

Removing the Effective Requirement to Annuitise by Age 75

Who is likely to be affected?

This measure will primarily affect individuals with some form of defined contribution (DC) pensions assets (although this may include those with defined benefit pension rights in addition to DC savings) in UK registered pension schemes, and those already in income drawdown arrangements. In the short term, changes will mostly affect those approaching or already in retirement.

It will also affect the dependants of members of registered pension schemes who are approaching retirement or are already making income withdrawals from their pension scheme.

Scheme administrators of registered pension schemes and financial advisers with clients who are members of registered pension schemes will also be affected by the intended reforms.

General description of the measure

Legislation will be introduced in Finance Bill 2011 to remove pensions tax rules that currently create an obligation for members of registered pension schemes to secure an income, usually by buying an annuity, by age 75 from April 2011.

It will involve changes to annuitisation requirements, and pensions tax treatment and rules applying to income drawdown arrangements.

Policy objective

This measure supports the Government's objective to make the tax system simpler by removing unnecessarily restrictive and outdated rules applying to annuities and income drawdown arrangements, and simplifying the pensions tax framework.

Within a fair and sustainable pensions tax regime, this measure provides greater flexibility for individuals over how and when they can access pension savings in retirement.

Background to this measure

- The Government announced in the June Budget that it intended to end the rules that create an effective obligation to purchase an annuity at age 75.
- A consultation document *Removing the requirement to annuitise by age 75* was published on 15 July 2010 on the HM Treasury website.
- The Government has considered all responses received to the consultation, as detailed in the summary of responses accompanying this publication.

Detailed proposal

Operative date

The legislation will have effect on and after 6 April 2011, and will have the following effects:

- it will enable individuals with DC pension savings from which they have not yet taken a pension to defer a decision to take benefits from their scheme indefinitely on and after that date;
- it will enable individuals with a lifetime pension income of at least £20,000 a year to gain access to their drawdown pension funds without any cap on the withdrawals they may make on or after that date;
- the age 75 ceiling will be removed from most lump sums to which entitlement arises on or after that date;
- the tax rate on lump sum death benefits will be 55 per cent for deaths on or after that date;
- the altered withdrawal limits will have effect for all new drawdown pension arrangements made on or after that date;
- for drawdown pension arrangements made before 6 April 2011, the altered withdrawal limits will have effect for individuals whose 75th birthday is or was:
 - on or after 6 April 2011, from the start of their next reference period to begin on or after that date;
 - before 6 April 2011, from the start of the drawdown pension year in which 6 April 2011 falls (with one exception – see next bullet); and
 - from 22 June 2010 through to 5 April 2011, the changes will have effect from the start of their next drawdown pension year to begin on or after 6 April 2011.

Current law

All statutory references in this note relate to Finance Act (FA) 2004 unless otherwise specified.

Scheme members with a drawdown pension fund may take an income from their pension fund up to 120 per cent of an equivalent annuity up to age 75 (Pension rule 5 in section 165). The amount of an equivalent annuity is broadly the single-life level annuity that could have been bought with the pension fund using annuity rates set by the Government Actuary Department. The scheme must review the maximum annual withdrawal at least every five years (paragraph 10 in Schedule 28).

From age 75 scheme members with DC arrangements, who have not yet purchased an annuity, must enter into a drawdown arrangement called an alternatively secured pension (ASP). ASPs are subject to strict minimum and maximum limits on withdrawals, which are reviewed annually. Transitional provisions introduced in Schedule 3 to F(No.2)A 2010 enable scheme members who reached age 75 on or after 22 June 2010 to withdraw income from their drawdown fund of between nil and 120 per cent of an equivalent annuity after reaching the age of 75 (subject to their provider offering this facility).

Lump sum death benefits relating to individuals who die before reaching age 75 and before taking a pension are tax free.

Lump sum death benefits relating to individuals who die before reaching age 75 after taking a pension are liable to tax at 35 per cent (under section 206).

No lump sums may be paid after the member has reached the age of 75. Most lump sum rules are in Schedule 29.

The current inheritance tax (IHT) rules apply IHT to unused lump sums (i.e. lump sums where an annuity has not been purchased) remaining on death where the scheme member has an

alternatively secured pension and is over age 77. That age limit was increased from age 75 to age 77 by virtue of transitional measures announced at the Budget on 22 June 2010.

