***Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2017, SCHEDULE 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 3 U.K.

Section 9

OVERSEAS PENSIONS

PART 1 U.K.

REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UK

1 (1) In Chapter 5A of Part 4 of FA 2004 (registered pension schemes established outside the UK), after section 242B (inserted by Schedule 4 to this Act) insert—

"**242C Application of this Part to non-UK registered schemes**

(1) This Part (so far as would not otherwise be the case) is to be read—

(a) as applying in relation to UK-relieved funds of a non-UK registered scheme as it applies in relation to sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme established in the United Kingdom,

(b) as applying in relation to a non-UK registered scheme, so far as the scheme relates to the scheme's UK-relieved funds, as it applies in relation to a registered pension scheme established in the United Kingdom,

(c) as applying in relation to members of a non-UK registered scheme, so far as their rights under the scheme are represented by UK-relieved funds of the scheme, as it applies in relation to members of a registered pension scheme established in the United Kingdom, and

(d) as applying to relevant contributions to a non-UK registered scheme as it applies in relation to contributions to a registered pension scheme established in the United Kingdom.

(2) Subsection (1) has effect subject to, and in accordance with, the following provisions of this Chapter.

(3) The Commissioners for Her Majesty's Revenue and Customs may by regulations make—

(a) provision elucidating the application of, or supplementing, subsection (1) or other provisions of this Chapter, or

(b) where relief from tax is involved, other provision for or in connection with the application of this Part where the interpretative presumption against extra-territorial application means that it would otherwise not apply.

(4) Regulations under subsection (3) may (in particular)—

(a) amend provisions of or made under—

(i) this Part, or

(ii) any other enactment related to taxation in connection with pensions, and

(b) make consequential amendments of provisions of, or made under, any enactment.

(5) See section 242B for the meaning of "UK-relieved funds" and "relevant contribution".

242D Non-UK registered schemes: annual allowance charge

(1) This section is about the application of the provisions of this Part relating to the annual allowance charge.

(2) Pension input amounts in respect of arrangements relating to an individual under a non-UK registered scheme are to be taken into account in applying the provisions for a tax year in relation to the individual only if, in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, relieved inputs are to be taken to have been made in respect of the individual under the scheme in the year.

242E Investment-regulated non-UK registered schemes

For the purposes of the application of the taxable property provisions in relation to a non-UK registered scheme, property is taxable property in relation to the scheme if it would be taxable property in relation to the scheme were the scheme a registered pension scheme established in the United Kingdom."

(2) The amendment made by this paragraph has effect for the tax year 2017-18 and subsequent tax years.

PART 2 U.K.

INCOME TAX ON PENSION INCOME

UK residents to be taxed on 100%, not 90%, of foreign pension income

2 (1) Omit section 575(2) of ITEPA 2003 (foreign pensions received by UK residents: taxable amount is 90% of actual amount).

(2) Omit section 613(3) of ITEPA 2003 (annuities from non-UK sources: taxable amount is 90% of actual amount).

(3) Omit section 635(3) of ITEPA 2003 (foreign voluntary annual payments: taxable amount is 90% of actual amount).

(4) In consequence—

(a) in section 575 of ITEPA 2003—

(i) in subsection (1) omit ", (2)";

(ii) in subsection (1A), for "subsections (2) and" substitute " subsection ";

(iii) in subsection (3), for "That pension income" substitute " The full amount of the pension income arising in the tax year, or (as the case may be) the UK part of the tax year, ";

(iv) in subsection (3), for "that Act" substitute " ITTOIA 2005 ";

(b) in section 613 of ITEPA 2003—

(i) in subsection (2), for "subsections (3) and" substitute " subsection ";

(ii) in subsection (4), for "that Act" substitute " ITTOIA 2005 ";

(c) in section 635 of ITEPA 2003—

(i) in subsection (2), for "subsections (3) and" substitute " subsection ";

(ii) in subsection (4), for "That pension income" substitute " The full amount of the pension income arising in the tax year ";

(iii) in subsection (4), for "that Act" substitute " ITTOIA 2005 ";

(d) in Schedule 45 to FA 2013 omit paragraph 72(4).

