



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 3

#### PAYMENTS BY REGISTERED PENSION SCHEMES

##### *Authorised member payments*

#### **169 Recognised transfers**

- (1) A “recognised transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme so as to become held for the purposes of, or to represent rights under—
- (a) another registered pension scheme, or
  - (b) a qualifying recognised overseas pension scheme,
- in connection with a member of that pension scheme.

[<sup>F1</sup>(1A) A transfer of sums or assets held for the purposes of, or representing accrued rights under, a registered pension scheme to an insurance company is to be treated as a recognised transfer if the sums or assets had been applied by the pension scheme towards the provision of a scheme pension or a dependants' scheme pension (but subject to regulations under subsections (1B) and (1C)).

- (1B) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a scheme pension to which a member of a registered pension scheme has become entitled (“the original scheme pension”)—
- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a scheme pension (a “new scheme pension”), and

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- (b) if they are so applied, the new scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original scheme pension.

(1C) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent rights in respect of a dependants' scheme pension to which a dependant of a member of a registered pension scheme has become entitled in respect of the member (“the original dependants' scheme pension”)—

- (a) the transfer is not a recognised transfer unless those sums and assets are, after the transfer, applied towards the provision of a dependants' scheme pension (a “new dependants' scheme pension”), and
- (b) if they are so applied, the new dependants' scheme pension is to be treated, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, as if it were the original dependants' scheme pension.

(1D) The Board of Inland Revenue may by regulations provide that, where any of the sums or assets transferred represent—

- (a) a [<sup>F2</sup>member's drawdown pension fund or dependant's drawdown pension fund], <sup>F3</sup>... [<sup>F4</sup>or
- (aa) a member's flexi-access drawdown fund or dependant's flexi-access drawdown fund,]<sup>F5</sup>or
- (ab) a nominee's flexi-access drawdown fund, or
- (ac) a successor's flexi-access drawdown fund,]  
<sup>F3</sup>(b) .....

under an arrangement (“the old arrangement”), the transfer is not a recognised transfer unless all of those sums and assets become held under an arrangement under which no other sums or assets are held (“the new arrangement”).

(1E) If regulations so provide they may make in relation to cases in which the sums and assets become so held provision as to the treatment for the purposes of any provision of this Part of—

- (a) the sums and assets transferred, and
- (b) the new arrangement,

including provision for treating the sums and assets transferred as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, sums and assets held under the old arrangement.]

[<sup>F6</sup>(1F) The Commissioners for His Majesty’s Revenue and Customs may by regulations make provision as to the treatment for the purposes of any provision of this Part of a CMP-derived drawdown pension.

(1G) The provision that may be made under subsection (1F) includes provision for treating sums or assets held for the purposes of a CMP-derived drawdown pension as remaining, to such extent as is prescribed by the regulations and for such of the purposes of this Part as are so prescribed, held for the purposes of the collective money purchase arrangement under the pension scheme from which they were transferred.]

(2) For the purposes of this Part a recognised overseas pension scheme is a qualifying recognised overseas pension scheme if—