Proposed revisions

From 6 April 2011 the requirement to secure a pension income by age 75 is being removed and this will be achieved through a number of changes:

- the ASP rules are being repealed for new and existing pensioners, so removing the effective requirement for pension savers to buy an annuity by the age of 75;
- the maximum income that an individual may withdraw from most drawdown pension funds will be capped at 100 per cent of the equivalent annuity (as defined above) but will apply for as long as an individual retains the fund. The minimum annual withdrawal amount from age 75 is abolished;
- the maximum capped amount that may be withdrawn will be determined at least every three years until the end of the year in which the member reaches the age of 75, after which reviews will be carried out annually;
- individuals with drawdown pensions who have a lifetime pension income of at least £20,000 a year will be able to access the whole of their drawdown funds as pension income without a limit on annual withdrawal (subject to their provider offering flexible drawdown pensions);
- any new pension savings for an individual once a scheme has accepted an application to access the whole of their drawdown pension fund will be liable to the annual allowance charge on all pension input amounts;
- an individual making a withdrawal from a flexible drawdown pension fund during a period when they are resident outside the UK for a period of less than five full tax years will be liable for UK income tax on that withdrawal for the tax year in which they become UK resident again;
- most of the rules preventing registered pension schemes from paying lump sum benefits after the member has reached the age of 75 are being removed;
- the tax rate for all lump sum death benefits is to be set at 55 per cent, apart from death benefits for those who die before age 75 without having taken a pension, which will remain tax free; and
- unused drawdown pension funds of a member who dies with no living dependants may be donated tax free to a charity.

The changes above will also apply to members of non-UK pension schemes who have received either tax relief on contributions or funds transferred from registered pension schemes.

The inheritance tax (IHT) changes proposed under this measure are as follows:

- with effect from 6 April 2011, IHT will not typically apply to drawdown pension funds remaining under a registered pension scheme, including when the individual dies after reaching the age of 75;
- with effect from 6 April 2011, IHT anti-avoidance charges that apply to registered pension schemes and Qualifying Non UK Pension (QNUP) Schemes where the scheme member omits to take their retirement entitlements (e.g. a failure to buy an annuity) will be removed;

- IHT charges that may arise where pension scheme trustees have no discretion with regards to the paying out of lump sums after the death of scheme members (i.e. where amounts must be paid to their estate) will remain subject to IHT; and
- IHT will continue to apply to all other lump sums (i.e. those in a non-Registered Pension Scheme or non-QNUP).

Summary of impacts

Exchequer impact (£m)	The Exchequer impact of this measure will be confirmed at the Budget. It is estimated to have a negligible impact on receipts.
Economic impact	This measure is not expected to have significant economic impacts.
Impact on individuals and households	<p>All individuals with pension assets in DC schemes will benefit from greater choice over how to use their pension assets in retirement.</p> <p>It is estimated that around 50,000 individuals currently in a drawdown arrangement could initially benefit from flexible drawdown, if they choose to demonstrate they have sufficient secured lifetime income. A broad estimate, based on existing trends, is that a further 12,000 individuals a year may be able to access flexible drawdown in a steady state. With up to 200,000 individuals currently in income drawdown arrangements, a considerably larger number of individuals could potentially benefit from not being required to purchase an annuity by the age of 75. These figures are based on Financial Services Authority data.</p> <p>As well as those already in drawdown, the measure will also affect individuals who are not yet retired, or who have not yet applied all of their funds to providing a pension, and who may now choose not to buy an annuity. Around 450,000 annuities were purchased in 2009, therefore the number of individuals who could consider entering an income drawdown product instead of purchasing an annuity could be substantial in future years.</p> <p>As stated above, it is difficult to make a precise estimate of the number of people who may be able to take advantage of flexible drawdown in future, as this depends on individual circumstances. Assuming full basic State Pension (bSP) entitlement, an individual would need to secure up to £15,000 per annum from private pension sources to meet the required income level, as well as having further pension savings which they wish to withdraw. Securing an annuity income of £15,000 would require a pension fund of over £200,000 at current rates. Less than 1 per cent of the annuities sold in 2009 were purchased with a fund of this size, though as more individuals save into a DC pension, fund sizes will become larger. An individual would also be able to meet the income requirement with a defined benefit (DB) pension income of £15,000 annually on top of the bSP. There is no firm data on the number of individuals with DB income of this level who also have additional DC savings that they could withdraw under flexible drawdown.</p> <p>Since this measure increases the options open to individuals in retirement, more individuals may opt to seek financial advice as a result.</p>

