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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2005, Paragraph 53. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### PENSION SCHEMES ETC.

##### *Enhanced protection*

- 53 (1) Schedule 36 (transitional provisions) is amended as follows.
- (2) Paragraph 12 (enhanced protection) is amended as follows.
- (3) In sub-paragraph (2) (circumstances in which paragraph ceases to apply), after paragraph (a) insert—
- “(aa) there is an impermissible transfer into the arrangement or any of the arrangements (see paragraph 17A).”.
- (4) In sub-paragraph (3) (effect of enhanced protection), for the words after “an individual” substitute—
- “(a) there is no liability to the lifetime allowance charge in respect of the individual, and
- (b) the payment of a lifetime allowance excess lump sum to the individual is not permitted by the lump sum rule (see section 166).”
- (5) In sub-paragraphs (5) and (6) (no enhanced protection if unsurrendered relevant excess), for “9” substitute “9(3) ”.
- (6) In sub-paragraph (9)—
- (a) in paragraph (a), for “and 14” substitute “ , 14 and 17A(1) and (2) ”, and
- (b) in paragraph (b), for “and 15” substitute “ , 15 and 17A(3) ”.
- (7) In paragraph 13(a) (loss of enhanced protection: relevant benefit accrual in case of money purchase arrangement that is not a cash balance arrangement), after “the arrangement” insert “ or, where the arrangement has been a hybrid arrangement, if a relevant contribution was so paid at any time after 5th April 2006, ”.
- (8) Paragraph 14 (loss of enhanced protection: relevant benefit accrual) is amended as follows.
- (9) In sub-paragraph (1)(c) (relevant benefit accrual: relevant contributions consisting in employer's contribution becoming held for individual), for “by an employer of the individual otherwise than” substitute “ otherwise than by or on behalf of the individual or by an employer of the individual ”.
- (10) In sub-paragraph (2) (contributions which are not relevant contributions)—
- (a) for the words from the beginning to “minimum” substitute “ Minimum ”, and
- (b) insert at the end “ are not relevant contributions for the purposes of paragraph 13(a) ”.

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- (11) Paragraph 16 (enhanced protection: post-commencement earnings limit for capped individuals) is amended as follows.
- (12) In sub-paragraph (1) (individuals to whom paragraph applies), for “whom section 590C of ICTA (earnings cap) had effect in” substitute “whom—
- (a) section 590C of ICTA or paragraph 20 of Schedule 6 to FA 1989 (earnings cap) had effect, or
  - (b) provision similar to section 590C of ICTA had effect by virtue of conditions imposed under section 591 of that Act (discretionary approval),
- in”.
- (13) In sub-paragraph (5) (appropriate three year period), for “the time when the first relevant event occurs” substitute “the earliest of—
- (a) the first relevant event,
  - (b) the individual leaving the employment to which the arrangement relates, and
  - (c) the individual's death.”
- (14) After that sub-paragraph insert—
- “(5A) Where the appropriate three year period ends otherwise than with the first relevant event, Amount B is what it would be apart from this sub-paragraph increased by whichever is the greatest of—
- (a) the percentage by which an amount would be increased if it were increased for the period beginning with the date on which it ends and ending with the date on which the relevant event occurs at an annual rate of 5%,
  - (b) the percentage by which an amount would be increased if it were increased for that period at an annual percentage rate referred to in regulations made by the Board of Inland Revenue, or
  - (c) the percentage by which the retail prices index for the month in which the first relevant event occurs is higher than that for the month in which the appropriate period ends.”
- (15) In paragraph 17 (enhanced protection: post-commencement earnings limit for other individuals), after sub-paragraph (5) insert—
- “(6) Where the appropriate three year period ends otherwise than with the first relevant event, Amount D is what it would be apart from this sub-paragraph increased by whichever is the greatest of—
- (a) the percentage by which an amount would be increased if it were increased for the period beginning with the date on which it ends and ending with the date on which the relevant event occurs at an annual rate of 5%,
  - (b) the percentage by which an amount would be increased if it were increased for that period at an annual percentage rate referred to in regulations made by the Board of Inland Revenue, or
  - (c) the percentage by which the retail prices index for the month in which the first relevant event occurs is higher than that for the month in which the appropriate period ends.”

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(16) After that paragraph insert—

“17A(1) There is an impermissible transfer into a relevant existing arrangement relating to an individual under a pension scheme in a case where the relevant existing arrangement is a money purchase arrangement that is not a cash balance arrangement if—

- (a) sums or assets held for the purposes of, or representing rights under, an arrangement relating otherwise than to the individual are transferred so as to become held for the purposes of the relevant existing arrangement, otherwise than pursuant to a pension sharing order or provision,
- (b) sums or assets which are neither held for the purposes of, nor represent rights under, a pension scheme are so transferred, or
- (c) a transfer lump sum death benefit is paid so as to become held for the purposes of, or to represent accrued rights under, the relevant existing arrangement.

(2) Sub-paragraph (1) applies where the relevant existing arrangement has been a hybrid arrangement as if the references to sums or assets being transferred, or to a transfer lump sum death benefit being paid, were to transfer or payment at any time after 5th April 2006.

(3) There is an impermissible transfer into a relevant existing arrangement relating to an individual under a pension scheme in a case where the relevant existing arrangement is a cash balance arrangement or a defined benefits arrangement if it becomes a money purchase arrangement that is not a cash balance arrangement.”

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**Commencement Information**

**II** Sch. 10 para. 53 in force at 6.4.2006, see Sch. 10 para. 64(1)

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