

## DRAFT CLAUSES/SCHEDULES

*Pension schemes*

1. Schedule 1 to this Act (which makes provision in relation to occupational and personal pension schemes) shall have effect. Occupational and personal pension schemes. [j2031]

## SCHEDULES

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## SCHEDULE 1

Section 1.

## OCCUPATIONAL AND PERSONAL PENSION SCHEMES [J2032]

## PART I

## AMENDMENTS OF THE TAXES ACT 1988

*Introductory*

10 1. Amend the Taxes Act 1988 as follows.

*No charge to tax under section 591C on conversion under Schedule 23ZA*

2.—(1) Amend section 591C as follows.

(2) In subsection (1) (charge to tax where approval of scheme ceases to have effect) after “ceases to have effect” insert “otherwise than by virtue of paragraph 3(2)(a) of Schedule 23ZA”.

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*Definition of “retirement benefits scheme”*

3.—(1) Amend section 611 as follows.

(2) In subsection (1) (which defines “retirement benefits scheme” for the purposes of Chapter I and specifies certain schemes which are excluded) after “but does not include” insert “(a)” and at the end add “; or

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(b) any scheme providing such benefits which is an approved personal pension scheme under Chapter IV of this Part”.

(3) In subsection (3) (power to treat retirement benefits scheme as two or more separate such schemes for the purposes of Chapter I)—

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(a) omit “retirement benefits” in both places;

(b) after “employees”, in both places, insert “or members”; and

(c) after “for the purposes of this Chapter” insert “and Chapter IV of this Part”.

(4) In subsection (4) (classes or descriptions of employees)—

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(a) in paragraph (a) (different employers) after “employees” insert “or members”; and

(b) in paragraph (b) (class or description of one etc)—

(i) after “employee”, in both places, insert “or member”; and

(ii) after “employees” insert “or members”.

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*Interpretation of Chapter IV of Part XIV*

- 4.—(1) Amend section 630 as follows.
- (2) In subsection (1) (definitions) in the definition of “approved”—
- (a) in paragraph (a) (approved schemes), after “scheme” insert “(other than an approved retirement benefits scheme)”; and 5
  - (b) in paragraph (b) (approved arrangements), after “means” insert “(i)” and at the end of the sub-paragraph so formed add “; or
    - (ii) made in accordance with a scheme which is for the time being an approved converted scheme but which was, when the arrangements 10 were made, an approved retirement benefits scheme;”.
- (3) In subsection (1), in the definition of “pension date” after “means” insert “(subject to section 638ZA)”.
- (4) Insert the following definitions at the appropriate places in subsection 15 (1)—
- (a) ““approved converted scheme” means an approved personal pension scheme which is such a scheme by virtue of paragraph 3(2)(b) of Schedule 23ZA;”;
  - (b) ““approved retirement benefits scheme” means a retirement 20 benefits scheme approved under Chapter I of this Part;”;
  - (c) ““the earnings threshold” for any year of assessment is £3,600;”;
  - (d) ““higher level contributions”, in the case of any year of assessment, means contributions in excess of the earnings 25 threshold for the year;”;
  - (e) ““the personal pension fund”, in the case of any personal pension arrangement made by an individual, means the accrued rights to which the individual is entitled conferring prospective entitlement to benefits under the arrangement;” 30
  - (f) ““retirement benefits scheme” has the same meaning as in Chapter I of this Part (see section 611);”.
- (5) After subsection (1) insert—
- “(1A) The Treasury may by order amend the definition of “the earnings threshold” in subsection (1) above for any year of assessment 35 by varying the amount there specified.”
- (6) In subsection (2) (annual amount of annuity which would have been purchasable)—
- (a) in paragraph (a), for the words from “fund” to “him” substitute “personal pension fund”; and 40
  - (b) at the end add—
 

“Where a lump sum falls to be paid on the date in question, the reference is to the value of the personal pension fund after allowing for that payment.”
- (7) Omit subsection (3) (whose effect is reproduced by sub-paragraphs 45 (4)(e) and (6)).

(8) Paragraphs (c) and (d) of sub-paragraph (4) have effect for the year 2001-02 and subsequent years of assessment. SCH. 1

*Conversion of certain approved retirement benefits schemes*

5. After section 631 insert—

5 “Conversion of certain approved retirement benefits schemes. 631A. Schedule 23ZA to this Act (which makes provision for or in connection with the conversion of certain retirement benefits schemes approved under Chapter I of this Part into personal pension schemes approved under this Chapter) shall have effect.”

10 *Eligibility to make contributions*

6.—(1) After section 632 insert—

“Eligibility to make contributions. 632A.—(1) The Board shall not approve a personal pension scheme if it permits, in relation to arrangements made by a member in accordance with the scheme, the acceptance of—

- 15 (a) contributions by the member, or  
(b) contributions by an employer of the member,  
at a time when the member is not eligible to make contributions.