	<p>Such advice will incur a cost to the individual, although it is their choice, and many may have sought advice anyway.</p> <p>Individuals wishing to access flexible drawdown will need to provide evidence that they have a secured lifetime income of £20,000 a year. This adds a small burden on the individual in this circumstance, but again it is only <i>if</i> they wish to exercise this new choice.</p> <p>Individuals already in unsecured pension or ASP arrangements will be affected by the changes to income withdrawal limits and tax charges on lump sums left at death as outlined in the above revisions section.</p> <p>In relation to IHT, the proposed change will directly affect the 1,000 or so estates each year which currently get charged on their lump sum death benefit, as well as the pension providers and financial advisors who help people plan their pensions.</p>
Equalities impacts	<p>The potential equality impacts of this policy have been considered. No significant impact upon any particular group is expected as a result of this measure. This measure adds flexibility, increasing choice for individuals.</p> <p>It has also been concluded that related changes to IHT do not raise any inequality issues.</p> <p>The main equality groups considered were age, gender and marital status. As the proposals involve changes to universal pensions tax rates and rules, there is no direct discrimination towards any group, and indirect effects simply reflect existing pension savings trends.</p>
Impact on business including third sector	<p>There are around 45,000 occupational defined contribution scheme providers, all of which will be impacted by the reforms to differing degrees. A large portion of the costs are one-off compliance costs that will involve training of staff and the adjustment of literature for clients. This will affect all providers and schemes since they will need to reflect the fact that the tax framework no longer imposes restrictions at age 75, even if they do not choose to offer additional flexibility to their members.</p> <p>For a smaller proportion of schemes that choose to offer new products relating to the policy there will be additional costs in terms of product development, new IT processes and further training.</p> <p>The majority of the 600 personal pension providers are expected to incur similar compliance costs, while independent financial advisors will initially incur additional training costs.</p> <p>The total one-off compliance costs are expected to be around £18 million. This is based on evidence received from several industry providers as part of the consultation.</p> <p>Schemes or providers that choose to offer the flexible drawdown option will face annual recurring costs from additional administrative duties. Since the number of individuals likely to seek this option will be fairly small, and the onus will be on the member to provide evidence to the provider that they have secured pension income of at least £20,000 a year, the total recurring costs are expected to be fairly low, at around £1 million.</p>

	<p>Scheme or annuity providers may need to provide evidence at a customer's request about the amount of pensions in payment for those seeking to access flexible drawdown with another provider. However the costs should be marginal, since the number of individuals is likely to be low, and the provider cost of issuing a statement should be minimal.</p> <p>This measure is not expected to have a significant impact on competition, including on small businesses.</p> <p>Small firms and business should not be affected disproportionately by changes. Since changes concern tax rates and rules affecting individuals, there cannot be specific exemptions for smaller firms. However, the potentially more burdensome aspect of reforms, offering flexible drawdown, is optional, and so small pension providers and schemes can simply choose not to offer this product. The process for entry into flexible drawdown, as noted above, is intended to place as little burden on industry as possible, including small firms. HM Revenue & Customs (HMRC) guidance will help small and large firms with queries over the detail and effect of changes.</p>																																						
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<p>Impact on public sector</p>	<p>Removing the effective requirement to annuitise by age 75 builds on and adapts existing processes, and minimises the need for additional administration.</p> <p>HMRC will need to modify the Accounting for Tax systems for registered pension schemes to change the rate at which lump sum death benefits are charged and assessed.</p> <p>Changes are also needed to the existing Event Report to remove obsolete questions and to capture notifications of individuals who receive flexible drawdown payments.</p> <p>The IHT computer system will also need to be updated so that the charges which are to be removed cannot be raised after the date of change.</p>																																						

	<p>This measure is estimated to cost HMRC up to £500,000 in IT and other systems changes.</p> <p>HMRC anticipate resources will be required to communicate the reform, and handle extra queries from individuals and their advisers, and pension schemes. Staff will need to be trained to deal with such queries. Enforcing the measure will be an integral part of HMRC's ongoing compliance and monitoring activities.</p>
Other impacts	<p>As a tax reform measure concerning private pensions, these proposals will have no impact on wider areas, such as privacy, carbon assessment, health impact assessment, rural proofing or other environmental issues. The impacts on sustainable social and economic development are negligible, as per the evaluation above on Economic Impacts. The impacts for small businesses are covered in the evaluation above on Business Impacts.</p>

Monitoring and evaluation

The policy will be monitored through information collected from pension schemes and through external financial services statistics.

