be the arrangements, were last so approved.
- (3) The individual referred to in subsection (1)(b) above, whether or not he is the recipient of the payment, shall be chargeable to tax under Schedule E on the amount of the payment for the year of assessment in which the payment is made.
- (4) This section applies to a transfer of assets or other transfer of money's worth as it applies to a payment, and in relation to such a transfer the reference in subsection (3) above to the amount of the payment shall be read as a reference to the value of the transfer.

**648 Contributions under unapproved arrangements**

Where contributions are paid by an employer under personal pension arrangements made by his employee then, if those arrangements are not approved arrangements and the contributions are not otherwise chargeable to income tax as income of the employee, the contributions shall be regarded for all the purposes of the Income Tax Acts as emoluments of the employment chargeable to tax under Schedule E.

*Miscellaneous*

**649 Minimum contributions under Social Security Act 1986**

- (1) Where under Part I of the Social Security Act 1986 the Secretary of State pays minimum contributions for the purposes of approved personal pension arrangements, the amount of the employee's share of those contributions shall, instead of being the amount provided for in that Part, be the grossed-up equivalent of the amount so provided for.
- (2) For the purposes of this section—
- “the employee's share” of minimum contributions is so much of the contributions as is attributable to the percentage mentioned in paragraph (a)

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of the definition of “rebate percentage” in section 3(3) of the Social Security Act 1986;

“the grossed-up equivalent” of an amount is such sum as, after deduction of income tax at the basic rate in force for the year of assessment for which the contributions are paid, is equal to that amount.

- (3) The employee’s share of minimum contributions paid for a year of assessment by the Secretary of State for the purposes of approved personal pension arrangements shall be treated for the purposes of income tax—
  - (a) as the income for that year of the individual in respect of whom it is paid; and
  - (b) as contributions paid in that year by that individual under those arrangements.
- (4) The Board may make regulations—
  - (a) providing for the recovery by the Secretary of State from the Board, in such circumstances as may be prescribed by the regulations, of any increase attributable to this section in the sums paid by the Secretary of State out of the National Insurance Fund;
  - (b) requiring the Secretary of State to give the Board such information as may be so prescribed about minimum contributions paid by the Secretary of State;
  - (c) prescribing circumstances in which this section or any provision of it shall not apply;
  - (d) making such provision as appears to the Board to be necessary or expedient for the purposes of supplementing the provisions of this section.
- (5) Any payment received by the Secretary of State by virtue of this section shall be paid into the National Insurance Fund.
- (6) In relation to Northern Ireland, this section shall have effect as if—
  - (a) references to the Secretary of State were references to the Department of Health and Social Services for Northern Ireland;
  - (b) references to Part I and section 3(3) of the Social Security Act 1986 were references to Part II and Article 5(3) of the Social Security (Northern Ireland) Order 1986; and
  - (c) references to the National Insurance Fund were references to the Northern Ireland National Insurance Fund.

## **650 Withdrawal of approval**

- (1) If in the opinion of the Board the facts concerning an approved personal pension scheme or its administration or arrangements made in accordance with it do not warrant the continuance of their approval of the scheme, they may at any time by notice given to the scheme administrator withdraw their approval of the scheme.
- (2) If in the opinion of the Board the facts concerning any approved personal pension arrangements do not warrant the continuance of their approval in relation to the arrangements, they may at any time by notice given to the individual who made them and to the scheme administrator withdraw their approval in relation to the arrangements.
- (3) Without prejudice to the generality of subsection (2) above, the Board may withdraw their approval in relation to any personal pension arrangements if they are of the opinion that securing the provision of benefits under the arrangements was not the sole purpose of the individual in making them.

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- (4) A notice under subsection (1) or (2) above shall state the grounds on which, and the date from which, approval is withdrawn.
- (5) The Board may not withdraw their approval from a date earlier than the date when the facts were first such that they did not warrant the continuance of their approval (so, however, that in a case within subsection (3) above their approval may be withdrawn from the day the arrangements in question were made).