20 (2) The Board shall not approve a personal pension scheme unless it makes provision for ensuring, in relation to any such arrangements, that any contributions accepted at a time when the member is not eligible to make contributions are repaid—

- 25 (a) to the member, to the extent of his contributions;  
and  
(b) as to the remainder, to his employer.

30 (3) The following provisions of this section have effect for determining for the purposes of subsections (1) and (2) above the times at which a member is eligible to make contributions (and, for those purposes, a member is not eligible to make contributions at any other time).

35 (4) A member is eligible to make contributions at any time during a year of assessment for which he has actual net relevant earnings.

(5) A member who does not have actual net relevant earnings for a year of assessment (“the relevant year”) is eligible to make contributions at any time during that year if—

- 40 (a) for at least some part of the year he does not hold an office or employment to which section 645 applies;  
and  
(b) the condition in any of subsections (6) to (9) below is satisfied.

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(6) Condition A is that at some time in the relevant year the member is resident and ordinarily resident in the United Kingdom.

(7) Condition B is that the member—

- (a) at some time during the five years of assessment preceding the relevant year, has been resident and ordinarily resident in the United Kingdom; and
- (b) was resident and ordinarily resident in the United Kingdom when he made the personal pension arrangements in question.

(8) Condition C is that at some time in the relevant year the member is a person who performs duties which, by virtue of section 132(4)(a), are treated as being performed in the United Kingdom.

(9) Condition D is that at some time in the relevant year the member is the spouse of a person who performs such duties as are mentioned in subsection (8) above.”

(2) This paragraph has effect on and after 6th April 2001.

*Insurance against risks relating to non-payment of contributions*

7.—(1) Amend section 633 (benefits allowed to be provided by approved schemes) as follows.

(2) Omit subsection (2) (approval of schemes making provision for insurance against certain risks not to be prevented by subsection (1)).

(3) This paragraph has effect in relation to insurance under a contract of insurance made on or after 6th April 2001.

*Income withdrawals: purchase of two or more annuities*

8.—(1) Amend section 634A as follows.

(2) After subsection (1) insert—

“(1A) The Board shall not refuse to approve a personal pension scheme by reason only that it makes provision for arrangements under the scheme which enable a member who makes such an election as is mentioned in subsection (1) above to apply different parts of the personal pension fund at different times in the purchase of different annuities satisfying the conditions in section 634 (whether commencing on the same day or on different days).”

(3) In subsection (4) (which regulates income withdrawals by reference to the annual amount of the annuity purchasable on the relevant reference date) after “on the relevant reference date” insert “or immediately after the last qualifying annuitisation (whichever is the later)”.

(4) After subsection (4) insert—

“(4A) For the purposes of subsection (4) above—

- (a) “annuitisation” means the application of part of the personal pension fund in the purchase of an annuity satisfying the conditions in section 634; and

(b) an annuitisation is a “qualifying annuitisation”, in relation to any such period of twelve months as is mentioned in subsection (4) above, if it has taken place—

- (i) in an earlier such period, but
- (ii) since the relevant reference date.”

(5) This paragraph has effect on and after 6th April 2001.

*Other restrictions on approval*

9.—(1) Amend section 638 as follows.

(2) In subsection (3)(a) (limit on aggregate contributions in any year) after “does not exceed” insert “the earnings threshold for that year or, if greater,”

(3) In subsection (4), omit paragraph (b) (which refers to relief by virtue of section 642, abolished by this Schedule) and the word “and” immediately preceding that paragraph.

(4) After subsection (7A) (prohibition of contributions or transfer payments after pension date) insert—

“(7B) Subsection (7A) above shall have effect subject to and in accordance with section 638ZA.”

(5) After subsection (8) add—

“(9) The Board may only approve a personal pension scheme if it prohibits the acceptance of contributions in any form other than—

- (a) the payment of monetary sums; or
- (b) the transfer, subject to the conditions in subsection (12) below, of eligible shares in a company;

and any reference in this Chapter to the payment of contributions includes a reference to the making of contributions in accordance with paragraph (b) above.

(10) For the purposes of this Chapter, the amount of a contribution made by way of a transfer of shares shall be the aggregate market value of the shares at the date of the transfer.

(11) For the purposes of subsection (9)(b) above, “eligible shares” means shares—

- (a) which the member has exercised the right to acquire, or
- (b) which have been appropriated to the member,

in accordance with the provisions of a savings-related share option scheme or an approved profit-sharing scheme.

(12) The conditions mentioned in subsection (9)(b) above are—

- (a) in relation to shares which the member has exercised his right to acquire in accordance with the provisions of a savings-related share option scheme, that the transfer of the shares as contributions under the personal pension scheme takes place before the expiry of the period of 90 days following the exercise of that right;
- (b) in relation to shares appropriated to the member in accordance with the provisions of an approved profit-sharing scheme, that

SCH. 1 the transfer of the shares as contributions under the personal pension scheme takes place before the expiry of the period of 90 days following the date when the member directed the trustees of the approved profit-sharing scheme to transfer the ownership of the shares to him or, if earlier, the release date in relation to the shares. 5

(13) In this section—

“approved profit sharing scheme” has the same meaning as in section 186;

1992 c. 12. “market value” shall be construed in accordance with section 272 of the Taxation of Chargeable Gains Act 1992; 10

“savings-related share option scheme” has the same meaning as in Schedule 9 (see paragraph 1(1) of that Schedule).”

