

*Status:* Point in time view as at 06/04/2023.

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## SCHEDULES

### SCHEDULE 4

#### PENSIONS: LIFETIME ALLOWANCE: TRANSITIONAL PROVISION

#### PART 2

#### “INDIVIDUAL PROTECTION 2016”

##### Modifications etc. (not altering text)

- C1** Sch. 4 Pt. 2 modified (6.4.2023) by [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023 \(S.I. 2023/113\)](#), regs. 1(2), 37, 38 (with reg. 1(3))

##### *The protection*

- 9 (1) Sub-paragraph (2) applies at any particular time on or after 6 April 2016 in the case of an individual if—
- the individual has one or more relevant arrangements (see sub-paragraph (3)) on 5 April 2016,
  - the individual's relevant amount at the particular time is greater than £1,000,000 (see sub-paragraphs (4) and (7)),
  - paragraph 7 of Schedule 36 to FA 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor in relation to the individual,
  - none of the provisions listed in sub-paragraph (5) applies in the individual's case at the particular time, and
  - at the particular time or any later time, the individual has a reference number (see Part 3 of this Schedule) for the purposes of sub-paragraph (2).
- (2) Part 4 of FA 2004 has effect in relation to the individual as if the standard lifetime allowance were—
- if the individual's relevant amount at the particular time is greater than £1,250,000, the greater of the standard lifetime allowance and £1,250,000, or
  - otherwise, the greater of the individual's relevant amount at the particular time and the standard lifetime allowance.
- (3) “Relevant arrangement”, in relation to an individual, means an arrangement relating to the individual under—
- a registered pension scheme of which the individual is a member, or
  - a relieved non-UK pension scheme of which the individual is a relieved member.

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- (4) An individual's "relevant amount" is the sum of amounts A, B, C and D (see paragraphs 10 to 13, but see also sub-paragraph (7)).
- (5) The provisions mentioned in sub-paragraph (1)(d) are—
- (a) paragraph 12 of Schedule 36 to FA 2004 (enhanced protection);
  - (b) paragraph 14 of Schedule 18 to FA 2011 (fixed protection 2012);
  - (c) paragraph 1 of Schedule 22 to FA 2013 (fixed protection 2014);
  - (d) paragraph 1(2) of Schedule 6 to FA 2014 (individual protection 2014);
  - (e) paragraph 1(2) of this Schedule (fixed protection 2016).
- (6) Sub-paragraph (7) applies if rights of an individual under a relevant arrangement become subject to a pension debit where the transfer day falls on or after 6 April 2016.
- (7) For the purpose of applying sub-paragraph (2) in the case of the individual on and after the transfer day, the individual's relevant amount is reduced (or further reduced) by the following amount—

$$X - (Y \times Z)$$

where—

X is the appropriate amount,

Y is 5% of X, and

Z is the number of tax years beginning after 5 April 2016 and ending on or before the transfer day.

(If the formula gives a negative amount, it is to be taken to be nil.)

- (8) In sub-paragraphs (6) and (7) "appropriate amount" and "transfer day", in relation to a pension debit, have the same meaning as in section 29 of WRPA 1999 or Article 26 of WRP(NI)O 1999 (as the case may be).

*Amount A (pre-6 April 2006 pensions in payment)*

- 10 (1) To determine amount A—
- (a) apply sub-paragraph (2) if a benefit crystallisation event has occurred in relation to the individual during the period beginning with 6 April 2006 and ending with 5 April 2016;
  - (b) otherwise, apply sub-paragraph (6).
- (2) If this sub-paragraph is to be applied, amount A is—

$$25 \times \text{ARP} \times \frac{\pounds 1,250,000}{\text{SLT}}$$

where—

ARP is (subject to sub-paragraph (3)) an amount equal to—

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- (a) the annual rate at which any relevant existing pension was payable to the individual at the time immediately before the benefit crystallisation event occurred, or
- (b) if more than one relevant existing pension was payable to the individual at that time, the sum of the annual rates at which each of the relevant existing pensions was so payable, and

SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event occurred.

