



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.

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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.

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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

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- (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.

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- (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.

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- (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

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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—

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- (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

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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

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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.

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