### **651 Appeals**

- (1) Where the Board—
  - (a) refuse an application by notice under section 631; or
  - (b) withdraw an approval by notice under section 650;
 the person to whom the notice is given may appeal to the Special Commissioners against the refusal or, as the case may be, the withdrawal.
- (2) An appeal under this section shall be made by notice stating the grounds for the appeal and given to the Board before the end of the period of 30 days beginning with the day on which the notice of refusal or withdrawal was given to the appellant.
- (3) On an appeal under this section against the withdrawal of an approval, the Special Commissioners may, instead of allowing or dismissing the appeal, order that the withdrawal shall have effect from a date other than that determined by the Board.
- (4) The bringing of an appeal under this section shall not affect the validity of the decision appealed against pending the determination of the proceedings.

### **652 Information about payments**

- (1) An inspector may give a notice to a scheme administrator requiring him to provide the inspector with—
  - (a) such particulars as the notice may require relating to contributions paid under approved personal pension arrangements made in accordance with the scheme;
  - (b) such particulars as the notice may require relating to payments by way of return of contributions;
  - (c) copies of such accounts as the notice may require.
- (2) A person to whom a notice is given under this section shall comply with the notice within the period of 30 days beginning with the day on which it is given.

### **653 Information: penalties**

A person who knowingly makes a false statement or false representation on making an application under section 631 or for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this Chapter shall be liable to a penalty not exceeding £500.

### **654 Remuneration of Ministers and other officers**

- (1) This section applies to any salary—

- (a) payable to the holder of a qualifying office who is also a Member of the House of Commons; and
  - (b) payable for a period in respect of which the holder is not a participant in relation to that office in arrangements contained in the Parliamentary pension scheme but is a participant in relation to his membership of the House of Commons in any such arrangements, or for any part of such a period.
- (2) So much of any salary to which this section applies as is equal to the difference between a Member's pensionable salary and the salary which (in accordance with any such resolution as is mentioned in subsection (4)(a) below) is payable to him as a Member holding that qualifying office, shall be treated for the purposes of this Chapter as remuneration from the office of Member and not from the qualifying office.
- (3) In this section—
- “Member's pensionable salary” means a Member's ordinary salary under any resolution of the House of Commons which, being framed otherwise than as an expression of opinion, is for the time being in force relating to the remuneration of Members or, if the resolution provides for a Member's ordinary salary thereunder to be treated for pension purposes as being at a higher rate, a notional yearly salary at that higher rate;
- “qualifying office” means an office mentioned in paragraph (b), (c) or (d) of subsection (2) of section 2 of the Parliamentary and other Pensions Act 1987;
- “the Parliamentary pension scheme” has the same meaning as in that Act;
- and, without prejudice to the power conferred by virtue of paragraph 13 of Schedule 1 to that Act, regulations under section 2 of that Act may make provision specifying the circumstances in which a person is to be regarded for the purposes of this section as being or not being a participant in relation to his membership of the House of Commons, or in relation to any office, in arrangements contained in the Parliamentary pension scheme.
- (4) In subsection (3) above “a Member's ordinary salary”, in relation to any resolution of the House of Commons, means—
- (a) if the resolution provides for salary to be paid to Members at different rates according to whether or not they are holders of particular offices or are in receipt of salaries or pensions as the holders or former holders of particular offices, a Member's yearly salary at the higher or highest rate; and
  - (b) in any other case, a Member's yearly salary at the rate specified in or determined under the resolution.

## 655 Transitional provisions

- (1) Where approved personal pension arrangements are made by an individual who pays qualifying premiums within the meaning of section 620(1)—
- (a) the amount that may be deducted or set off by virtue of section 639(1) in any year of assessment shall be reduced by the amount of any qualifying premiums which are paid in the year by the individual and in respect of which relief is given for the year under section 619(1)(a); and
  - (b) the relief which, by virtue of section 625, may be given under section 619 by reference to the individual's unused relief for any year shall be reduced by the amount of any contributions paid by him in that year under the approved personal pension arrangements.