- (3) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of “ARP” in sub-paragraph (2) (and, for this purpose, in paragraph 20(4) any reference to “the time” is to be read as a reference to the time immediately before the benefit crystallisation event occurred).
- (4) If the time immediately before the benefit crystallisation event occurred falls before 6 April 2015, in sub-paragraph (3) references to paragraph 20(4) are to be read as references to that provision as it had effect in relation to benefit crystallisation events occurring at the time immediately before the benefit crystallisation event occurred.
- (5) If more than one benefit crystallisation event has occurred, in sub-paragraphs (2) to (4) references to the benefit crystallisation event are to be read as references to the first benefit crystallisation event.
- (6) If this sub-paragraph is to be applied, amount A is—

$$25 \times \text{ARP}$$

where ARP is (subject to sub-paragraph (7)) an amount equal to—

- a the annual rate at which any relevant existing pension is payable to the individual at the end of 5 April 2016, or
- b if more than one relevant existing pension is payable to the individual at the end of 5 April 2016, the sum of the annual rates at which each of the relevant existing pensions is so payable.

- (7) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of “ARP” in sub-paragraph (6) (and, for this purpose, in paragraph 20(4) any reference to “the time” is to be read as a reference to 5 April 2016).
- (8) In this paragraph “relevant existing pension” means (subject to sub-paragraph (9)) a pension, annuity or right—
  - (a) which was, at the end of 5 April 2006, a “relevant existing pension” as defined by paragraph 10(2) and (3) of Schedule 36 to FA 2004, and
  - (b) to the payment of which the individual had, at the end of 5 April 2006, an actual (rather than a prospective) right.
- (9) If—
  - (a) before 6 April 2016, there was a recognised transfer of sums or assets representing a relevant existing pension, and
  - (b) those sums or assets were, after the transfer, applied towards the provision of a scheme pension (“the new scheme pension”),the new scheme pension is also to be a “relevant existing pension” (including for the purposes of this sub-paragraph).

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*Amount B (pre-6 April 2016 benefit crystallisation events)*

- 11 (1) To determine amount B—
- (a) identify each benefit crystallisation event that has occurred in relation to the individual during the period beginning with 6 April 2006 and ending with 5 April 2016,
  - (b) determine the amount that was crystallised by each of those benefit crystallisation events (applying paragraph 14 of Schedule 34 to FA 2004 if relevant), and
  - (c) multiply each crystallised amount by the following fraction—

$$\frac{1,250,000}{\text{SLT}}$$

where SLT is an amount equal to what the standard lifetime allowance was at the time when the benefit crystallisation event in question occurred.

- (2) Amount B is the sum of the crystallised amounts determined under sub-paragraph (1)(b) as adjusted under sub-paragraph (1)(c).

*Amount C (uncrystallised rights at end of 5 April 2016 under registered pension schemes)*

- 12 Amount C is the total value of the individual's uncrystallised rights at the end of 5 April 2016 under arrangements relating to the individual under registered pension schemes of which the individual is a member as determined in accordance with section 212 of FA 2004.

*Amount D (uncrystallised rights at end of 5 April 2016 under relieved non-UK schemes)*

- 13 (1) To determine amount D—
- (a) identify each relieved non-UK pension scheme of which the individual is a relieved member at the end of 5 April 2016, and
  - (b) in relation to each such scheme—
    - (i) assume that a benefit crystallisation event occurs in relation to the individual at the end of 5 April 2016, and
    - (ii) in accordance with paragraph 14 of Schedule 34 to FA 2004, determine what the untested portion of the relevant relieved amount would be immediately before the assumed benefit crystallisation event.
- (2) Amount D is the sum of the untested portions determined under sub-paragraph (1)(b)(ii).

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