Further advice

For enquiries relating to the draft clauses please contact Stephen Webb on 020 7147 2872 or Peter Seedhouse on 020 7147 2529 or send via email to pensions.policy@hmrc.gsi.gov.uk.

For enquiries relating to impact of the changes on inheritance tax please send an email to ihtandtrustsconsult.car@hmrc.gsi.gov.uk or contact Richard Kent on 020 7147 2635.

1 Pension schemes etc

Schedule 1 contains provision about pension schemes and related matters.

SCHEDULE 1

Section 1

PENSION SCHEMES ETC

PART 1

AMENDMENTS OF FA 2004

Introductory

- 1 Part 4 of FA 2004 (pension schemes etc) is amended as follows.

Unsecured and alternatively secured pension to be replaced by drawdown pension

- 2 (1) Section 165 (pension rules) is amended as follows.
- (2) In subsection (1) –
- (a) in pension rule 4 –
- (i) for “If the member has not reached the age of 75, no payment of pension” substitute “No payment of pension”, and
- (ii) for paragraph (c) substitute –
“(c) drawdown pension,”;
- (b) for pension rule 5 substitute –
- “Pension rule 5*
The total amount of drawdown pension paid in each drawdown pension year in respect of a money purchase arrangement must not exceed 100% of the basis amount for the drawdown pension year.
But this limit does not apply in relation to an arrangement to which subsection (3A) applies.”;
- (c) omit pension rules 6 and 7.
- (3) In subsection (3)(a), for “unsecured pension” substitute “drawdown pension”.
- (4) After subsection (3) insert –
- “(3A) This subsection applies to an arrangement if –
- (a) the member meets the flexible drawdown conditions,
- (b) the member makes a valid declaration to the scheme administrator to that effect, and
- (c) the declaration is accepted by the scheme administrator.
- (3B) The member meets the flexible drawdown conditions if –
- (a) the member satisfied the minimum income requirement at the relevant time,
- (b) no contributions are paid by or on behalf of, or in respect of, the member, in the tax year in which the declaration is made, to any registered pension scheme under which there is a

money purchase arrangement (other than a cash balance arrangement) relating to the member, and

- (c) at the time of the declaration the member is not an active member of any registered pension scheme under which there is a defined benefits or cash balance arrangement relating to the member.”

3 Part 1 of Schedule 28 (pension rules) is amended as follows.

4 (1) In paragraph 4 (meaning of “unsecured pension”), for ““Unsecured pension”” substitute ““Drawdown pension””.

(2) The heading before paragraph 4 becomes “*Drawdown pension*”.

5 Omit paragraph 5 (meaning of “alternatively secured pension”).

6 In paragraph 6 (short-term annuity), in sub-paragraph (1)–

(a) in paragraph (a), for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”;

(b) in paragraph (d), omit “and ends before the member reaches the age of 75”.

7 For paragraph 7 (meaning of “income withdrawal”) substitute–

“7 “Income withdrawal” means an amount (other than an annuity) which the member is entitled to be paid from the member’s drawdown pension fund in respect of an arrangement.”

8 (1) Paragraph 8 (member’s unsecured pension fund) is amended as follows.

(2) In sub-paragraph (1), for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”.

(3) In sub-paragraph (1A)(a), for “unsecured pension” substitute “drawdown pension”.

(4) Omit sub-paragraphs (2) and (3).

(5) In sub-paragraph (4), for “unsecured pension fund” (in each place) substitute “drawdown pension fund”.

(6) The heading before paragraph 8 becomes “*Member’s drawdown pension fund*”.

9 (1) Paragraph 9 (unsecured pension year) is amended as follows.

(2) In sub-paragraph (1)–

(a) for ““Unsecured pension year”” substitute ““Drawdown pension year””;

(b) in paragraph (a), for “unsecured pension” substitute “drawdown pension”.

(3) For sub-paragraph (2) substitute –

“(2) The drawdown pension year in which the member dies is the last drawdown pension year and ends immediately before the member’s death.”