(5) In sections 613(5) and 635(5) of ITEPA 2003 (application of section 839 of ITTOIA 2005 in certain cases), for "condition B" substitute " conditions B1 and B2 (and the reference to them in subsection (1)) ".

(6) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years, subject to sub-paragraph (7).

(7) The amendments in section 575 of ITEPA 2003, so far as they relate to relevant withdrawals, have effect in relation to relevant withdrawals paid in or after the tax year 2017-18; and here "relevant withdrawal" has the meaning given by section 576A of ITEPA 2003.

Superannuation funds to which section 615(3) of ICTA applies

3 (1) Section 615 of ICTA (trust funds for pensions in respect of employment outside UK) is amended as follows.

(2) In subsection (6)—

(a) in paragraph (b), omit the final "and";

(b) in paragraph (c), at the end insert " and ";

(c) after paragraph (c) insert—

"(d) meets the benefit accrual condition (see subsection (6A));".

(3) After subsection (6) insert—

"(6A) The benefit accrual condition is—

(a) that, in the case of any money purchase arrangement relating to a member of the fund that is not a cash balance arrangement, no contributions are made under the arrangement on or after 6 April 2017;

(b) that, in the case of any cash balance arrangement relating to a member of the fund, there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement;

(c) that, in the case of any defined benefits arrangement relating to a member of the fund, there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement; and

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(d) that, in the case of any arrangement relating to a member of the fund that is neither a money purchase arrangement nor a defined benefits arrangement—

(i) no contributions are made under the arrangement on or after 6 April 2017, and

(ii) there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement.

(6B) For the purposes of subsection (6A)(b)—

(a) whether there is an increase in the value of a person's rights is to be determined by reference to whether there is an increase in the amount that would, on the valuation assumptions, be available for the provision of benefits under the arrangement to or in respect of the person (and, if there is, the amount of the increase), but

(b) in the case of rights that accrued to a person before 6 April 2017, ignore increases in the value of the rights if in no tax year do they exceed the relevant percentage.

(6C) For the purposes of subsection (6A)(c)—

(a) whether there is an increase in the value of a person's rights is to be determined by reference to whether there is an increase in the benefits amount as defined by paragraph 14(7) of Schedule 18 to the Finance Act 2011, but

(b) in the case of rights that accrued to a person before 6 April 2017, ignore increases in the value of the rights if in no tax year do they exceed the relevant percentage.

(6D) For the purposes of subsection (6A)(d)(ii), regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision—

(a) for determining whether there is an increase in the value of a person's rights,

(b) for determining the amount of any increase, and

(c) for ignoring the whole or part of any increase;

and regulations under this subsection may make provision having effect in relation to times before the regulations are made.

(6E) In this section, “relevant percentage”, in relation to a tax year, means—

(a) where, on 20 March 2017, the rules of the fund include provision for the value of the rights of a person to increase during the tax year at an annual rate specified in those rules, that rate, or

(b) in any other case, the percentage by which the consumer prices index for September in the previous tax year is higher than it was for the September in the tax year before that (or, if greater, 0%).

(6F) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

(a) so as to change, or modify the effect of, the benefit accrual condition;

(b) as to the matters to be taken into account in determining whether the benefit accrual condition is met;

(c) for a superannuation fund to be treated to any extent as meeting or not meeting the benefit accrual condition.

(6G) Provision under subsection (6D) or (6F) may be made by amending this section."

(4) In subsection (7)—

(a) for "In this section—" substitute "For the purposes of this section—

"arrangement", in relation to a member of a superannuation fund, means an arrangement relating to the member under the fund;

a money purchase arrangement relating to a member of a superannuation fund is a "cash balance arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits;

an arrangement relating to a member of a superannuation fund is a "defined benefits arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are defined benefits;

an arrangement relating to a member of a superannuation fund is a "money purchase arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are money purchase benefits;

"cash balance benefits", "defined benefits" and "money purchase benefits" have the meaning given by section 152 of the Finance Act 2004, but for this purpose reading references in that section to a pension scheme as references to a superannuation fund;

"member", in relation to a superannuation fund, has the meaning given by section 151 of the Finance Act 2004, but for this purpose reading references in that section to a pension scheme as references to a superannuation fund;";

(b) at the end insert—

""the valuation assumptions" has the meaning given by section 277 of the Finance Act 2004."