(6) Sub-paragraph (2) has effect for the year 2001-02 and subsequent years of assessment. 15

(7) Sub-paragraph (3) has effect in relation to contributions paid in the year 2001-02 or any subsequent year of assessment.

(8) Sub-paragraph (5) has effect in relation to contributions in the year 2001-02 or any subsequent year of assessment.

*Multiple pension dates* 20

10.—(1) After section 638 insert—

“Personal pension arrangements with more than one pension date. 638ZA.—(1) This section applies where a personal pension scheme makes provision for a personal pension arrangement under the scheme to make provision—

(a) for the payment of more than one annuity satisfying the conditions in section 634 (a “qualifying annuity”) and for different such annuities to commence, or be capable of commencing, on different days; 25

(b) for elections such as are mentioned in section 634A(1) (“elections for deferral”) to be capable of being made at different times in relation to different portions of the personal pension fund; and 30

(c) for a qualifying lump sum to be payable in connection with— 35

(i) each qualifying annuity (other than one purchased pursuant to section 634A); and

(ii) each election for deferral.

(2) The Board shall not refuse to approve a personal pension scheme by reason only that it makes such provision as is mentioned in subsection (1) above if they are satisfied that it makes provision in conformity with the provisions of this section. 40

(3) In this section—

“income withdrawal fund” means a portion of the personal pension fund which is specified or 45

described in an election for deferral as the portion of that fund to which the election relates;

5 “qualifying lump sum” means a lump sum satisfying the conditions of section 635 (as that section has effect by virtue of and in accordance with this section);

“the relevant date”, in relation to any qualifying annuity or election for deferral, means the date determined in accordance with the arrangement on which—

- 10 (a) the qualifying annuity commences; or
- (b) the member makes the election for deferral.

15 (4) In the application of section 635 in relation to a qualifying lump sum, for the condition in subsection (3) there shall be substituted the conditions in subsections (5) and (6) below.

(5) The first condition is that the lump sum must not exceed one-third of—

20 (a) the value of the portion of the personal pension fund applied in the provision of the qualifying annuity in connection with which the lump sum is paid, determined as at the date on which that portion is so applied, or

25 (b) the value, as at the relevant date, of the income withdrawal fund which relates to the election for deferral in connection with it is paid, as the case may be.

30 (6) The second condition is that the lump sum must not represent any of the value, at the time when the lump sum is paid, of such of the member’s rights under the personal pension arrangement as are protected rights for the purposes of the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993.

1993 c. 48.  
1993 c. 49.

35 (7) Where a qualifying annuity commences, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been a separate personal pension arrangement and—

40 (a) the annuity, and any qualifying lump sum payable in connection with it, were benefits provided for by that separate arrangement (instead of by the personal pension arrangement by which it was actually provided (in this subsection referred to as “the relevant arrangement”));

45 (b) the portion of the personal pension fund applied in the provision of the annuity, together with the amount of any qualifying lump sum payable in connection with the annuity, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement);

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(c) any election for the annuity, or for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement); and

(d) the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that annuity, the pension date in relation to the relevant arrangement). 5

(8) Where, in the case of any personal pension arrangement (in this subsection referred to as “the relevant arrangement”), an election for deferral is made, this Chapter and the personal pension scheme concerned shall have effect, as from the relevant date, as if there had been, and continued to be, a separate personal pension arrangement and— 10 15

(a) the income withdrawal fund which relates to the election, together with the amount of any qualifying lump sum payable in connection with the election, had been the personal pension fund in the case of that separate arrangement (and were excluded from the personal pension fund in the case of the relevant arrangement); 20

(b) the election for deferral, and any election for such a qualifying lump sum, had been made under that separate arrangement (instead of under the relevant arrangement); 25

(c) the election for deferral had been made in respect of the whole of the income withdrawal fund which relates to the election; and

(d) the relevant date were the pension date in relation to that separate arrangement (and were not, by reference to that election, the pension date in relation to the relevant arrangement).” 30

(2) This paragraph has effect on and after 6th April 2001.

*Tax relief on member’s contributions* 35

11.—(1) Amend section 639 as follows.

(2) For subsections (1) and (2) substitute—

“(1) An individual who pays a contribution under approved personal pension arrangements made by him shall be entitled to relief under this section in respect of the contribution. 40

(1A) Subsection (1) above is subject to the other provisions of this Chapter.