(4) The heading before paragraph 9 becomes “*Drawdown pension year and basis amount for drawdown pension year*”.

10 (1) Paragraph 10 (basis amount) is amended as follows.

(2) For sub-paragraph (1) substitute –

“(A1) This paragraph applies if the member has not reached the age of 75.

(1) Subject as follows, the period of three drawdown pension years beginning with the first drawdown pension year, and each succeeding period of three drawdown pension years, is a “reference period”.

(1ZA) But the reference period in which the member reaches the age of 75 ends with the drawdown pension year in which the member reaches that age.”

(3) In sub-paragraph (1B)(b), for “five unsecured pension years” (in both places) substitute “three drawdown pension years”.

(4) In sub-paragraphs (2) and (4) –

(a) for “unsecured pension year” substitute “drawdown pension year”;

(b) for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”.

(5) In sub-paragraph (5) –

(a) for “an unsecured pension year” substitute “a drawdown pension year”;

(b) for “that unsecured pension year” substitute “that drawdown pension year”.

(6) In sub-paragraph (6) –

(a) for “unsecured pension year” substitute “drawdown pension year”;

(b) for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”.

(7) After sub-paragraph (6) insert –

“(6A) But sub-paragraph (5) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.”

(8) In sub-paragraph (7), for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”.

(9) In sub-paragraph (8), for “unsecured pension” substitute “drawdown pension”.

(10) In sub-paragraph (8A), for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”.

(11) In sub-paragraph (9)(b), for “unsecured pension year” substitute “drawdown pension year”.

(12) After sub-paragraph (10) insert –

“(11) Nothing in this paragraph applies in respect of an arrangement to which section 165(3A) applies.”

11 After paragraph 10 insert –

“10A(1) This paragraph applies if the member has reached the age of 75.

- (2) For the first drawdown pension year following that in which the member reached that age, and each succeeding drawdown pension year, the basis amount is the annual amount of the relevant annuity which could have been purchased by the application of the sums and assets representing the member's drawdown pension fund on the nominated date.
- (3) "The nominated date", in relation to the first drawdown pension year following that in which the member reached the age of 75, is—
 - (a) if the member and the scheme administrator so agree, the day immediately before the member's 75th birthday, or
 - (b) if they do not so agree, such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, the first day of that year).
- (4) "The nominated date", in relation to each other drawdown pension year, is such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the first day of that year).
- (5) Paragraph 14 defines "relevant annuity".
- (6) Nothing in this paragraph applies in respect of an arrangement to which section 165(3A) applies."

12 Omit paragraphs 11 to 13 (alternatively secured pension fund etc).

13 After paragraph 14 insert—

"Minimum income requirement

- 14A (1) The member satisfies the minimum income requirement at any time in a tax year if the amount of relevant income payable to the member for that tax year is not less than the minimum income threshold.
- (2) The minimum income threshold is £20,000.
- (3) "Relevant income" means income from any of the following—
 - (a) payments of a scheme pension or dependants' scheme pension provided by a registered pension scheme;
 - (b) payments of a lifetime annuity or dependants' annuity made by a registered pension scheme;
 - (c) payments under an overseas pension scheme which, if the scheme were a relevant non-UK scheme, would (by virtue of Schedule 34) fall within paragraph (a) or (b);
 - (d) payments of a social security pension.
- (4) But "relevant income" does not include—
 - (a) drawdown pension or dependants' drawdown pension, or
 - (b) any payments under an overseas pension scheme which, if the scheme were a relevant non-UK scheme, would (by

virtue of Schedule 34) be drawdown pension or dependants' drawdown pension.

- (5) A payment of any pension or annuity within sub-paragraph (3) is not to be regarded as relevant income unless the member has, at any time before the time mentioned in sub-paragraph (1), already received a payment of that pension or annuity.
- (6) In this paragraph “social security pension” means –
- (a) any pension, benefit or allowance to which section 577 of ITEPA 2003 applies, and
 - (b) any pension, benefit or allowance which –
 - (i) is payable under the law of a country or territory outside the United Kingdom, and
 - (ii) is substantially similar in character to a pension, benefit or allowance to which that section applies.
- 14B (1) The Treasury may by order amend paragraph 14A(2) so as to substitute a different amount for the amount for the time being specified as the minimum income threshold.
- (2) The Treasury may by regulations –
- (a) amend paragraph 14A so as to add, vary or remove descriptions of payments which are relevant income;
 - (b) provide that in prescribed circumstances the whole or part of any relevant payment, or any relevant payment of a prescribed description, is not to be regarded as relevant income.
- (3) In this paragraph –
- “prescribed” means prescribed in regulations made by the Treasury;
- “relevant payment” means a payment falling within paragraph 14A(3).

