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SCHEDULES

SCHEDULE 4

PENSIONS: LIFETIME ALLOWANCE: TRANSITIONAL PROVISION

PART 3

REFERENCE NUMBERS ETC

Issuing of reference numbers for fixed or individual protection 2016

- 14 (1) An individual has a reference number for the purposes of paragraph 1(2), or for the purposes of paragraph 9(2), if a reference number—
- (a) has been issued by or on behalf of the Commissioners in respect of the individual for the purposes concerned, and
 - (b) has not been withdrawn.
- (2) Such a reference number—
- (a) may include, or consist of, characters other than figures, and
 - (b) may be issued only if a valid application for its issue is received by or on behalf of the Commissioners.
- (3) A valid application is an application—
- (a) made by or on behalf of the individual concerned,
 - (b) made on or after 6 April 2016,
 - (c) made by means of a digital service provided for the purpose by or on behalf of the Commissioners, or by other means authorised in a particular case by an officer of Revenue and Customs,
 - (d) containing—
 - (i) the following details for the individual and, where the individual is not the applicant, also for the applicant: title, full name, full postal address and e-mail address,
 - (ii) the individual's date of birth,
 - (iii) the individual's national insurance number, or the reason why the individual does not qualify for a national insurance number, and
 - (iv) a declaration that everything stated in the application is true and complete to the best of the applicant's knowledge and belief,
 - (e) containing also in the case of an application for a reference number for the purposes of paragraph 1(2)—
 - (i) a declaration that the conditions specified in paragraph 2 are met in the individual's case, and
 - (ii) a declaration that there has been no protection-cessation event (see paragraph 3) in the individual's case in the period beginning with 6 April 2016 and ending with the making of the application, and

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- (f) containing also in the case of an application for a reference number for the purposes of paragraph 9(2)—
- (i) the individual's relevant amount (see paragraph 9(4) and (7)),
 - (ii) amounts A, B, C and D for the individual (see paragraphs 10 to 13),
 - (iii) if rights of the individual under a relevant arrangement have become subject to a relevant pension debit, the appropriate amount and transfer day for each such pension debit,
 - (iv) a declaration that the condition in paragraph 9(1)(c) is met in the individual's case, and
 - (v) a declaration that paragraph 1(2) of Schedule 6 to FA 2014 (“individual protection 2014”) does not apply in the individual's case.
- (4) Where an application for a reference number for the purposes of paragraph 1(2) or 9(2) is unsuccessful, or is successful on a dormant basis, that must be notified to the applicant by or on behalf of the Commissioners.
- (5) In sub-paragraph (3)(f)(iii) and this sub-paragraph—
- “relevant arrangement” has the meaning given by paragraph 9(3);
- “relevant pension debit”, in relation to an application for a reference number, means a pension debit where—
- (a) the transfer day falls on or after 6 April 2016 and before the day on which the application is made, and
 - (b) the individual has, before the day on which the application is made, received notice under regulation 8(2) or (3) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048) relating to discharge of liability in respect of the pension credit corresponding to the pension debit;
- “appropriate amount” and “transfer day”, in relation to a pension debit, have the same meaning as in paragraph 9(6) and (7) (see paragraph 9(8)).
- (6) Sub-paragraph (3)(c) is not to be read as requiring a digital service to be provided and available for the purpose referred to.
- (7) For the purposes of this Part of this Schedule, an application for a reference number for the purposes of paragraph 1(2) is successful on a dormant basis if the decision on the application is that—
- (a) the application would have been unconditionally successful but for the fact that paragraph 1(2) of Schedule 6 to FA 2014 (“individual protection 2014”) applies in the case of the individual concerned, and
 - (b) a reference number for the purposes of paragraph 1(2) will be issued in response to the application but only when paragraph 1(2) of Schedule 6 to FA 2014 does not apply in the individual's case.
- (8) For the purposes of this Part of this Schedule, an application for a reference number for the purposes of paragraph 9(2) is successful on a dormant basis if the decision on the application is that—
- (a) the application would have been unconditionally successful but for the fact that a prior provision applies in the case of the individual concerned, and
 - (b) a reference number for the purposes of paragraph 9(2) will be issued in response to the application but only when no prior provision applies in the individual's case.