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- (a) the scheme manager has given to the Inland Revenue notification that it is a recognised overseas pension scheme and has provided any such evidence that it is a recognised overseas pension scheme as the Inland Revenue may require,
  - (b) the scheme manager has undertaken to the Inland Revenue to inform the Inland Revenue if it ceases to be a recognised overseas pension scheme,
  - [<sup>F7</sup>(ba) the scheme manager has confirmed to an officer of Revenue and Customs that the scheme manager understands the scheme manager's potential liability to overseas transfer charge and has undertaken to such an officer to operate the charge including by meeting the scheme manager's liabilities to the charge,]
  - (c) the scheme manager has undertaken to the Inland Revenue to comply with [<sup>F8</sup>any requirements imposed under subsection (4)], and
  - (d) the recognised overseas pension scheme is not excluded from being a qualifying recognised overseas pension scheme by subsection (5).
- [<sup>F9</sup>(2A) Regulations may make provision as to—
- (a) information that is to be included in, or is to accompany, a notification under subsection (2)(a);
  - (b) the way and form in which such a notification, or any required information or evidence, is to be given or provided.]
- (3) In this Part “scheme manager”, in relation to a pension scheme, means the person or persons administering, or responsible for the management of, the pension scheme.
- [<sup>F10</sup>(4) Regulations may require the scheme manager of a QROPS or former QROPS to—
- (a) give the Commissioners information of a prescribed description,
  - (b) give the Commissioners such evidence as they may require of a prescribed matter,
  - [<sup>F11</sup>(ba) give information of a prescribed description to the scheme manager of a QROPS or former QROPS,
  - (bb) give information of a prescribed description to the scheme administrator of a registered pension scheme,
  - (bc) give information of a prescribed description to a member, or former member, of the QROPS or former QROPS,] and
  - (c) give a prescribed authority, in prescribed circumstances, information of a prescribed description.
- [<sup>F12</sup>(4ZA) Regulations may require a member, or former member, of a QROPS or former QROPS to give information of a prescribed description to the scheme manager of a QROPS or former QROPS.]
- (4A) Regulations under subsection (4) [<sup>F13</sup>or (4ZA)] may make provision as to—
- (a) the way and form in which information or evidence is to be given, and
  - (b) the times or intervals at which information or evidence is to be given.
- (4B) The regulations may apply any provision of Part 7 of Schedule 36 to FA 2008 (penalties), with or without modifications, in relation to requirements imposed under the regulations on a former QROPS.]
- [<sup>F14</sup>(4C) Provision under subsection (2A)(b) or (4A)(a) may, in particular, provide for use of a way or form specified by the Commissioners.]

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(5) A recognised overseas pension scheme is excluded from being a qualifying recognised overseas pension scheme by this subsection if [<sup>F15</sup>the Commissioners have] decided that—

- (a) [<sup>F16</sup>any of the following conditions is met in relation to the scheme—
  - (i) there has been a failure to comply with a relevant requirement and the failure is significant,
  - (ii) any information given pursuant to a relevant requirement is [<sup>F17</sup>inaccurate] in a material respect,
  - (iii) any declaration given pursuant to a relevant requirement is false in a material respect,
  - (iv) there is no scheme manager,] and
- (b) by reason of [<sup>F18</sup>that condition being met] it is not appropriate that transfers of sums or assets held for the purposes of, or representing accrued rights under, registered pension schemes so as to become held for the purposes of, or to represent rights under, the recognised overseas pension scheme should be recognised transfers,

and has notified the person or persons appearing to be the scheme manager of that decision (but subject to subsection (7) and section 170).

[<sup>F19</sup>(6) A failure to comply with a requirement is significant if—

- (a) it is a failure to give information or evidence that is (or may be) of significance, or
- (b) there are reasonable grounds for believing that the failure prejudices (or might prejudice) the assessment or collection of tax by the Commissioners.]

(7) The Inland Revenue—

- (a) may at any time after a recognised overseas pension scheme becomes excluded from being a qualifying recognised overseas pension scheme decide that the pension scheme is to cease to be so excluded, and
- (b) must notify the scheme manager of the decision.

[<sup>F20</sup>(7A) Regulations may, in a case where—

- (a) any of the sums and assets transferred by a relevant overseas transfer represent rights in respect of a pension to which a person has become entitled under the transferring scheme (“the original pension”), and
- (b) those sums and assets are, after the transfer, applied towards the provision of a pension under the other scheme (“the new pension”),

provide that the new pension is to be treated, to such extent as is prescribed and for such of the purposes of this Part as are prescribed, as if it were the original pension.

(7B) For the purposes of subsection (7A), a “relevant overseas transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a relevant overseas scheme (“the transferring scheme”) so as to become held for the purposes of, or to represent rights under—

- (a) another relevant overseas scheme, or
- (b) a registered pension scheme,

in connection with a member of that pension scheme.

