

## SCHEDULES

### SCHEDULE 1

#### PENSION FLEXIBILITY ETC

#### PART 7

##### OVERSEAS PENSIONS

- 92 In section 169(4) of FA 2004 (regulations about the provision of information by scheme managers of schemes that are or have been qualifying recognised overseas pension schemes) before the “and” at the end of paragraph (b) insert—
- “(ba) give information of a prescribed description to the scheme manager of a QROPS or former QROPS,
  - (bb) give information of a prescribed description to the scheme administrator of a registered pension scheme,
  - (bc) give information of a prescribed description to a member, or former member, of the QROPS or former QROPS.”.
- 93 (1) Section 251 of FA 2004 (regulations about the provision of information) is amended as follows.
- (2) In subsection (4)—
- (a) omit the “or” at the end of paragraph (a), and
  - (b) after paragraph (b) insert—
    - “(c) requiring scheme administrators of registered pension schemes to provide information of a prescribed description to scheme managers of qualifying recognised overseas pension schemes, or
    - (d) requiring members or former members of a relevant non-UK pension scheme to provide information to the scheme administrators, or scheme managers, of registered pension schemes or other relevant non-UK pension schemes.”
- (3) In subsection (6) at the end insert “; and “relevant non-UK scheme” has the meaning given by paragraph 1 of Schedule 34”.
- 94 In paragraph 5 of Schedule 33 to FA 2004 (conditions for scheme to be qualifying overseas pension scheme include condition that manager has undertaken to comply with prescribed benefit crystallisation information requirements) after sub-paragraph (2) insert—
- “(2A) In sub-paragraph (2) “information relating to events that are benefit crystallisation events”, in relation to any individuals, includes (in particular) information relating to occasions that are, or could (depending on their relative timing) be, the occasions on which the individuals first flexibly access pension rights for the purposes of sections 227B to 227F.”

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- 95 (1) Schedule 34 to FA 2004 (application of certain tax charges to non-UK schemes) is amended as follows.
- (2) In paragraph 1(3) (list of “member payment charges”) before the “and” at the end of paragraph (d) insert—
- “(da) the charges under section 636A(1A) and (1B) of ITEPA 2003 (uncrystallised funds pension lump sums),”.
- (3) In paragraph 1(4)—
- (a) after “The “member payment provisions” are” insert “—  
(a),  
and
- (b) at the end insert “, and  
(b) section 636A(1A) to (1C) of ITEPA 2003.”
- (4) After paragraph 5 insert—
- “5A (1) Sub-paragraph (2) applies if—
- (a) a payment is made (or treated by this Part as made) to or in respect of a relieved member or transfer member of a relevant non-UK scheme, and
- (b) there is an amount of tax under a member payment charge that would be payable in respect of the payment, or part of the payment, but for the operation of double taxation arrangements.
- (2) The payment or (as the case may be) that part of it—
- (a) is “pension” for the purposes of Chapter 4 of Part 9 of ITEPA 2003 (foreign pensions), and
- (b) is to be treated as included in the list, in section 576A of ITEPA 2003, of payments that are “relevant withdrawals” for the purposes of that section.”
- (5) In paragraph 6 (tax under member payment charges to be reduced by foreign tax in respect of the payment concerned)—
- (a) in sub-paragraph (1) after “in consequence of paragraph 1” insert “, or by virtue of the operation of Chapter 4 of Part 9 of ITEPA 2003 in consequence of paragraph 5A,”, and
- (b) in sub-paragraph (2) after “in consequence of paragraph 1” insert “or 5A”.
- (6) In paragraph 7(2) (regulations modifying the application, in relation to relevant non-UK schemes, of the member payment provisions) after paragraph (b) insert—
- “(ba) contain transitional provisions and savings,”.
- (7) After paragraph 9 insert—
- “9ZA (1) For the purposes of determining the annual allowance charge in the case of an individual for a relevant tax year, a pension scheme is to be treated for the purposes of section 227G as a registered pension scheme if—
- (a) in relation to that tax year, or
- (b) in relation to any earlier tax year (whether or not a relevant tax year),
- the scheme is a currently-relieved non-UK pension scheme and the individual is a currently-relieved member of the scheme.