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- (2) Where an individual elects under section 641 that a contribution or part of a contribution shall be treated as paid in the year of assessment 1984-85, 1985-86 or 1986-87, the payment shall be treated as the payment of a qualifying premium for the purposes of Chapter III of this Part; and in such a case references in section 641 to an amount of unused relief shall be construed in accordance with section 625.
- (3) The references in section 642 to unused relief for any year are, for years of assessment before 1987-88, references to unused relief within the meaning of section 625.
- (4) The Board shall not grant any application under section 631 so as to approve a scheme with effect from a date earlier than 4th January 1988.
- (5) The Board may by regulations make provision for applications for approval of personal pension schemes to be granted provisionally in cases where the applications are made before 1st August 1989, notwithstanding that the Board have not satisfied themselves that the schemes comply with the requirements of sections 632 to 638; and such regulations may, in particular, provide—
  - (a) for the contents and form of certificates or other documents which the Board may require the applicant to give them before they grant an application provisionally;
  - (b) for the making of such amendments of the rules of the scheme after the provisional grant of an application as are necessary to enable the scheme to comply with the requirements of sections 632 to 638, and for those amendments to have effect as from the date of approval of the scheme;
  - (c) for the withdrawal of approval of the scheme as from that date if it does not comply with the requirements of sections 632 to 638 and such amendments as are mentioned in paragraph (b) above are not made;
 and may make such supplementary provision as appears to the Board to be necessary or expedient.

## CHAPTER V

### PURCHASED LIFE ANNUITIES

#### **656 Purchased life annuities other than retirement annuities**

- (1) Subject to section 657, a purchased life annuity shall, for the purposes of the provisions of the Tax Acts relating to tax on annuities and other annual payments, be treated as containing a capital element and, to the extent of the capital element, as not being an annual payment or in the nature of an annual payment; but the capital element in such an annuity shall be taken into account in computing profits or gains or losses for other purposes of the Tax Acts in any circumstances in which a lump sum payment would be taken into account.
- (2) Where, in the case of any purchased life annuity to which this section applies, the amount of any annuity payment (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives—
  - (a) the capital element shall be determined by reference—
    - (i) to the amount or value of the payments made or other consideration given for the grant of the annuity (“the purchase price”); and



- (ii) to the expected term of the annuity, as at the date when the first annuity payment began to accrue, expressed in years (and any odd fraction of a year), and determined by reference to the prescribed tables of mortality;
- and in head (ii) above “term” means the period from the date when the first annuity payment begins to accrue to the date when the last payment becomes payable;
- (b) the capital element in any annuity payment made in respect of a period of 12 months shall be a fraction—
- $$\frac{1}{E}$$
- of the purchase price, where E is the expected term referred to in paragraph (a) (ii) above;
- (c) the capital element in any annuity payment made in respect of a period of less than, or more than, 12 months shall be the amount at (b) above reduced or, as the case may be, increased, in the same proportion as the length of that period bears to a period of 12 months;
- (d) subsection (3) below shall not apply but paragraphs (a) and (b) of subsection (4) below shall apply as they apply to that subsection.
- (3) Subject to subsection (2) above, in the case of any purchased life annuity to which this section applies—
- (a) the capital element shall be determined by reference to the amount or value of the payments made or other consideration given for the grant of the annuity; and
- (b) the proportion which the capital element in any annuity payment bears to the total amount of that payment shall be constant for all payments on account of the annuity; and
- (c) where neither the term of the annuity nor the amount of any annuity payment depends on any contingency other than the duration of a human life or lives, that proportion shall be the same proportion which the total amount or value of the consideration for the grant of the annuity bears to the actuarial value of the annuity payments as determined in accordance with subsection (4) below; and
- (d) where either the term of the annuity or the amount of any annuity payment (but not both) depends on any contingency other than the duration of a human life or lives, that proportion shall be such as may be just, having regard to paragraph (c) above and to the contingencies affecting the annuity; and
- (e) where both the term of the annuity and the amount of any annuity payment depend on any contingency other than the duration of a human life or lives, that proportion shall be such as may be just, having regard to subsection (2) above and to the contingencies affecting the annuity.
- (4) For the purposes of subsection (3) above—
- (a) any entire consideration given for the grant of an annuity and for some other matter shall be apportioned as appears just (but so that a right to a return of premiums or other consideration for an annuity shall not be treated for this purpose as a distinct matter from the annuity);
- (b) where it appears that the amount or value of the consideration purporting to be given for the grant of an annuity has affected, or has been affected by, the consideration given for some other matter, the aggregate amount or value of