The relevant time

- 14C “The relevant time” means –
- (a) in a case where subsection (3A) of section 165 has not previously applied to an arrangement relating to the member, the time of the making of the declaration referred to in paragraph (b) of that subsection, and
 - (b) in a case where subsection (3A) of that section has previously applied to such an arrangement, the time when that subsection first so applied.

Valid and accepted declarations

- 14D (1) A declaration is “valid” if it complies with such requirements as may be prescribed by regulations made by the Commissioners for Her Majesty’s Revenue and Customs.
- (2) A declaration is accepted by the scheme administrator of a registered pension scheme if, as a result of the making of the declaration, the member becomes eligible to receive payments of

drawdown pension in respect of an arrangement under the scheme which, but for the application of section 165(3A), would be unauthorised member payments.”

Dependants’ drawdown pension

14 (1) Section 167 (pension death benefit rules) is amended as follows.

(2) In subsection (1) –

(a) in pension death benefit rule 3 –

(i) for “If the dependant has not reached the age of 75, no payment of pension death benefit” substitute “No payment of pension death benefit”, and

(ii) for paragraph (c) substitute –

“(c) dependants’ drawdown pension.”;

(b) for pension death benefit rule 4 substitute –

“Pension death benefit rule 4

The total amount of dependants’ drawdown pension paid to a dependant in each drawdown pension year in respect of a money purchase arrangement must not exceed 100% of the basis amount for the drawdown pension year.

But this limit does not apply in relation to an arrangement to which subsection (2A) applies.”;

(c) omit pension death benefit rules 5 and 6.

(3) After subsection (2) insert –

“(2A) This subsection applies to an arrangement if –

(a) the dependant meets the flexible drawdown conditions,

(b) the dependant makes a valid declaration to the scheme administrator to that effect, and

(c) the declaration is accepted by the scheme administrator.

(2B) The dependant meets the flexible drawdown conditions if –

(a) the dependant satisfied the minimum income requirement at the relevant time,

(b) no contributions are paid by or on behalf of, or in respect of, the dependant, in the tax year in which the declaration is made, to any registered pension scheme under which there is a money purchase arrangement (other than a cash balance arrangement) relating to the dependant, and

(c) at the time of the declaration the dependant is not an active member of any registered pension scheme under which there is a defined benefits or cash balance arrangement relating to the dependant.”

15 Part 2 of Schedule 28 (pension death benefit rules) is amended as follows.

16 (1) In paragraph 18 (meaning of “dependants’ unsecured pension”), for ““Dependants’ unsecured pension”” substitute ““Dependants’ drawdown pension””.

(2) The heading before paragraph 18 becomes “*Dependants’ drawdown pension*”.

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- 17 Omit paragraph 19 (meaning of “dependants’ alternatively secured pension”).
- 18 In paragraph 20 (dependants’ short-term annuity), in sub-paragraph (1) –
- (a) in paragraph (a), for “dependant’s unsecured pension fund” substitute “dependant’s drawdown pension fund”;
 - (b) in paragraph (d), omit the words “reaches the age of 75 or”.
- 19 For paragraph 21 (meaning of “dependants’ income withdrawal”) substitute –
- “21 “Dependants’ income withdrawal” means an amount (other than an annuity) which the dependant is entitled to be paid from the dependant’s drawdown pension fund in respect of an arrangement.”
- 20 (1) Paragraph 22 (dependant’s unsecured pension fund) is amended as follows.
- (2) In sub-paragraph (1), for “dependant’s unsecured pension fund” substitute “dependant’s drawdown pension fund”.
 - (3) In sub-paragraph (2)(a), for “dependant’s unsecured pension” substitute “dependants’ drawdown pension”.
 - (4) In sub-paragraph (3) –
 - (a) for “dependant’s unsecured pension fund” (in both places) substitute “dependant’s drawdown pension fund”;
 - (b) in paragraph (a), for “an unsecured pension fund” substitute “a drawdown pension fund”.
 - (5) The heading before paragraph 22 becomes “*Dependant’s drawdown pension fund*”.
- 21 (1) Paragraph 23 (unsecured pension year) is amended as follows.
- (2) In sub-paragraph (1) –
 - (a) for ““Unsecured pension year”” substitute ““Drawdown pension year””;
 - (b) in paragraph (a), for “dependants’ unsecured pension” substitute “dependants’ drawdown pension”.
 - (3) For sub-paragraph (2) substitute –