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- (2) For the purposes of this paragraph, a tax year is a “relevant tax year” in relation to an individual if—
- (a) it is—
    - (i) the first tax year in relation to which the individual is a currently-relieved member of any currently-relieved non-UK pension scheme, or
    - (ii) if later, the tax year 2015-16, or
  - (b) it is a tax year subsequent to the tax year identified under paragraph (a).
- 9ZB (1) Sub-paragraph (2) has effect if at any particular time—
- (a) an individual is a transfer member of a relevant non-UK scheme,
  - (b) the scheme is, or at any previous time has been, a qualifying recognised overseas pension scheme, and
  - (c) the particular time is not in a tax year in relation to which the scheme is a currently-relieved non-UK pension scheme of which the individual is a currently-relieved member.
- (2) Section 227G applies in the individual’s case as if the scheme, so far as relating to the individual’s relevant transfer fund under the scheme, were a registered pension scheme at the particular time.
- (3) The reference in sub-paragraph (2) to the individual’s relevant transfer fund under the relevant non-UK scheme is to be read in accordance with paragraph 4.”
- (8) In paragraph 11 (calculating pension input amounts for certain non-UK money purchase arrangements) after sub-paragraph (2) insert—
- “(3) Where a calculation under section 233(1) as applied by paragraph 8 is being carried out for the purposes of section 227F(3) in respect of a period that ends at the end of a tax year (see paragraph 9 and section 227F(1)), the appropriate fraction for the purposes of sub-paragraph (1)(b) is the appropriate fraction given by sub-paragraph (2) for that tax year (even where the period in respect of which the calculation is being carried out is part only of that tax year).”
- (9) In paragraphs 12(2) and 19(2) (regulations modifying the application, in relation to relevant non-UK schemes, of the annual allowance provisions and lifetime allowance provisions) before the “and” at the end of paragraph (b) insert—
- “(ba) contain transitional provisions and savings.”.
- 96 (1) The Pension Schemes (Application of UK Provisions to Relevant Non-UK Schemes) Regulations 2006 (S.I. 2006/207) are amended as follows.
- (2) In regulation 5 (Part 4 of FA 2004 is modified in accordance with Part 3 of the Regulations) for “these Regulations” substitute “this Part”.
  - (3) Regulation 15 (modifications of Schedule 29 to FA 2004 in its application to relevant non-UK schemes) is amended in accordance with sub-paragraphs (4) to (14).
  - (4) In paragraph (2), in the inserted paragraph 1(4B), before the “and” at the end of paragraph (a) insert—

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- “(aa) the referable portion of any previous uncrystallised funds pension lump sum paid to or in respect of the member by a recognised overseas pension scheme;”.
- (5) In paragraph (2), in the inserted paragraph 1(4C), before the “and” at the end of paragraph (a) insert—
- “(aa) the referable portion of any previous uncrystallised funds pension lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred;”.
- (6) In paragraph (3)(a), in the inserted definition of “RP”, after “any previous pension commencement lump sum” insert “or previous uncrystallised funds pension lump sum”.
- (7) In paragraph (3)(b), in the inserted paragraph 2(7ZA), after “to a pension commencement lump sum,” insert “or to an uncrystallised funds pension lump sum,”.
- (8) In paragraph (4)(b), in the inserted paragraph 4(6), before the “and” at the end of paragraph (a) insert—
- “(aa) the referable portion of any previous uncrystallised funds pension lump sum paid to or in respect of the member by a recognised overseas pension scheme;”.
- (9) In paragraph (4)(b), in the inserted paragraph 4(7), before the “and” at the end of paragraph (a) insert—
- “(aa) the referable portion of any earlier uncrystallised funds pension lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred;”.
- (10) After paragraph (4) insert—
- “(4A) In paragraph 4A (uncrystallised funds pension lump sums) after sub-paragraph (2) insert—
- “(2A) In determining for the purposes of sub-paragraph (1)(b) whether all or part of the member’s lifetime allowance is available—
- (a) disregard any amount treated as crystallising by virtue of a relevant BCE, and
- (b) the amount of the allowance available is reduced by the amount determined in accordance with sub-paragraph (2B) or (2C), as the case may require.
- (2B) Where benefit crystallisation event 8 has occurred, the member’s lifetime allowance that is available is reduced by the aggregate of—
- (a) the referable portion of any previous pension commencement lump sum paid to or in respect of the member by a recognised overseas pension scheme,
- (b) the referable portion of any previous uncrystallised funds pension lump sum paid to or in respect of the member by a recognised overseas pension scheme, and
- (c) the referable portion of the amount which would have crystallised by virtue of the member becoming entitled to a pension, had the scheme paying it been a

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registered pension scheme and disregarding paragraph 2 of Schedule 32.

(2C) Where the paragraph 15 BCE has occurred, the member's lifetime allowance that is available is reduced by the aggregate of—

- (a) the referable portion of any earlier pension commencement lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred,
- (b) the referable portion of any earlier uncrystallised funds pension lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred, and
- (c) in respect of any pension to which the member has become entitled since the paragraph 15 BCE occurred, the referable portion of the amount which would have crystallised by virtue of the member's becoming entitled to the pension, had the scheme paying it been a registered pension scheme and disregarding paragraph 2 of Schedule 32.”