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

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- those considerations shall be treated as one entire consideration given for both and shall be apportioned under paragraph (a) above accordingly; and
- (c) the actuarial value of any annuity payments shall be taken to be their value as at the date when the first of those payments begins to accrue, that value being determined by reference to the prescribed tables of mortality and without discounting any payment for the time to elapse between that date and the date it is to be made.
- (5) Where a person making a payment on account of any life annuity has been notified in the prescribed manner of any decision as to its being or not being a purchased life annuity to which this section applies or as to the amount of the capital element (if any), and has not been notified of any alteration of that decision, the notice shall be conclusive as to those matters for the purpose of determining the amount of income tax which he is entitled or required to deduct from the payment, or for which he is chargeable in respect of it.
- (6) Where a person making a payment on account of a purchased life annuity to which this section applies has not been notified in the prescribed manner of the amount of the capital element, the amount of income tax which he is entitled or required to deduct from the payment, or for which he is chargeable in respect of it, shall be the same as if the annuity were not a purchased life annuity to which this section applies.

#### **657 Purchased life annuities to which section 656 applies**

- (1) For the purposes of section 656—
- “life annuity” means an annuity payable for a term ending with (or at a time ascertainable only by reference to) the end of a human life, whether or not there is provision for the annuity to end during the life on the expiration of a fixed term or on the happening of any event or otherwise, or to continue after the end of the life in particular circumstances; and
- “purchased life annuity” means a life annuity granted for consideration in money or money’s worth in the ordinary course of a business of granting annuities on human life.
- (2) Section 656 does not apply—
- (a) to any annuity which would, apart from that section, be treated for the purposes of the provisions of the Tax Acts relating to tax on annuities and other annual payments as consisting to any extent in the payment or repayment of a capital sum;
- (b) to any annuity where the whole or part of the consideration for the grant of the annuity consisted of sums satisfying the conditions for relief under section 266, 273 or 619 or to any annuity payable under a substituted contract within the meaning of section 622(3);
- (c) to any annuity purchased in pursuance of any direction in a will, or to provide for an annuity payable by virtue of a will or settlement out of income of property disposed of by the will or settlement (whether with or without resort to capital);
- (d) to any annuity purchased under or for the purposes of any sponsored superannuation scheme (as defined in section 624) or any scheme approved under section 620 or in pursuance of any obligation imposed, or offer or invitation made, under or in connection with any such scheme or to any other

annuity purchased by any person in recognition of another's services (or past services) in any office or employment; or

- (e) to any annuity payable under approved personal pension arrangements within the meaning of Chapter IV of this Part.

## **658 Supplementary**

- (1) Any question whether an annuity is a purchased life annuity to which section 656 applies, or what is the capital element in such an annuity, shall be determined by the inspector; but a person aggrieved by the inspector's decision on any such question may appeal within the prescribed time to the Special Commissioners.
- (2) Save as otherwise provided in this Chapter, the procedure to be adopted in giving effect to this Chapter shall be such as may be prescribed.
- (3) The Board may make regulations for prescribing anything which is to be prescribed under this Chapter, and the regulations may apply for the purposes of this Chapter or of the regulations any provision of the Income Tax Acts, with or without modifications.
- (4) Regulations under subsection (3) above may in particular make provision as to the time limit for making any claim for relief from or repayment of tax under this Chapter and as to all or any of the following matters, that is to say—
  - (a) as to the information to be furnished in connection with the determination of any question whether an annuity is a purchased life annuity to which section 656 applies or what is the capital element in an annuity, and as to the persons who may be required to furnish any such information;
  - (b) as to the manner of giving effect to the decision on any such question, and (notwithstanding anything in section 348) as to the making of assessments for the purpose on the person entitled to the annuity; and
  - (c) as to the extent to which the decision on any such question is to be binding, and the circumstances in which it may be reviewed.
- (5) If any person, for the purpose of obtaining for himself or for any other person any relief from or repayment of tax under this Chapter, knowingly makes any false statement or false representation, he shall be liable to a penalty not exceeding £500.

## **CHAPTER VI**

### **MISCELLANEOUS**

## **659 Financial futures and traded options**

For the purposes of sections 592(2), 608(2)(a), 613(4), 614(3) and (4), 620(6) and 643(2) of this Act and section 149B(1)(g) and (h) and (2) of the 1979 Act, a contract entered into in the course of dealing in financial futures or traded options shall be regarded as an investment; and in this section "traded option" means an option which is for the time being quoted on a recognised stock exchange or on the London International Financial Futures Exchange.