(5) After subsection (10) insert—

"(11) Where the conditions in subsection (6)(a) to (c) are met in the case of a superannuation fund ("the actual fund")—

(a) any disqualifying contributions made under an arrangement relating to a member of the actual fund are treated for the purposes of the Income Tax Acts as instead made under an arrangement relating to the member under a separate superannuation fund ("the shadow fund" for the actual fund),

(b) any disqualifying increase in the value of a person's rights under an arrangement relating to a member of the actual fund is treated for the purposes of the Income Tax Acts as instead being an increase under an arrangement relating to the member under the shadow fund for the actual fund, and

(c) any reference in this or any other Act (including the reference in subsection (3) and any reference enacted after the coming into force of this subsection) to a fund, or superannuation fund, to which

subsection (3) applies does not include so much of the actual fund as—

(i) represents any contribution treated as made under, or any increase in the value of any rights treated as an increase under, the shadow fund of the actual fund or the shadow fund of any other superannuation fund, or

(ii) arises, or (directly or indirectly) derives, from anything within sub-paragraph (i) or this sub-paragraph.

(12) For the purposes of subsection (11) a contribution, or an increase in the value of any rights, is "disqualifying" if it would (ignoring that subsection) cause the benefit accrual condition not to be met in the case of the actual fund.

(13) For the purposes of the provisions of this section relating to the benefit accrual condition, where there is a recognised transfer—

(a) any transfer of sums or assets to the recipient fund by the recognised transfer is to be categorised as not being "a contribution" to the recipient fund, and

(b) any increase in the value of rights under the recipient fund that occurs at the time of the recognised transfer is to be treated as not being an increase in that value if the increase is solely a result of the transfer effected by the recognised transfer.

(14) For the purposes of subsection (13), where there is a transfer such that sums or assets held for the purposes of, or representing accrued rights under, an arrangement relating to a member of a superannuation fund ("the transferor fund") are transferred so as to become held for the purposes of, or to represent rights under, an arrangement relating to that person as a member of another superannuation fund, the transfer is a "recognised transfer" if—

(a) the conditions in subsection (6)(a) to (c) are met in the case of each of the funds, and

(b) none of the sums and assets transferred—

(i) represents any contribution treated as made under, or any increase in the value of any rights treated as an increase under, the shadow fund of the transferor fund or the shadow fund of any other superannuation fund, or

(ii) arises, or (directly or indirectly) derives, from anything within sub-paragraph (i) or this sub-paragraph."

(6) The amendments made by this paragraph are to be treated as having come into force on 6 April 2017.

PART 3 U.K.

LUMP SUMS FOR UK RESIDENTS FROM FOREIGN PENSION SCHEMES

Introductory

4 ITEPA 2003 is amended as follows.

Employer-financed retirement benefit schemes: ending of foreign-service relief

5 (1) Section 395B (exemption or reduction for foreign service) is amended as follows.

(2) In subsection (1) (conditions for entitlement to exemption or reduction), after paragraph (c) insert—

"(ca) the recipient is not resident in the United Kingdom in the tax year in which the lump sum is received,".

(3) In subsection (8) (meaning of "foreign service"), for "413(2)" substitute " 395C ".

(4) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years.

6 After section 395B insert—

"**395C Meaning of "foreign service" in section 395B**

(1) In section 395B "foreign service" means service to which subsection (2), (3), (6) or (8) applies.

(2) This subsection applies to service in or after the tax year 2013–14—

(a) to the extent that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or

(b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).

(3) This subsection applies to service in or after the tax year 2003–04 but before the tax year 2013–14 such that—

(a) any earnings from the employment would not be relevant earnings, or

(b) a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).

(4) In subsection (2) "relevant earnings" means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year.

(5) In subsection (3) "relevant earnings" means—

(a) for service in or after the tax year 2008–09, earnings—

(i) which are for a tax year in which the employee is ordinarily UK resident,

(ii) to which section 15 applies, and

(iii) to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year, and

(b) for service before the tax year 2008–09, general earnings to which section 15 or 21 as originally enacted applies.

