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## SCHEDULES

### SCHEDULE 5

Section 22

#### PENSION FLEXIBILITY

##### *Serious ill-health lump sums*

- 1 (1) Part 4 of FA 2004 (registered pension schemes etc) is amended as follows.
  - (2) Omit section 205A (serious ill-health lump sum charge on payment to member who has reached 75).
  - (3) In Part 1 of Schedule 29 (interpretation of lump sum rule), paragraph 4 (serious ill-health lump sums) is amended in accordance with sub-paragraphs (4) and (5).
  - (4) In sub-paragraph (1) (meaning of “serious ill-health lump sum”)—
    - (a) at the end of paragraph (b) insert “ and ”, and
    - (b) for paragraphs (c) and (d) substitute—

“(ca) either—

      - (i) it is paid in respect of an uncrystallised arrangement, and it extinguishes the member's entitlement to benefits under the arrangement, or
      - (ii) it is paid in respect of uncrystallised rights of the member under an arrangement other than an uncrystallised arrangement, and it extinguishes the member's uncrystallised rights under the arrangement.”
  - (5) After sub-paragraph (2) insert—

“(2A) In subsection (1)(ca)(ii) “uncrystallised rights”, in relation to the member, means rights of the member that are uncrystallised rights as defined by section 212(1) and (2).”
- 2 (1) Section 636A of ITEPA 2003 (exemption for certain lump sums under registered pension schemes) is amended as follows.
  - (2) In the heading, for “Exemption” substitute “ Exemptions and liabilities ”.
  - (3) For subsection (3A) (serious ill-health lump sum paid to member who has reached 75 is taxed only under section 205A of FA 2004) substitute—

“(3A) Section 579A applies in relation to a serious ill-health lump sum which is paid under a registered pension scheme to a member who has reached the age of 75 as it applies to any pension under a registered pension scheme.”
- 3 (1) In consequence of the amendment made by paragraph 1(2), in Part 4 of FA 2004—
  - (a) in section 164(2)(b) omit “, the serious ill-health lump sum charge”,
  - (b) omit section 272A(7)(a)(ii),

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- (c) in section 280(2) omit the entry for “serious ill-health lump sum charge”, and
  - (d) in Schedule 34—
    - (i) omit paragraph 1(3)(ca), and
    - (ii) in paragraph 5 omit “, serious ill-health lump sum charge”.
- (2) In consequence of the amendment made by paragraph 1(2), in section 30(1) of ITA 2007 omit the entry for section 205A of FA 2004.
- (3) In consequence of the amendments made by paragraphs 1 and 2 and sub-paragraphs (1) and (2)—
  - (a) in Schedule 16 to FA 2011, omit paragraphs 28(2)(a), 40, 42(3), 63, 77(4), 81(2) and (4)(b) and 83, and
  - (b) omit section 2(4) of the Taxation of Pensions Act 2014.
- 4 The amendments made by paragraphs 1 to 3 have effect in relation to lump sums paid after the day on which this Act is passed.

*Charity lump sum death benefits*

- 5 (1) In paragraph 18(1A) of Schedule 29 to FA 2004 (when lump sum paid out of uncrystallised funds is charity lump sum death benefit), omit paragraph (a) (member must have died after reaching 75).
- (2) The amendment made by sub-paragraph (1) has effect in relation to lump sums paid after the day on which this Act is passed.

*Dependants' flexi-access drawdown funds*

- 6 (1) Part 2 of Schedule 28 to FA 2004 (interpretation of pension death benefit rules) is amended as follows.
- (2) In paragraph 15 (meaning of “dependant”), after sub-paragraph (2) insert—
  - “(2A) A child of the member is a dependant of the member if the child—
    - (a) has reached the age of 23, and
    - (b) is not within sub-paragraph (2)(b).
  - (2B) But this paragraph, so far as it has effect for the purpose of determining the meaning of “dependant”—
    - (a) in paragraphs 16 to 17 and 27A, and
    - (b) in paragraph 18 of Schedule 29,
 has effect with the omission of sub-paragraph (2A).”
- (3) In paragraph 22 (meaning of “dependant's drawdown pension fund”)—
  - (a) in sub-paragraph (2)(a) and (aa) omit “to the dependant”, and
  - (b) in sub-paragraph (3), after “representing a” insert “person's”.
- (4) The amendments made by this paragraph come into force on the day after the day on which this Act is passed.
- (5) The sub-paragraphs inserted by sub-paragraph (2)—
  - (a) apply for the purpose of determining whether a payment of an annuity is a payment of a dependants' short-term annuity only if the annuity is purchased after the day on which this Act is passed, and

