# SCHEDULES

## SCHEDULE 3

## OVERSEAS PENSIONS

### PART 2

### INCOME TAX ON PENSION INCOME

*UK residents to be taxed on 100%, not 90%, of foreign pension income*

2 (1) Omit section 575(2) of ITEPA 2003 (foreign pensions received by UK residents: taxable amount is 90% of actual amount).

(2) Omit section 613(3) of ITEPA 2003 (annuities from non-UK sources: taxable amount is 90% of actual amount).

(3) Omit section 635(3) of ITEPA 2003 (foreign voluntary annual payments: taxable amount is 90% of actual amount).

(4) In consequence—

(a) in section 575 of ITEPA 2003—

(i) in subsection (1) omit “, (2)”;

(ii) in subsection (1A), for “subsections (2) and” substitute “ subsection ”;

(iii) in subsection (3), for “That pension income” substitute “ The full amount of the pension income arising in the tax year, or (as the case may be) the UK part of the tax year, ”;

(iv) in subsection (3), for “that Act” substitute “ ITTOIA 2005 ”;

(b) in section 613 of ITEPA 2003—

(i) in subsection (2), for “subsections (3) and” substitute “ subsection ”;

(ii) in subsection (4), for “that Act” substitute “ ITTOIA 2005 ”;

(c) in section 635 of ITEPA 2003—

(i) in subsection (2), for “subsections (3) and” substitute “ subsection ”;

(ii) in subsection (4), for “That pension income” substitute “ The full amount of the pension income arising in the tax year ”;

(iii) in subsection (4), for “that Act” substitute “ ITTOIA 2005 ”;

(d) in Schedule 45 to FA 2013 omit paragraph 72(4).

(5) In sections 613(5) and 635(5) of ITEPA 2003 (application of section 839 of ITTOIA 2005 in certain cases), for “condition B” substitute “ conditions B1 and B2 (and the reference to them in subsection (1)) ”.

(6) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years, subject to sub-paragraph (7).

***Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2017, Part 2. (See end of Document for details)*

(7) The amendments in section 575 of ITEPA 2003, so far as they relate to relevant withdrawals, have effect in relation to relevant withdrawals paid in or after the tax year 2017-18; and here "relevant withdrawal" has the meaning given by section 576A of ITEPA 2003.

*Superannuation funds to which section 615(3) of ICTA applies*

3 (1) Section 615 of ICTA (trust funds for pensions in respect of employment outside UK) is amended as follows.

(2) In subsection (6)—

(a) in paragraph (b), omit the final "and";

(b) in paragraph (c), at the end insert " and ";

(c) after paragraph (c) insert—

"(d) meets the benefit accrual condition (see subsection (6A));".

(3) After subsection (6) insert—

"(6A) The benefit accrual condition is—

(a) that, in the case of any money purchase arrangement relating to a member of the fund that is not a cash balance arrangement, no contributions are made under the arrangement on or after 6 April 2017;

(b) that, in the case of any cash balance arrangement relating to a member of the fund, there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement;

(c) that, in the case of any defined benefits arrangement relating to a member of the fund, there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement; and

(d) that, in the case of any arrangement relating to a member of the fund that is neither a money purchase arrangement nor a defined benefits arrangement—

(i) no contributions are made under the arrangement on or after 6 April 2017, and

(ii) there is no increase on or after 6 April 2017 in the value of any person's rights under the arrangement.

(6B) For the purposes of subsection (6A)(b)—

(a) whether there is an increase in the value of a person's rights is to be determined by reference to whether there is an increase in the amount that would, on the valuation assumptions, be available for the provision of benefits under the arrangement to or in respect of the person (and, if there is, the amount of the increase), but

(b) in the case of rights that accrued to a person before 6 April 2017, ignore increases in the value of the rights if in no tax year do they exceed the relevant percentage.

(6C) For the purposes of subsection (6A)(c)—

(a) whether there is an increase in the value of a person's rights is to be determined by reference to whether there is an increase in the benefits amount as defined by paragraph 14(7) of Schedule 18 to the Finance Act 2011, but

(b) in the case of rights that accrued to a person before 6 April 2017, ignore increases in the value of the rights if in no tax year do they exceed the relevant percentage.

(6D) For the purposes of subsection (6A)(d)(ii), regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision—

(a) for determining whether there is an increase in the value of a person's rights,

(b) for determining the amount of any increase, and

(c) for ignoring the whole or part of any increase;

and regulations under this subsection may make provision having effect in relation to times before the regulations are made.