(6) This subsection applies to service before the tax year 2003–04 and after the tax year 1973–74 such that—

(a) the emoluments from the employment were not chargeable under Case I of Schedule E, or would not have been so chargeable had there been any, or

(b) a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable under a foreign earnings deduction provision.

(7) In subsection (6) "foreign earnings deduction provision" means—

(a) paragraph 1 of Schedule 2 to FA 1974,

(b) paragraph 1 of Schedule 7 to FA 1977, or

(c) section 192A or 193(1) of ICTA.

(8) This subsection applies to service before the tax year 1974-75 such that tax was not chargeable in respect of the emoluments of the employment—

(a) in the tax year 1956–57 or later, under Case I of Schedule E, or

(b) in earlier tax years, under Schedule E,

or it would not have been so chargeable had there been any such emoluments."

7 In section 554Z4 (treatment of relevant step: residence issues), after subsection (6) insert—

"(7) Subsections (8) and (9) apply if—

(a) the relevant step is the payment of a lump sum,

(b) the payment of the lump sum is the provision of a relevant benefit under an employer-financed retirement benefits scheme, and

(c) the person by whom the lump sum is received is resident in the United Kingdom in the tax year in which the lump sum is received.

(8) If the lump sum is wholly in respect of rights which have accrued on or after 6 April 2017, there is no reduction under subsection (4).

(9) If the lump sum is wholly or partly in respect of rights which accrued before 6 April 2017, the amount of any reduction under subsection (4) is given by—

$$R \times \frac{A}{\mathrm{LS}}$$

where—

A is so much of the lump sum as is in respect of rights which accrued before 6 April 2017,

LS is the amount of the lump sum, and

R is the amount which (ignoring this subsection) is given by subsection (4) as the amount of the reduction.

(10) In subsection (7)—

"employer-financed retirement benefits scheme" has the same meaning as in Chapter 2 of Part 6 (see section 393A), and

"relevant benefit" has the same meaning as in that Chapter (see section 393B)."

Lump sums under other foreign schemes

8 In section 573 (foreign pensions), after subsection (3) insert—

"(4) This section also applies to a pension paid by or on behalf of a person who is outside the United Kingdom to a person who is not resident in the United Kingdom if—

(a) the pension is a relevant lump sum paid under a pension scheme to that person in respect of a member of the scheme, and

(b) the member is, or immediately before the member's death was, resident in the United Kingdom."

9 In section 574(1) (foreign pensions: meaning of "pension"), after paragraph (a) insert—

"(aa) a relevant lump sum (see section 574A),".

10 (1) After section 574 insert—

"**574A "Pension": relevant lump sums**

(1) A lump sum paid under a pension scheme to a member of the scheme, or to a person in respect of a member of the scheme, is "a relevant lump sum" for the purposes of this Chapter if—

(a) the scheme is none of the following—

(i) a registered pension scheme,

(ii) a relevant non-UK scheme, and

(iii) an employer-financed retirement benefits scheme established in the United Kingdom, and

(b) the payment of the lump sum is not a relevant step by reason of which Chapter 2 of Part 7A applies.

(2) A lump sum paid under a relevant non-UK scheme to a member of the scheme, or to a person in respect of a member of the scheme, is "a relevant lump sum" for the purposes of this Chapter if the effect of paragraphs 1 to 7 of Schedule 34 to FA 2004 is that the member payment provisions (see paragraph 1(4) of that Schedule) do not apply in relation to the payment of the lump sum.

(3) If section 573 applies to a relevant lump sum then, for the purposes of section 575, the full amount of the pension income arising by reason of the payment of the lump sum is the amount of the lump sum, reduced as follows—

Step 1 Deduct so much of the lump sum as is payable by reason of commutation of rights to receive pension income on which no liability to tax arises as a result of any provision of Chapter 17 of this Part.