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- (b) apply for the purpose of determining whether a payment to a person is a payment of dependants' income withdrawal if, but only if, the person reaches the age of 23 after the day on which this Act is passed.

- (6) In sub-paragraph (5) “dependants' short-term annuity” and “dependants' income withdrawal” have the same meaning as in Part 4 of FA 2004.

#### *Trivial commutation lump sum*

- 7 (1) Paragraph 7 of Schedule 29 to FA 2004 (interpretation of lump sum rule: meaning of “trivial commutation lump sum”) is amended as follows.
  - (2) In sub-paragraph (1)(aa) (sum must be paid in respect of a defined benefits arrangement), after “arrangement,” insert “ or in respect of a scheme pension payable by the scheme administrator to which the member has become entitled under a money purchase arrangement (an “in-payment money-purchase in-house scheme pension”), or partly in respect of the former and partly in respect of the latter, ”.
  - (3) In sub-paragraph (1)(d) (sum must extinguish member's entitlement to defined benefits under the scheme), after “defined benefits” insert “ , and any entitlement to payments of in-payment money-purchase in-house scheme pensions, ”.
- 8 (1) Section 636B of ITEPA 2003 (taxation of trivial commutation, and winding-up, lump sums) is amended as follows.
  - (2) In subsection (3) (taxation of lump sum where member has uncrystallised rights under the pension scheme)—
    - (a) in the words before paragraph (a) omit “(within the meaning of section 212 of FA 2004)”, and
    - (b) in paragraph (b), for “the uncrystallised rights calculated in accordance with that section” substitute “ any uncrystallised rights extinguished by the lump sum ”.
  - (3) After subsection (4) insert—

“(5) In this section “uncrystallised rights” has the same meaning as in section 212 of FA 2004; and the value for the purposes of this section of any uncrystallised rights is to be calculated in accordance with that section.”
- 9 The amendments made by paragraphs 7 and 8 have effect in relation to lump sums paid after the day on which this Act is passed.

#### *Top-up of dependants' death benefits*

- 10 (1) In paragraph 15 of Schedule 29 to FA 2004 (uncrystallised funds lump sum death benefits), after sub-paragraph (2) insert—

“(2A) Where—

  - (a) the arrangement is a cash balance arrangement,
  - (b) under the arrangement, a dependant of the member is entitled to be paid after the member's death an amount by way of a lump sum,
  - (c) the dependant's entitlement to a lump sum of that amount under the arrangement comes into being at a time no later than the member's death,

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- (d) such of the sums and assets held for the purposes of the arrangement immediately after the member's death as are held for the purpose of meeting the liability to pay the lump sum are insufficient for that purpose (including where that is because none are held for that purpose), and
- (e) a person who was an employer in relation to the member pays a contribution to the scheme—
  - (i) for or towards making good that insufficiency, and
  - (ii) of no more than is needed for making good the insufficiency,

the sums and assets held for the purposes of the arrangement that represent the contribution are to be treated as “relevant uncrystallised funds” for the purposes of this paragraph.”

- (2) The amendment made by sub-paragraph (1) has effect in relation to contributions paid after the day on which this Act is passed.

*Inheritance tax as respects cash alternatives to annuities for dependants etc*

- 11 (1) In section 152 of the Inheritance Tax Act 1984 (where annuity payable on person's death to dependant etc, person treated as not beneficially entitled to sum that could have been paid to personal representatives instead of being used for annuity), for “or dependant” substitute “, dependant or nominee”.
- (2) The amendment made by sub-paragraph (1)—
  - (a) is to be treated as having come into force on 6 April 2015, and
  - (b) has effect where the person on whose death an annuity is payable dies on or after that date.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)