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- (9) For the purposes of sub-paragraph (8), the prior provisions 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), and
 - (d) paragraph 1(2) of this Schedule (fixed protection 2016).

Withdrawal of reference numbers

- 15 (1) This paragraph applies where a reference number for the purposes of paragraph 1(2) or 9(2) has been issued by or on behalf of the Commissioners in respect of an individual.
- (2) The number may be withdrawn by an officer of Revenue and Customs.
- (3) The number may be withdrawn only if—
- (a) something contained in the application for the number was incorrect, or
 - (b) where the number was for the purposes of paragraph 1(2)—
 - (i) there has been a protection-cessation event (see paragraph 3) in the individual's case since the making of the application, or
 - (ii) paragraph 1(2) of Schedule 6 to FA 2014 has come to apply in the individual's case, or
 - (c) where the number was for the purposes of paragraph 9(2)—
 - (i) a provision listed in paragraph 9(5) has come to apply in the individual's case, or
 - (ii) paragraph 9(2) has ceased to apply in the individual's case as a result of the operation of paragraph 9(7), or
 - (d) the individual—
 - (i) has been given a notice under paragraph 1 of Schedule 36 to FA 2008 (information and inspection powers: taxpayer notice) in connection with (as the case may be) Part 1 or 2 of this Schedule, and
 - (ii) fails to comply with the notice within the period specified in the notice.
- (4) Where the number is withdrawn—
- (a) notice of the withdrawal, and
 - (b) reasons for the withdrawal,
- are to be given by an officer of Revenue and Customs to the individual.
- (5) Where the number is withdrawn, the effect of the withdrawal is as follows—
- (a) in the case of withdrawal in reliance on sub-paragraph (3)(a), the number is treated as never having been issued,
 - (b) in the case of withdrawal in reliance on paragraph (b) or (c) of sub-paragraph (3), the number is treated as having been withdrawn at the time of the event mentioned in sub-paragraph (i) or (ii) of that paragraph, and
 - (c) in the case of withdrawal in reliance on sub-paragraph (3)(d), the number is treated as having been withdrawn at the time specified in the notice of the withdrawal as the effective time of the withdrawal, which may be any time not earlier than the time of issue of the number.

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Appeals against non-issue or withdrawal of reference numbers

- 16 (1) Where—
- (a) an application is made for a reference number for the purposes of paragraph 1(2) or 9(2) in respect of an individual, and
 - (b) the application is unsuccessful (see sub-paragraph (9)),
- the individual may appeal against the decision on the application.
- (2) Where a reference number issued in respect of an individual for the purposes of paragraph 1(2) or 9(2) is withdrawn, the individual may appeal against the withdrawal.
- (3) Where a reference number issued in respect of an individual for the purposes of paragraph 1(2) or 9(2) is withdrawn in reliance on paragraph 15(3)(d), the individual may appeal against the time specified (in the notice of the withdrawal) as the effective time of the withdrawal.
- (4) Where an appeal under sub-paragraph (1) is notified to the tribunal, the tribunal—
- (a) must allow the appeal if satisfied—
 - (i) that the application was a valid application,
 - (ii) that everything in the application was correct, and
 - (iii) that, at the time of deciding the appeal, paragraph 15(3)(b), (c) or (d) does not authorise withdrawal of the requested number (assuming it had been issued), and
 - (b) must otherwise dismiss the appeal.
- (5) Where an appeal under sub-paragraph (2) is notified to the tribunal, the tribunal—
- (a) must allow the appeal if satisfied that the withdrawal was not authorised by paragraph 15(3), and
 - (b) must otherwise dismiss the appeal.
- (6) Where an appeal under sub-paragraph (3) is notified to the tribunal, the tribunal must decide whether it was just and reasonable to specify the particular time specified and—
- (a) if the tribunal decides that it was, the tribunal must dismiss the appeal, and
 - (b) otherwise—
 - (i) the tribunal must decide what time it would have been just and reasonable to specify, and
 - (ii) the withdrawal has effect as if the notice of the withdrawal had specified the time decided by the tribunal.
- (7) Notice of an appeal under this paragraph must be given to Her Majesty's Revenue and Customs before the end of 30 days beginning with the date on which notice under paragraph 14(4) or 15(4) (as the case may be) is given.
- (8) In this paragraph “the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.
- (9) The references in sub-paragraph (1) and paragraph 17(3)(b)(ii) to an application being unsuccessful do not include a case where an application for a reference number for the purposes of paragraph 1(2) or 9(2) is successful on a dormant basis (see paragraph 14(7) and (8)).