“(2) The drawdown pension year in which the dependant dies is the last drawdown pension year and ends immediately before the dependant’s death.”
 - (4) The heading before paragraph 23 becomes “*Drawdown pension year and basis amount for drawdown pension year*”.
- 22 (1) Paragraph 24 (basis amount) is amended as follows.
- (2) For sub-paragraph (1) substitute –

“(A1) This paragraph applies if the dependant has not reached the age of 75.

 - (1) Subject as follows, the period of three drawdown pension years beginning with the first drawdown pension year, and each

succeeding period of three drawdown pension years, is a “reference period”.

(1ZA) But the reference period in which the dependant reaches the age of 75 ends with the drawdown pension year in which the dependant reaches that age.”

(3) In sub-paragraph (1B)(b), for “five unsecured pension years” (in both places) substitute “three drawdown pension years”.

(4) In sub-paragraphs (2) and (4) –

(a) for “unsecured pension year” substitute “drawdown pension year”;

(b) for “dependant’s unsecured pension fund” substitute “dependant’s drawdown pension fund”.

(5) In sub-paragraph (5) –

(a) for “an unsecured pension year” substitute “a drawdown pension year”;

(b) for “that unsecured pension year” substitute “that drawdown pension year”.

(6) In sub-paragraph (6) –

(a) for “unsecured pension year” substitute “drawdown pension year”;

(b) for “dependant’s unsecured pension fund” substitute “dependant’s drawdown pension fund”.

(7) After sub-paragraph (6) insert –

“(6A) But sub-paragraph (5) does not apply where the operation of that sub-paragraph in relation to an additional fund designation during a drawdown pension year would reduce the basis amount for that drawdown pension year.”

(8) In sub-paragraph (7), for “dependant’s unsecured pension fund” substitute “dependant’s drawdown pension fund”.

(9) In sub-paragraph (8) –

(a) for “sums and assets” substitute “sums or assets”;

(b) for “unsecured dependants’ pension” substitute “dependants’ drawdown pension”.

(10) In sub-paragraph (8A), for “dependant’s unsecured pension fund” substitute “dependant’s drawdown pension fund”.

(11) In sub-paragraph (9)(b), for “unsecured pension year” substitute “drawdown pension year”.

(12) After sub-paragraph (10) insert –

“(11) Nothing in this paragraph applies in respect of an arrangement to which section 167(2A) applies.”

23 After paragraph 24 insert –

“24A(1) This paragraph applies if the dependant has reached the age of 75.

(2) For each drawdown pension year following that in which the dependant reached that age, the basis amount is the annual amount of the relevant annuity which could have been purchased

by the application of the sums and assets representing the dependant's drawdown pension fund on the nominated date.

- (3) "The nominated date" is such day within the period of 60 days ending with the first day of the drawdown pension year as is nominated by the scheme administrator (or, if no day is nominated by the scheme administrator, is the first day of that year).
- (4) Paragraph 14 defines "relevant annuity".
- (5) Nothing in this paragraph applies in respect of an arrangement to which section 167(2A) applies."

24 After paragraph 24A insert –

"Minimum income requirement

24B (1) The dependant satisfies the minimum income requirement at any time in a tax year if the amount of relevant income payable to the dependant for that tax year is not less than the minimum income threshold.