(1B) The total amount of contributions in respect of which relief may be given to an individual under this section for any year of assessment must not exceed— 45

(a) his relevant earnings for the year, or

(b) the earnings threshold for the year,  
whichever is the greater.

(2) Any relief under this section shall be given in accordance with—

(a) subsections (3) and (4) below, and

5 (b) where applicable, subsection (5A) below.

(2A) Relief in accordance with subsections (3) and (4) below shall be subject to such conditions as the Board may prescribe in regulations.”

(3) For subsection (3) substitute—

10 “(3) An individual who is entitled to relief under this section in respect of a contribution shall be entitled, on making the payment, to deduct and retain out of it a sum equal to income tax on the contribution at the basic rate for the year of assessment in which the payment is made.”

15 (4) For subsection (4) substitute—

“(4) Where a sum is deducted under subsection (3) above from a contribution—

(a) the scheme administrator shall allow the deduction on receipt of the residue;

20 (b) the individual paying the contribution shall be acquitted and discharged of so much money as is represented by the deduction as if the sum had been actually paid; and

(c) the sum deducted shall be treated as income tax paid by the scheme administrator.”

25 (5) After subsection (4) insert—

“(4A) Where payment of a contribution under approved personal pension arrangements is received—

30 (a) the scheme administrator shall be entitled to recover from the Board, in accordance with regulations, an amount which by virtue of subsection (4)(c) above is treated as income tax paid by him; and

(b) any amount so recovered shall be treated for the purposes of the Tax Acts in like manner as the payment of the contribution to which it relates.”

35 (6) In subsection (5) (regulations for carrying subsections (3) and (4) into effect)—

(a) for “(3) and (4)” substitute “(3) to (4A)”; and

(b) in paragraph (a), for “(4)(b)” substitute “(4A)(a)”.

(7) After subsection (5) insert—

40 “(5A) Where—

(a) an individual is entitled to relief under this section in respect of contributions paid in any year of assessment, and

45 (b) apart from this subsection, income tax at the higher rate is chargeable in respect of any part of his total income for the year,

the basic rate limit for that year shall in his case be increased by the addition of the amount of the contributions in respect of which he is entitled to relief under this section.

SCH. 1 (5B) Relief in accordance with subsection (5A) above shall be given only on a claim made for the purpose.”

(8) In subsection (7) (relief not to be given under section 639 and any other provision of the Income Tax Acts in respect of same contribution) for “under this section is claimed and allowed” substitute “is given under this section”.

(9) This paragraph has effect in relation to contributions paid in the year 2001-02 or any subsequent year of assessment.

*Maximum amount of deductions*

12.—(1) Amend section 640 as follows. 10

(2) In subsection (1) (maximum deduction or set off under section 639(1) to be 17.5 per cent. of net relevant earnings)—

(a) for “that may be deducted or set off” substitute “of contributions in respect of which relief may be given”; and

(b) after “shall be” insert— 15

“(a) an amount equal to the earnings threshold for that year; or

(b) if greater,”.

(3) Amend subsection (3) (limitation on deduction or set off of certain life assurance contributions) in accordance with sub-paragraphs (4) and (5). 20

(4) For the words from the beginning to “section 637” substitute—

“(3) Without prejudice to subsection (1) above, where any contributions are paid in a year of assessment by an individual to secure benefits satisfying the conditions in section 637, the maximum amount of those contributions in respect of which relief may be given by virtue of section 639(1)”.

(5) For “shall be 5 per cent. of the individual’s net relevant earnings for that year” substitute “shall be an amount equal to 10 per cent. of the aggregate amount of the relevant pension contributions made in that year by the individual and an employer of his”. 30

(6) After subsection (3) insert—

“(3A) In subsection (3) above “relevant pension contribution” means a contribution paid towards securing benefits falling within paragraph (a), (b) or (c) of section 633(1) under arrangements made under a personal pension scheme on or after 6th April 2001.” 35

(7) In subsection (4) (reduction of maximum deduction or set off where employer makes contributions) for “that may be deducted or set off” substitute “of contributions in respect of which relief may be given by virtue of section 639(1)”.

(8) Sub-paragraphs (2), (4) and (7) have effect in relation to contributions paid in the year 2001-02 or any subsequent year of assessment. 40

(9) Sub-paragraphs (5) and (6) have effect in relation to contributions paid to secure benefits satisfying the conditions in section 637 of the Taxes Act 1988 where the contract of life assurance concerned is made on or after 6th April 2001. 45

*Carry-back of contributions*

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13. No election shall be made under section 641 in respect of contributions paid on or after 6th April 2001.

*Election for contributions to be treated as paid in previous year*

5 14.—(1) After section 641 insert—

“Election for contributions to be treated as paid in previous year.

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641A.—(1) A person who pays a contribution under approved personal pension arrangements on or before the 31st January in any year of assessment may, at the time when he pays the contribution, irrevocably elect that the contribution, or part of it, shall be treated as paid in the preceding year of assessment.

