
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006. Cross Heading:
Transitional protection: right to take benefits before normal pension age. (See end of Document for details)

SCHEDULES

SCHEDULE 23

PENSION SCHEMES ETC: MISCELLANEOUS

Transitional protection: right to take benefits before normal pension age

- 43 (1) Paragraph 22 of Schedule 36 (right to take benefits before normal minimum pension age: schemes within paragraph 1(1)(a) to (e) of Schedule 36) is amended as follows.
- (2) In sub-paragraph (7), for paragraph (b) substitute—
- “(b) in a case where on 5th April 2006 the member had an actual or prospective right under the pension scheme to any benefit from an age of less than 50, Condition 1 is met or, in any other case, Condition 2 or 3 is met.”
- (3) After that sub-paragraph insert—
- “(7A) Condition 1 is met if—
- (a) the member is not, after becoming entitled to the benefits mentioned in sub-paragraph (7)(a), employed by a person who is a sponsoring employer in relation to the pension scheme and with whom the member is connected, and
- (b) the member's becoming entitled to those benefits is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.
- (7B) Condition 2 is met if—
- (a) the member is not, after becoming entitled to the benefits mentioned in sub-paragraph (7)(a), employed by a person specified in sub-paragraph (7C), and
- (b) the member's becoming entitled to those benefits is not part of an arrangement the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions.
- (7C) The persons referred to in sub-paragraph (7B)(a) are—
- (a) any person who was a sponsoring employer in relation to the pension scheme at any time during the period of six months ending with the day on which the member became entitled to the benefits mentioned in sub-paragraph (7)(a) and by whom the member was employed at any time during that period,
- (b) any person who is connected with any such person, or
- (c) any person who is a sponsoring employer in relation to the pension scheme and with whom the member is connected.
- (7D) If the member has become entitled to the benefits payable under arrangements under the pension scheme by reason of service in the armed

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forces of the Crown, any employment on compulsory recall is to be disregarded for the purposes of sub-paragraph (7B)(a).

(7E) Condition 3 is met if—

- (a) paragraph (a) of sub-paragraph (7B) is not satisfied but one of the re-employment conditions is met, and
- (b) paragraph (b) of that sub-paragraph is satisfied.

(7F) The re-employment conditions are—

- (a) that the member is not employed as mentioned in sub-paragraph (7B)(a) during the period of six months beginning with the day on which the member becomes entitled to the benefits mentioned in sub-paragraph (7)(a), and
- (b) that the member is not employed as mentioned in sub-paragraph (7B)(a) during the period of one month beginning with that day, but is so employed during the period of five months beginning at the end of that period, and either the pension abatement condition or the materially different employment condition is met.

(7G) The pension abatement condition is met if—

- (a) the pension scheme is a public service pension scheme, and
- (b) the member's benefits under the scheme consist of or include a scheme pension which is liable to reduction by abatement while the member is employed as mentioned in sub-paragraph (7B)(a) and is under the age of 55.

(7H) The materially different employment condition is met—

- (a) in a case where the member is employed as mentioned in sub-paragraph (7B)(a) in more than one employment during the period of five months mentioned in sub-paragraph (7F)(b), if each of those employments, and
- (b) otherwise, if the employment in which the member is so employed during that period,

is materially different in nature from the employment in which the member was employed immediately before becoming entitled to the benefits mentioned in sub-paragraph (7)(a).

(7I) For the purposes of sub-paragraph (7D) “employment on compulsory recall” means permanent service—

- (a) under Part 4 of the Reserve Forces Act 1996,
- (b) under Part 5 of that Act,
- (c) under a call-out or recall order made under that Act,
- (d) having been called out or recalled under the Reserve Forces Act 1980, or
- (e) because of any other call-out or recall obligation of an officer.

(7J) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.”

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