(11) In paragraph (6), in the inserted paragraph 7(7), before the “and” at the end of paragraph (a) insert—

“(aa) the referable portion of any previous uncrystallised funds pension lump sum paid to or in respect of the member by a recognised overseas pension scheme;”.

(12) In paragraph (6), in the inserted paragraph 7(8), before the “and” at the end of paragraph (a) insert—

“(aa) the referable portion of any earlier uncrystallised funds pension lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred;”.

(13) In paragraph (7), in the inserted paragraph 10(5), before the “and” at the end of paragraph (a) insert—

“(aa) the referable portion of any previous uncrystallised funds pension lump sum paid to or in respect of the member by a recognised overseas pension scheme;”.

(14) In paragraph (7), in the inserted paragraph 10(6), before the “and” at the end of paragraph (a) insert—

“(aa) the referable portion of any earlier uncrystallised funds pension lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred;”.

(15) After Part 3 insert—

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## “PART 4

### **18 Modifications to section 636A of ITEPA 2003 in respect of relevant non-UK schemes**

Section 636A(1B) of the Income Tax (Earnings and Pensions) Act 2003 (income tax on uncrystallised funds pension lump sums under registered pension schemes: meaning of “member’s available lifetime allowance”) has effect in relation to relevant non-UK schemes as if the following provisions were inserted in section 636A of that Act after subsection (1C)—

“(1D) In determining the member’s available lifetime allowance for the purposes of subsection (1B)—

- (a) disregard any amount treated as crystallising by virtue of—
  - (i) benefit crystallisation event 8 (see section 216 of, and Schedule 32 to, FA 2004), or
  - (ii) the benefit crystallisation event treated as occurring by virtue of paragraph 15 of Schedule 34 to FA 2004 (“the paragraph 15 BCE”), and
- (b) the amount of the allowance available is reduced by the amount determined in accordance with subsection (1E) or (1F), as the case may require.

(1E) Where benefit crystallisation event 8 has occurred, the member’s available lifetime allowance is reduced by the aggregate of—

- (a) the referable portion of any previous pension commencement lump sum paid to or in respect of the member by a recognised overseas pension scheme,
- (b) the referable portion of any previous uncrystallised funds pension lump sum paid to or in respect of the member by a recognised overseas pension scheme, and
- (c) the referable portion of the amount which would have crystallised by virtue of the member becoming entitled to a pension, had the scheme paying it been a registered pension scheme and disregarding paragraph 2 of Schedule 32 to FA 2004;

and in this subsection “referable portion” means portion referable to the member’s relevant transfer fund (within the meaning given by paragraph 4 of Schedule 34 to FA 2004).

(1F) Where the paragraph 15 BCE has occurred, the member’s available lifetime allowance is reduced by the aggregate of—

- (a) the referable portion of any earlier pension commencement lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred,
- (b) the referable portion of any earlier uncrystallised funds pension lump sum to which the member became entitled under a relevant non-UK scheme since the paragraph 15 BCE occurred, and
- (c) in respect of any pension to which the member has become entitled since the paragraph 15 BCE occurred, the referable portion of the amount which would have crystallised by virtue of the member’s

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becoming entitled to the pension, had the scheme paying it been a registered pension scheme and disregarding paragraph 2 of Schedule 32 to FA 2004;

and in this subsection “referable portion” means portion referable to the member’s UK tax-relieved fund (within the meaning given by paragraph 3 of Schedule 34 to FA 2004).

(1G) In subsections (1E) and (1F)—

“recognised overseas pension scheme” and “pension” have the same meaning as in Part 4 of FA 2004 (see section 280(2) of FA 2004), and

“relevant non-UK scheme” has the same meaning as in Schedule 34 to FA 2004 (see paragraph 1 of that Schedule).”””

(16) The amendments made by this paragraph—

- (a) have effect in relation to lump sums paid on or after 6 April 2015, and
- (b) are to be treated as having been made by the Commissioners for Her Majesty’s Revenue and Customs under such of the powers conferred on them by Schedule 34 to FA 2004 (as amended by this Schedule) as are applicable.

97 (1) In this paragraph—

“the 2013 Regulations” means the Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/2259), and

“the 2006 Regulations” means the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208).

- (2) In regulation 3 of the 2013 Regulations (paragraph 3(1A) of the 2006 Regulations has effect in relation to 5-year periods ending on or after 1 April 2015) for “1st April 2015” substitute “6 April 2016”.
- (3) In regulation 3(1C)(a) of the 2006 Regulations (transitional modification of the time limit in regulation 3(1A)) for “1st April 2010” substitute “6 April 2011”.