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(2) Where an election is made under this section in respect of a contribution or part of a contribution, the other provisions of this Chapter shall have effect as if the contribution or part had been paid in the year specified in the election and not in the year in which it was actually paid.”

(2) This paragraph has effect in relation to contributions paid in the year 2001-02 or any subsequent year of assessment.

*Abolition of carry-forward of relief*

20 15. No relief shall be given by virtue of section 642 (carry-forward of relief) in the year 2001-02 or any subsequent year of assessment.

*Earnings from pensionable employment*

16.—(1) Amend section 645 as follows.

25 (2) In subsection (3) (definition of “a relevant superannuation scheme”) omit the word “and” immediately preceding paragraph (c) and at the end of that paragraph add “; and

(d) which is not an approved converted scheme”.

*Meaning of “net relevant earnings”*

17.—(1) Amend section 646 as follows.

30 (2) In subsection (5) (cases where the whole or part of a deduction under subsection (2)(d) falls to be made from income other than relevant earnings) for “an amount is deducted or set off under section 639(1) against the net relevant earnings” substitute “the basic rate limit is increased in accordance with section 639(5A) in the case”.

35 (3) In subsection (6) (reduction of net relevant earnings in subsequent years) for “under section 639(1)” substitute “in accordance with section 639(5A)”.

(4) Omit subsection (7) (net relevant earnings to be computed without regard to any deduction or set off under section 639(1)).

40 (5) This paragraph has effect for the year 2001-02 and subsequent years of assessment.

SCH. 1 *Presumption of same level of relevant earnings etc for 5 years*

18.—(1) After section 646A insert—

“Presumption of same level of relevant earnings etc for 5 years. 646B.—(1) This section applies where an individual (the “relevant member”) who is or becomes a member of a personal pension scheme provides to the scheme administrator the requisite evidence of the relevant amounts for any year of assessment (the “basis year”). 5

(2) For the purposes of this section, the “relevant amounts” for any year of assessment are the amounts which need to be known in order to calculate the relevant member’s net relevant earnings for that year. 10

(3) The basis year need not be a year of assessment in which the relevant member is a member of the personal pension scheme concerned.

(4) Where this section applies, it shall be presumed for the purposes of this Chapter in the case of the relevant member and the personal pension scheme concerned that, for each of the five years of assessment following the basis year, the relevant amounts (and, accordingly, the relevant member’s net relevant earnings) are the same as for the basis year. 15 20

(5) Subsection (4) above is subject to—

- (a) subsections (6) to (9) below; and
- (b) such conditions or exceptions as may be prescribed.

(6) For the purposes of this section, the requisite evidence provided for a later basis year (the “later basis year”) 25 supersedes the requisite evidence provided for an earlier basis year (the “earlier basis year”).

(7) Subsection (6) above has effect subject to, and in accordance with, subsections (8) and (9) below.

(8) If— 30

- (a) the actual net relevant earnings for the later basis year, exceed
- (b) the actual net relevant earnings for the earlier basis year, 35

the supersession effected by subsection (6) above has effect as respects the later basis year and subsequent years of assessment (and subsection (4) above applies accordingly).

(9) Where the condition in subsection (8) above is not satisfied, the supersession effected by subsection (6) above 40 has effect only as respects years of assessment later than the last of the five years of assessment following the earlier basis year (and subsection (4) above applies accordingly).

(10) It is immaterial for the purposes of this section whether the requisite evidence for a later year of assessment 45 is provided before or after, or at the same time as, the requisite evidence for an earlier year of assessment.

- (11) This section is subject to section 646D.
- Provisions supplementary to section 646B. 646C.—(1) In this section and section 646B above, “requisite evidence” means evidence—
- (a) of such a description as may be prescribed;
  - 5 (b) in such form as may be prescribed; and
  - (c) satisfying such conditions as may be prescribed.
- (2) Regulations may make further provision in connection with requisite evidence.
- (3) The provision that may be made by regulations under subsection (2) above includes provision for or in connection with the provision, use, retention, production or inspection of, or of copies of,—
- 10 (a) requisite evidence;
  - (b) books, documents or other records relating to any requisite evidence; or
  - 15 (c) extracts from requisite evidence or from such books, documents or other records.
- (4) Any power to make regulations under this section or section 646B includes power to make regulations for different provision for different cases or different purposes.
- 20 (5) In this section and section 646B above—  
“prescribed” means specified in or determined in accordance with regulations;  
“regulations” means regulations made by the Board.”
- 25 (2) Sub-paragraph (1) above has effect in relation to presumptions for the year 2001-02 and subsequent years of assessment.

