



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;

Status: This is the original version (as it was originally enacted).

- (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.