Step 2 Where the lump sum is paid under a pension scheme that was an employer-financed retirement benefits scheme immediately before 6 April 2017, deduct so much of the lump sum left after Step 1 as is deductible in accordance with subsection (6). Where the lump sum is paid otherwise than under such a scheme, deduct so much of the lump sum left after Step 1 as is paid in respect of the value immediately before 6 April 2017 of rights, accrued by then, specifically to receive benefits by way of lump sum payments.

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2017, SCHEDULE 3. (See end of Document for details)*

Step 3 If the lump sum is paid under an overseas pension scheme, deduct so much of the lump sum left after Step 2 as would, if the scheme were a registered pension scheme, not be liable to income tax under this Part. For the purposes of this Step—

(a) treat amounts not included in taxable pension income because of section 636B(3) as being not liable to tax;

(b) assume that all or part of the member's lifetime allowance is available.

(4) The amount given by subsection (3) is treated for the purposes of section 575 as arising when the lump sum is paid.

(5) The Commissioners may by regulations make provision (including provision amending this section) as to the assumptions to be made for the purposes of Step 3.

(6) These rules apply for the purposes of the first sentence of Step 2—

(a) "the post-Step 1 amount" means so much of the lump sum as is left after Step 1;

(b) "the relevant amount" means so much of the post-Step 1 amount as is paid in respect of rights specifically to receive benefits by way of lump sum payments;

(c) "reckonable service" means service in respect of which the rights to receive the relevant amount accrued (whether or not service in the same employment or with the same employer, and even if the rights originally accrued under a different employer-financed retirement benefits scheme established in or outside the United Kingdom);

(d) "pre-6 April 2017 reckonable service" means reckonable service that is service before 6 April 2017;

(e) "pre-6 April 2017 reckonable foreign service" means pre-6 April 2017 reckonable service that is foreign service;

(f) the deductible amount is the value immediately before 6 April 2017 of the rights then accrued to payment of so much of the relevant amount as is paid in respect of pre-6 April 2017 reckonable service if—

(i) at least 75% of pre-6 April 2017 reckonable service is made up of foreign service, or

(ii) the period of pre-6 April 2017 reckonable service exceeds 10 years and the whole of the last 10 years of that period is made up of foreign service, or

(iii) the period of pre-6 April 2017 reckonable service exceeds 20 years and at least 50% of that period, including any 10 of the last 20 years, is made up of foreign service;

(g) otherwise, the deductible amount is the appropriate fraction of the value immediately before 6 April 2017 of the rights then accrued to payment of so much of the relevant amount as is paid in respect of pre-6 April 2017 reckonable service;

(h) "the appropriate fraction" is given by—

$$\frac{F}{R}$$

where—

F is the period of pre-6 April 2017 reckonable foreign service, and

R is the period of pre-6 April 2017 reckonable service.

(7) In this section—

"employer-financed retirement benefits scheme" has the same meaning as in Chapter 2 of Part 6 (see section 393A),

"foreign service" has the meaning given by section 395C,

"member", in relation to a pension scheme, has the meaning given by section 151 of FA 2004,

"overseas pension scheme" has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act),

"payment" includes a transfer of assets and any other transfer of money's worth,

"pension scheme" has the meaning given by section 150(1) of FA 2004, and

"relevant non-UK scheme" is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004."

(2) The amendment made by this paragraph has effect in relation to lump sums paid on or after 6 April 2017.

11 (1) In section 576A (temporary non-residents), as it applies where the year of departure is the tax year 2013-14 or a later tax year, after subsection (4) insert—

"(4ZA) Payment of a relevant lump sum is also a "relevant withdrawal".

(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.

12 (1) In section 576A, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, after subsection (4A) insert—

"(4AA) Payment of a relevant lump sum is also a "relevant withdrawal"."

(2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.

Relief from tax under Part 9 of ITEPA 2003 not to give rise to tax under other provisions

13 (1) In section 393B(2)(a) (tax on benefits under employer-financed retirement benefit schemes: "relevant benefits" do not include benefits charged to tax under Part 9), after "646E" insert " or any deductions under section 574A(3) ".

(2) The amendment made by this paragraph has effect in relation to benefits by way of lump sums paid on or after 6 April 2017.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2017, SCHEDULE 3.