*Higher level contributions after cessation of actual relevant earnings:  
modification of section 646B*

- 19.—(1) After section 646C insert—
- 30 “Higher level contributions after cessation of actual relevant earnings: modification of section 646B. 646D.—(1) This section applies where a member of a personal pension scheme—
- (a) has no actual relevant earnings in a year of assessment (the “break year”); but
  - 35 (b) had actual relevant earnings in the preceding year of assessment (the “cessation year”); and
  - (c) was entitled to make higher level contributions under arrangements under the scheme in any one or more of the six years of assessment preceding the break year (the “reference years”).
- (2) In the application of the presumption in subsection (4) of section 646B for any qualifying post-cessation year, in a case where this section applies, the basis year may be any one of the reference years for which the member provides or has provided the requisite evidence—
- 40 (a) notwithstanding anything in subsections (6) to (9) of that section; and
  - 45 (b) notwithstanding anything in subsections (6) to (9) of that section; and

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(b) whether or not the qualifying post-cessation year is included among the five years of assessment following the basis year.

(3) If the member provides or has provided the requisite evidence for two or more of the reference years, he may by notice in writing to the scheme administrator nominate that one of those years which is to be the basis year by virtue of subsection (2) above. 5

(4) In this section “post-cessation year”, in the case of the member concerned, means any of the five years of assessment following the cessation year. 10

(5) For the purposes of this section any post-cessation year is a “qualifying” post-cessation year unless—

(a) it is a year for which the member has any actual relevant earnings; 15

(b) it is a year throughout which the member holds an office or employment to which section 645 applies; or

(c) it immediately follows a post-cessation year which is not a qualifying post-cessation year. 20

(6) Subsection (5) above is without prejudice to the further application of this section in relation to the member if the conditions in subsection (1) above are again fulfilled.

(7) In this section—

“the basis year” shall be construed in accordance with section 646B; 25

“the requisite evidence” has the same meaning as in that section.”

(2) This paragraph has effect where the break year is 2001-02 or any subsequent year of assessment. 30

*Appeals*

20.—(1) Amend section 651 as follows.

(2) In subsection (1)(a) (appeal against refusal of application under section 631) after “section 631” insert “or paragraph 3 of Schedule 23ZA”.

*Old transitional provisions* 35

21.—(1) Amend section 655 as follows.

(2) In subsection (1)(a) (reduction of relief under section 639 where relief is given for certain qualifying premiums) for “that may be deducted or set off” substitute “of contributions in respect of which relief may be given”.

(3) This paragraph has effect for the year 2001-02 and subsequent years of assessment. 40

*Benefits under approved pension arrangements not to be income of settlor* SCH. 1

22.—(1) Amend section 660A (income arising under settlement where settlor retains an interest) as follows.

(2) Omit subsection (7) (irrevocable allocation of certain pension rights between spouses not to be regarded as settlement).

(3) In subsection (9) (descriptions of income to which subsection (1) does not apply) at the end of paragraph (b) add “; or

(c) a benefit under an approved pension arrangement”.

(4) After subsection (10) add—

10 “(11) In this section “approved pension arrangement” means—

(a) an approved scheme or exempt approved scheme;

(b) a relevant statutory scheme;

15 (c) a retirement benefits scheme set up by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees;

(d) a contract or scheme which is approved under Chapter III of Part XIV (retirement annuities);

(e) a personal pension scheme which is approved under Chapter IV of that Part;

20 (f) an annuity purchased for the purpose of giving effect to rights under a scheme falling within any of paragraphs (a) to (c) and (e) above;

(g) any pension arrangements of any description which may be prescribed by regulations made by the Secretary of State.

25 (12) In subsection (11) above “approved scheme”, “exempt approved scheme”, “relevant statutory scheme” and “retirement benefits scheme” have the same meaning as in Chapter I of Part XIV.”

(5) This paragraph has effect for the year 2001-02 and subsequent years of assessment.

30 *Conversion of certain approved retirement benefits schemes*

23. After Schedule 23 insert—

“SCHEDULE 23ZA

Section 631A.

CONVERSION OF CERTAIN APPROVED RETIREMENT BENEFITS SCHEMES

*Interpretation*

35 1.—(1) In this Schedule—

“the date of the change” shall be construed in accordance with paragraph 3(2) below;

“eligible scheme” shall be construed in accordance with paragraph 2(4) below;

40 “the personal pension provisions of this Act” means this Schedule and the other provisions of Chapter IV of Part XIV;

“prescribed” (except in paragraph 2(3)(c)) means specified in, or determined in accordance with, regulations;

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“regulations” means regulations made by the Board.

(2) Any power conferred by this Schedule to make regulations includes power to make different provisions for different cases or different purposes.

*Eligible schemes*

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2.—(1) This Schedule applies to any retirement benefits scheme which is for the time being approved under Chapter I of Part XIV.

(2) Sub-paragraph (1) above is subject to the following provisions of this paragraph.

(3) This Schedule applies to a retirement benefits scheme only if— 10

1993 c. 48.  
1993 c. 49.