(6E) In this section, "relevant percentage", in relation to a tax year, means—

(a) where, on 20 March 2017, the rules of the fund include provision for the value of the rights of a person to increase during the tax year at an annual rate specified in those rules, that rate, or

(b) in any other case, the percentage by which the consumer prices index for September in the previous tax year is higher than it was for the September in the tax year before that (or, if greater, 0%).

(6F) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

(a) so as to change, or modify the effect of, the benefit accrual condition;

(b) as to the matters to be taken into account in determining whether the benefit accrual condition is met;

(c) for a superannuation fund to be treated to any extent as meeting or not meeting the benefit accrual condition.

(6G) Provision under subsection (6D) or (6F) may be made by amending this section."

(4) In subsection (7)—

(a) for "In this section—" substitute "For the purposes of this section—

"arrangement", in relation to a member of a superannuation fund, means an arrangement relating to the member under the fund;

a money purchase arrangement relating to a member of a superannuation fund is a "cash balance arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits;

an arrangement relating to a member of a superannuation fund is a "defined benefits arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are defined benefits;

an arrangement relating to a member of a superannuation fund is a "money purchase arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are money purchase benefits;

"cash balance benefits", "defined benefits" and "money purchase benefits" have the meaning given by section 152 of the Finance Act 2004, but for this purpose reading references in that section to a pension scheme as references to a superannuation fund;

"member", in relation to a superannuation fund, has the meaning given by section 151 of the Finance Act 2004, but for this purpose reading references in that section to a pension scheme as references to a superannuation fund;";

(b) at the end insert—

""the valuation assumptions" has the meaning given by section 277 of the Finance Act 2004."

(5) After subsection (10) insert—

"(11) Where the conditions in subsection (6)(a) to (c) are met in the case of a superannuation fund ("the actual fund")—

(a) any disqualifying contributions made under an arrangement relating to a member of the actual fund are treated for the purposes of the Income Tax Acts as instead made under an arrangement relating to the member under a separate superannuation fund ("the shadow fund" for the actual fund),

(b) any disqualifying increase in the value of a person's rights under an arrangement relating to a member of the actual fund is treated for the purposes of the Income Tax Acts as instead being an increase under an arrangement relating to the member under the shadow fund for the actual fund, and

(c) any reference in this or any other Act (including the reference in subsection (3) and any reference enacted after the coming into force of this subsection) to a fund, or superannuation fund, to which subsection (3) applies does not include so much of the actual fund as—

(i) represents any contribution treated as made under, or any increase in the value of any rights treated as an increase under, the shadow fund of the actual fund or the shadow fund of any other superannuation fund, or

(ii) arises, or (directly or indirectly) derives, from anything within sub-paragraph (i) or this sub-paragraph.

(12) For the purposes of subsection (11) a contribution, or an increase in the value of any rights, is "disqualifying" if it would (ignoring that subsection) cause the benefit accrual condition not to be met in the case of the actual fund.

(13) For the purposes of the provisions of this section relating to the benefit accrual condition, where there is a recognised transfer—

(a) any transfer of sums or assets to the recipient fund by the recognised transfer is to be categorised as not being "a contribution" to the recipient fund, and

(b) any increase in the value of rights under the recipient fund that occurs at the time of the recognised transfer is to be treated as not being an increase in that value if the increase is solely a result of the transfer effected by the recognised transfer.

(14) For the purposes of subsection (13), where there is a transfer such that sums or assets held for the purposes of, or representing accrued rights under, an arrangement relating to a member of a superannuation fund ("the transferor fund") are transferred so as to become held for the purposes of, or to represent rights under, an arrangement relating to that person as a member of another superannuation fund, the transfer is a "recognised transfer" if—

(a) the conditions in subsection (6)(a) to (c) are met in the case of each of the funds, and

(b) none of the sums and assets transferred—

(i) represents any contribution treated as made under, or any increase in the value of any rights treated as an increase under, the shadow fund of the transferor fund or the shadow fund of any other superannuation fund, or

(ii) arises, or (directly or indirectly) derives, from anything within sub-paragraph (i) or this sub-paragraph."

(6) The amendments made by this paragraph are to be treated as having come into force on 6 April 2017.

**Changes to legislation:**
There are currently no known outstanding effects for the Finance Act 2017, Part 2.