(7C) In subsection (7B) “relevant overseas scheme” means—

- (a) a QROPS, or

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(b) a relevant non-UK scheme (see paragraph 1(5) of Schedule 34).

(7D) Regulations under subsection (7A) may—

- (a) apply generally or only in specified cases, and
- (b) make different provision for different cases.]

[<sup>F21</sup>(8) In subsections (4) to (6) [<sup>F22</sup>, (7A) to (7D)] and this subsection—

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“prescribed” means prescribed by regulations;

“QROPS” means a qualifying recognised overseas pension scheme, and  
“former QROPS” means a scheme that has at any time been a QROPS;

“regulations” means regulations made by the Commissioners;

“relevant requirement” means—

- (a) a requirement imposed by regulations under subsection (4), or
- (b) a requirement imposed by virtue of Part 1 of Schedule 36 to FA 2008 (powers to obtain information and documents)<sup>[F23]</sup>, or
- (c) a requirement to pay overseas transfer charge, or interest on overseas transfer charge, imposed by regulations under section 244L(2) or by an assessment under such regulations.]]

#### Textual Amendments

- F1** S. 169(1A)-(1E) inserted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), [Sch. 10 paras. 36](#), 64(1)
- F2** Words in s. 169(1D)(a) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 66\(a\)](#)
- F3** S. 169(1D)(b) and preceding word omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 66\(b\)](#)
- F4** S. 169(1D)(aa) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 8](#)
- F5** S. 169(1D)(ab)(ac) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 4](#)
- F6** S. 169(1F)(1G) inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [s. 24\(3\)](#)
- F7** [S. 169\(2\)\(ba\)](#) inserted (with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 paras. 13\(2\)](#), 25(3)
- F8** Words in s. 169(2)(c) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(3\)](#)
- F9** S. 169(2A) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(3\)](#)
- F10** S. 169(4)-(4B) substituted for s. 169(4) (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(4\)](#)
- F11** S. 169(4)(ba)-(bc) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 92](#)
- F12** S. 169(4ZA) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(4\)](#)
- F13** Words in s. 169(4A) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(5\)](#)
- F14** S. 169(4C) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(6\)](#)
- F15** Words in s. 169(5) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(5\)\(a\)](#)
- F16** S. 169(5)(a) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(5\)\(b\)](#)
- F17** Word in s. 169(5)(a)(ii) substituted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 23\(a\)](#)
- F18** Words in s. 169(5)(b) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(5\)\(c\)](#)
- F19** S. 169(6) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(6\)](#)

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- F20** S. 169(7A)-(7D) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(7\)](#)
- F21** S. 169(8) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 53\(7\)](#)
- F22** Words in s. 169(8) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(8\)\(a\)](#)
- F23** Words in s. 169(8) inserted (retrospective to 9.3.2017 and with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 13\(8\)\(b\)](#)

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**Commencement Information**

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

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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):