(a) it is an occupational pension scheme, as defined in section 1 of the Pension Schemes Act 1993 or section 1 of the Pension Schemes (Northern Ireland) Act 1993;

(b) it provides money-purchase benefits, as defined in section 181 of the Pension Schemes Act 1993; 15

(c) any documents relating to the scheme which are prescribed under section 631(1) are such that, subject to approval under paragraph 3 below, the scheme is capable of being an approved personal pension scheme for the purposes of Chapter IV of Part XIV as from the date of the change; and 20

(d) such other conditions as may be prescribed are satisfied in the case of the scheme.

(4) Any retirement benefits scheme to which this Schedule applies is referred to in this Schedule as an “eligible scheme”.

*Approval of eligible schemes as approved personal pension schemes* 25

3.—(1) The trustees of an eligible scheme may at any time on or after 1st October 2000 apply to the Board for approval of the scheme under this paragraph.

(2) If an application under sub-paragraph (1) above is granted, the eligible scheme shall, as from such date as the Board may specify in granting the application (the “date of the change”),— 30

(a) irrevocably cease to be approved, and to be capable of approval, under Chapter I of Part XIV; and

(b) become an approved personal pension scheme (and subject accordingly to section 631(4) and the other provisions of Chapter IV of Part XIV). 35

(3) The date of the change must not be earlier than 6th April 2001.

(4) An application under sub-paragraph (1) above shall be in such form, shall contain such information, and shall be accompanied by such documents, in such form, as the Board may prescribe. 40

(5) The Board may at their discretion grant or refuse an application under sub-paragraph (1) above.

(6) The Board’s discretion under sub-paragraph (5) above shall be subject to the restrictions set out in sections 632 to 638A and this Schedule. 45

(7) The Board shall give notice to the applicant of the grant or refusal of an application.

(8) A notice under sub-paragraph (7) above shall, in the case of a refusal, state the grounds for the refusal.

5 (9) If, at any time after the making of an application under sub-paragraph (1) above, the eligible scheme concerned ceases to be approved under Chapter I of Part XIV otherwise than by virtue of the operation of sub-paragraph (2)(a) above, the scheme shall not, by virtue of that application, become an approved personal pension scheme.

10 *Excessive funding of certain individual members*

4.—(1) The Board may refuse or withhold approval under paragraph 3 above in the case of an eligible scheme of a prescribed description if or so long as they are not satisfied that prescribed requirements will be fulfilled with respect to—

15 (a) the value of any prescribed benefits which may be provided for or in respect of an individual member of a prescribed description, and

(b) the value of the assets held for the purpose of providing benefits for or in respect of that member,

20 if approval under paragraph 3 above is granted.

(2) Regulations may make provision for or in connection with cases where the value mentioned in paragraph (b) of sub-paragraph (1) above exceeds, or exceeds by more than a prescribed percentage, the value mentioned in paragraph (a) of that sub-paragraph.

25 (3) The provision that may be made by virtue of sub-paragraph (2) above includes provision for or in connection with eliminating or reducing any such excess within a prescribed period by one or more prescribed methods.

(4) Regulations may make provision for the purposes of this paragraph for or in connection with—

30 (a) the valuation of benefits; or

(b) the valuation of assets.

(5) The provision that may be made by virtue of sub-paragraph (4)(a) or (b) above includes provision with respect to, or in connection with,—

35 (a) the person by whom any such valuation is to be made;

(b) the method or principles of valuation to be used;

(c) certification of any such valuations and of any prescribed matters relating to or connected with them;

40 (d) any facts, matters or assumptions by reference to which any such valuation is to be made;

(e) any tables to be used for the purpose of making any such valuation;

(f) the basis on which any such tables are to be prepared;

45 (g) the manner in which any such tables are to be applied.

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(6) The methods or principles of valuation and the tables that may be prescribed by virtue of sub-paragraph (5) above include methods or principles or, as the case may be, tables published by the Government Actuary for any purposes of the personal pension provisions of this Act.

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*Scheme rules to allow changes for purpose of conversion*

5. An approved retirement benefits scheme shall be taken to include provisions allowing the making of changes to any provisions of the scheme for the purpose of enabling the scheme to become an eligible scheme, notwithstanding anything to the contrary in any provision of the scheme.”

PART II

TRANSITIONAL PROVISIONS

*Existing approved schemes deemed to contain certain provisions*

24.—(1) This paragraph applies to any personal pension scheme which is or has been approved under Chapter IV of Part XIV of the Taxes Act 1988 before 6th April 2001 (an “existing approved scheme”).

(2) An existing approved scheme shall be deemed to include provision prohibiting, in relation to arrangements made by a member in accordance with the scheme, the acceptance of—

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- (a) contributions by the member, or
- (b) contributions by an employer of the member,

at a time when the member is not eligible to make contributions.

(3) An existing approved scheme shall be deemed to include provision, in relation to arrangements made by a member in accordance with the scheme, requiring that contributions accepted at a time when the member is not eligible to make contributions are repaid—

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- (a) to the member, to the extent of his contributions; and
- (b) as to the remainder, to his employer.