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Notification of subsequent protection-cessation events

- 17 (1) Sub-paragraph (2) applies if, in the case of an individual, there is a protection-cessation event (see paragraphs 3 to 8) at a time when—
- (a) the individual has a reference number for the purposes of paragraph 1(2),
 - (b) there is a pending application for a reference number for those purposes in respect of the individual, or
 - (c) an appeal under paragraph 16(2) or (3) is in progress in connection with withdrawal of a reference number issued for those purposes in respect of the individual.
- (2) The individual—
- (a) must notify the Commissioners of the event, and
 - (b) must do so—
 - (i) before the end of 90 days beginning with the day on which the individual could first reasonably be expected to have known that the event had occurred, and
 - (ii) by means of a digital service provided for the purpose by or on behalf of the Commissioners, or by other means authorised in a particular case by an officer of Revenue and Customs.
- (3) For the purposes of this paragraph—
- (a) an application is pending if—
 - (i) it has been made,
 - (ii) no reference number has been issued in response to the application, and
 - (iii) the applicant has not been notified that the application has been unsuccessful;
 - (b) an application is also pending if—
 - (i) it has been made,
 - (ii) it has been unsuccessful, and
 - (iii) an appeal under paragraph 16(1) is in progress against the decision on the application;
 - (c) an appeal under paragraph 16(1), (2) or (3) is in progress until one of the following happens—
 - (i) it, or any further appeal, is withdrawn, or
 - (ii) it and any further appeal brought have been determined, and there is no prospect of further appeal.

Notification of subsequent pension debits

- 18 (1) Sub-paragraph (2) applies if an individual receives a discharge notice related to a pension debit at a time when—
- (a) the individual has a reference number for the purposes of paragraph 9(2),
 - (b) there is a pending application for a reference number for those purposes in respect of the individual, or
 - (c) an appeal under paragraph 16(2) or (3) is in progress in connection with withdrawal of a reference number issued for those purposes in respect of the individual.
- (2) The individual—

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- (a) must notify the Commissioners of the appropriate amount and transfer day for the pension debit, and
 - (b) must do so—
 - (i) before the end of 60 days beginning with the date of the discharge notice related to the pension debit, and
 - (ii) by means of a digital service provided for the purpose by or on behalf of the Commissioners, or by other means authorised in a particular case by an officer of Revenue and Customs.
- (3) For the purposes of this paragraph—
- (a) a notice is a discharge notice related to a pension debit if it is notice under regulation 8(2) or (3) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048) relating to discharge of liability in respect of the pension credit corresponding to the pension debit;
 - (b) an application is pending if—
 - (i) it has been made,
 - (ii) no reference number has been issued in response to the application,
 - (iii) the applicant has not been notified that the application has been unsuccessful, and
 - (iv) the applicant has not been notified that the application has been successful on a dormant basis (see paragraph 14(8));
 - (c) an application is also pending if—
 - (i) it has been made,
 - (ii) it has been unsuccessful, and
 - (iii) an appeal under paragraph 16(1) is in progress against the decision on the application;
 - (d) an appeal under paragraph 16(1), (2) or (3) is in progress until one of the following happens—
 - (i) it, or any further appeal, is withdrawn, or
 - (ii) it and any further appeal brought have been determined, and there is no prospect of further appeal.

Personal representatives

- 19 If an individual dies—
- (a) anything which could have been done under or by virtue of this Part of this Schedule by the individual may be done by the individual's personal representatives,
 - (b) paragraph 14(3)(d)(ii) has effect in relation to an application made in respect of the individual after the individual's death as if it also required a valid application to contain the individual's date of death, and
 - (c) any notice or reasons given under paragraph 15(4) after the individual's death are to be given to the individual's personal representatives.

Penalties for non-supply, or fraudulent etc supply, of information under paragraph 17 or 18

- 20 In column 2 of the Table in section 98 of TMA 1970 (provisions about information where non-compliance etc attracts penalties), at the appropriate place insert—

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“paragraph 17 or 18 of Schedule 4 to FA
2016;”

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