- s. 166(1)(aa) inserted by 2024 c. 3 Sch. 9 para. 17(2)(a)
- s. 204(3) inserted by 2024 c. 3 Sch. 9 para. 2
- s. 232(8E) inserted by 2024 c. 3 Sch. 9 para. 4(4)
- s. 236(8E) inserted by 2024 c. 3 Sch. 9 para. 5(4)
- s. 236ZA inserted by S.I. 2024/357 art. 2(2)
- s. 244G(5) inserted by 2024 c. 3 Sch. 9 para. 51(4)
- s. 244J(1A) inserted by 2024 c. 3 Sch. 9 para. 55(2)
- s. 244K(1A) substituted for s. 244K(1) by 2024 c. 3 Sch. 9 para. 57(3)
- s. 244K(3A) inserted by 2024 c. 3 Sch. 9 para. 57(6)
- s. 244K(7A)(7B) inserted by S.I. 2024/356 reg. 3(5)
- s. 244AA-244AC substituted for s. 244A by 2024 c. 3 Sch. 9 para. 45
- s. 244IA-244IC inserted by 2024 c. 3 Sch. 9 para. 54
- s. 244ID inserted by S.I. 2024/356 reg. 3(2)
- s. 244JA inserted by 2024 c. 3 Sch. 9 para. 56
- s. 256(1)(g)-(i) inserted by 2024 c. 3 Sch. 9 para. 100(3)(e)
- s. 278A278B inserted by 2024 c. 3 Sch. 9 para. 23
- Sch. 11 para. 4(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(a)(ii)
- Sch. 11 para. 8(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(b)(ii)
- Sch. 11 para. 12(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(c)(ii)
- Sch. 29 para. 3B inserted by 2024 c. 3 Sch. 9 para. 26(8)
- Sch. 29 para. 3C and cross-heading inserted by 2024 c. 3 Sch. 9 para. 26(9)
- Sch. 29 para. 12A inserted by 2024 c. 3 Sch. 9 para. 36
- Sch. 29 para. 4A(8) inserted by 2024 c. 3 Sch. 9 para. 63(4)
- Sch. 29 para. 3C(2) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(3) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(5)(b) and word omitted by S.I. 2024/356 reg. 3(10)(c)(ii)
- Sch. 29 para. 2A-2D substituted for Sch. 29 para. 3 by 2024 c. 3 Sch. 9 para. 26(5)
- Sch. 29 para. 13(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 37(2)
- Sch. 29 para. 3C(1)(b) words inserted by S.I. 2024/356 reg. 3(10)(a)
- Sch. 29 para. 3C(5)(a) words inserted by S.I. 2024/356 reg. 3(10)(c)(i)
- Sch. 29 para. 13(1)(d) words omitted by 2024 c. 3 Sch. 9 para. 37(3)
- Sch. 32 para. A1A2 and cross-headings inserted by 2024 c. 3 Sch. 9 para. 13(4)
- Sch. 33 para. 4(4) inserted by 2024 c. 3 Sch. 9 para. 59(2)(b)
- Sch. 33 para. 5(6) inserted by 2024 c. 3 Sch. 9 para. 59(3)(c)
- Sch. 33 para. 4(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 59(2)(a)
- Sch. 34 para. 5ZA inserted by 2024 c. 3 Sch. 9 para. 60(3)
- Sch. 34 para. 12A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 64(3)
- Sch. 36 para. 6A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 67
- Sch. 36 para. 11(5) inserted by 2024 c. 3 Sch. 9 para. 69(5)
- Sch. 36 para. 11A(5) inserted by 2024 c. 3 Sch. 9 para. 70(4)
- Sch. 36 para. 15(2A) inserted by 2024 c. 3 Sch. 9 para. 73(3)
- Sch. 36 para. 19(1A)(1B) inserted by 2024 c. 3 Sch. 9 para. 76(3)
- Sch. 36 para. 19(7) inserted by 2024 c. 3 Sch. 9 para. 76(7)
- Sch. 36 para. 20(1)(b) and word inserted by 2024 c. 3 Sch. 9 para. 77(2)(b)
- Sch. 36 para. 20(1A) inserted by 2024 c. 3 Sch. 9 para. 77(3)
- Sch. 36 para. 20A-20G and cross-headings inserted by 2024 c. 3 Sch. 9 para. 78
- Sch. 36 para. 29A inserted by 2024 c. 3 Sch. 9 para. 85
- Sch. 36 para. 29A omitted by S.I. 2024/356 reg. 3(14)

- Sch. 36 para. 12(3A)-(3H) substituted for Sch. 36 para. 12(3) by [2024 c. 3 Sch. 9 para. 71\(2\)](#)
- Sch. 36 para. 19(2)(2A) substituted for Sch. 36 para. 19(2) by [2024 c. 3 Sch. 9 para. 76\(4\)](#)
- Sch. 36 para. 20(1)(a) words in Sch. 36 para. 20(1) renumbered as Sch. 36 para. 20(1)(a) by [2024 c. 3 Sch. 9 para. 77\(2\)\(a\)](#)