(4) An existing approved scheme shall be taken to include provisions prohibiting the scheme from making provision for any benefit so far as consisting of insurance against a risk relating to the non-payment of contributions where—

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- (a) the benefit, so far as so consisting, does not fall within one or more of the paragraphs of section 633(1) of the Taxes Act 1988; and
- (b) the insurance is under a contract of insurance made on or after 6th April 2001.

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(5) Sections 646B to 646D of the Taxes Act 1988, and any regulations made under those sections, override any provision of an existing approved scheme to the extent that it conflicts with them.

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(6) An existing approved scheme shall be deemed to include provision entitling any member who is eligible to make contributions in a year of assessment under arrangements made by him under the scheme to make contributions in that year up to the earnings threshold for the year.

(7) Nothing in sub-paragraph (6) authorises the making, in the case of any member, of total contributions in a year of assessment which exceed the earnings threshold for the year or, if greater, the permitted maximum for the year.

5 (8) In this paragraph—

“approved personal pension arrangements” has the same meaning as in Chapter IV of Part XIV of the Taxes Act 1988 (see section 630(1) of that Act);

10 “earnings threshold” has the same meaning as in Chapter IV of Part XIV of the Taxes Act 1988 (see section 630(1) of that Act);

“eligible to make contributions” shall be construed in accordance with section 632A of the Taxes Act 1988;

“the permitted maximum” has the same meaning as in section 638(3) of the Taxes Act 1988;

15 “personal pension scheme” has the same meaning as in Chapter IV of Part XIV of the Taxes Act 1988 (see section 630(1) of that Act);

20 “total contributions”, in the case of a member and a year of assessment, means the aggregate amount of the contributions made in the year by the member and any employer of his under the approved personal pension arrangements in question, together with the aggregate amounts of such contributions under other approved personal pension arrangements made by that member.

*Deemed requisite evidence for the presumptions*

25 25.—(1) This paragraph applies where, in the case of any individual and any arrangements made by him under an approved personal pension scheme,—

(a) the conditions in regulations 5 and 6 of the Personal Pension Schemes (Relief at Source) Regulations 1988 (“the 1988 Regulations”) are satisfied for one or more of the five years of assessment preceding the year 2001-02; S.I. 1988/1013.

(b) the particulars specified in regulation 5(2)(e) of the 1988 Regulations have been furnished for a year of assessment (“the relevant year”) for which those conditions are satisfied and which is one of those five years of assessment; and

35 (c) such a certificate as is specified in regulation 6(2)(a) of the 1988 Regulations has been furnished at some time during, or not later than 60 days after the end of, such a year of assessment.

(2) Where this paragraph applies, it shall be assumed for the purposes of sections 646B to 646D of the Taxes Act 1988—

40 (a) that the individual has provided the scheme administrator with the requisite evidence of the relevant amounts for the relevant year; and

(b) that the relevant amounts for that year are the amounts stated in, or deduced from, the relevant particulars and certificates.

45 (3) In sub-paragraph (2) above, “the relevant particulars and certificates” means the latest particulars and certificates furnished under regulations 5 and 6 of the 1988 Regulations by reference to which the relevant year is a year for which the conditions prescribed in those regulations are satisfied.

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*Applications for approval*

26. An application to the Board for their approval under Chapter IV of Part XIV of the Taxes Act 1988 of—

(a) a personal pension scheme, or

(b) an amendment to a personal pension scheme approved under that Chapter,

may not be made before 1st October 2000 if the scheme or amendment makes or includes any provision such that the Board could not give their approval apart from the amendments made to the Taxes Act 1988 by this Schedule.

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## SCHEDULE 2

## ENACTMENTS REPEALED [J2030]

## PART [ ]

## OCCUPATIONAL AND PERSONAL PENSION SCHEMES

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Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 611(3), the words “retirement benefits” in both places where they occur. 20 Section 630(3). Section 633(2). In section 638(4), paragraph (b) and the word “and” immediately preceding it. 25 Section 641. Section 642. In section 645(3), the word “and” immediately preceding paragraph (c). 30 Section 646(7). Section 660A(7).
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraph 18.

1. The repeal of section 633(2) of the Taxes Act 1988 has effect in accordance with paragraph 7 of Schedule 1 to this Act. 35

2. The repeals in section 638(4) of the Taxes Act 1988 have effect in relation to contributions paid in the year 2001-02 and subsequent years of assessment.

1996 c. 8. 3. The repeals of section 641 of the Taxes Act 1988 and paragraph 18 of Schedule 21 to the Finance Act 1996 have effect in accordance with paragraph 13 of Schedule 1 to this Act. 40

4. The repeal of section 642 of the Taxes Act 1988 has effect in accordance with paragraph 15 of Schedule 1 to this Act. SCH. 2
5. The repeal of section 646(7) of the Taxes Act 1988 has effect for the year 2001-02 and subsequent years of assessment.
- 5 6. The repeal of section 660A(7) has effect for the year 2001-02 and subsequent years of assessment.