- (2) The minimum income threshold is £20,000.
- (3) "Relevant income" means income from any of the following –
 - (a) payments of a scheme pension or dependants' scheme pension provided by a registered pension scheme;
 - (b) payments of a lifetime annuity or dependants' annuity made by a registered pension scheme;
 - (c) payments under an overseas pension scheme which, if the scheme were a relevant non-UK scheme, would (by virtue of Schedule 34) fall within paragraph (a) or (b);
 - (d) payments of a social security pension.
- (4) But "relevant income" does not include –
 - (a) drawdown pension or dependants' drawdown pension, or
 - (b) any payments under an overseas pension scheme which, if the scheme were a relevant non-UK scheme, would (by virtue of Schedule 34) be drawdown pension or dependants' drawdown pension.
- (5) A payment of any pension or annuity within sub-paragraph (3) is not to be regarded as relevant income unless the dependant has, at any time before the time mentioned in sub-paragraph (1), already received a payment of that pension or annuity.
- (6) In this paragraph "social security pension" means –
 - (a) any pension, benefit or allowance to which section 577 of ITEPA 2003 applies, and
 - (b) any pension, benefit or allowance which –
 - (i) is payable under the law of a country or territory outside the United Kingdom, and
 - (ii) is substantially similar in character to a pension, benefit or allowance to which that section applies.

- 24C (1) The Treasury may by order amend paragraph 24B(2) so as to substitute a different amount for the amount for the time being specified as the minimum income threshold.
- (2) The Treasury may by regulations –
- (a) amend paragraph 24B so as to add, vary or remove descriptions of payments which are relevant income;
 - (b) provide that in prescribed circumstances the whole or part of any relevant payment, or any relevant payment of a prescribed description, is not to be regarded as relevant income.
- (3) In this paragraph –
- “prescribed” means prescribed in regulations made by the Treasury;
 - “relevant payment” means a payment falling within paragraph 24B(3).

The relevant time

- 24D “The relevant time” means –
- (a) in a case where subsection (2A) of section 167 has not previously applied to an arrangement relating to the dependant, the time of the making of the declaration referred to in paragraph (b) of that subsection, and
 - (b) in a case where subsection (2A) of that section has previously applied to such an arrangement, the time when that subsection first so applied.

Valid and accepted declarations

- 24E (1) A declaration is “valid” if it complies with such requirements as may be prescribed by regulations made by the Commissioners for Her Majesty’s Revenue and Customs.
- (2) A declaration is accepted by the scheme administrator of a registered pension scheme if, as a result of the making of the declaration, the dependant becomes eligible to receive payments of dependants’ drawdown pension in respect of an arrangement under the scheme which, but for the application of section 167(2A), would be unauthorised member payments.”
- 25 Omit paragraphs 25 to 27 (dependant’s alternatively secured pension fund etc).

Lump sums to be payable to persons aged 75 or over

- 26 Part 1 of Schedule 29 (lump sum rule) is amended as follows.
- 27 (1) Paragraph 1 (pension commencement lump sum) is amended as follows.
- (2) In sub-paragraph (1), omit paragraph (a).
 - (3) In sub-paragraph (6), for the words from “even though” to the end substitute “even though the condition in sub-paragraph (1)(c) is not met.”

- 28 In paragraph 3 (pension commencement lump sum: calculation of applicable amount), in sub-paragraph (7), for the definition of “AC” substitute –
- “AC is –
- (a) in a case where the member becomes entitled to the pension before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension, disregarding paragraph 3 of Schedule 32, and
- (b) in a case where the member becomes entitled to the pension after reaching that age, the amount that would have been so crystallised (disregarding that paragraph) but for paragraph 2 of that Schedule.”
- 29 (1) Paragraph 3A (recycling of pension commencement lump sums) is amended as follows.
- (2) In sub-paragraph (2), for “sub-paragraphs (3) and (4)” substitute “sub-paragraphs (3) to (4A)”.
- (3) After sub-paragraph (4) insert –
- “(4A) This paragraph does not apply if –
- (a) the member has reached the age of 75 when the contributions are paid as mentioned in sub-paragraph (2)(a), and
- (b) the contributions are not paid by the member’s employer.”
- (4) For sub-paragraph (5) substitute –
- “(5) “The appropriate amount” –
- (a) where the member becomes entitled to the lump sum before reaching the age of 75, is so much of the amount crystallised by the benefit crystallisation event constituted by its payment as does not exceed the amount of the member’s lifetime allowance which is available on it;
- (b) where the member becomes entitled to the lump sum after reaching that age, is the amount of the lump sum.”
- 30 In paragraph 4(1) (serious ill-health lump sum) –
- (a) at the end of paragraph (c) insert “and”;
- (b) omit paragraph (e) (and the “and” preceding it).
- 31 In paragraph 7 (trivial commutation lump sum), in sub-paragraph (1)(e), omit “but has not reached the age of 75”.
- 32 In paragraph 10(1) (winding-up lump sum) –
- (a) at the end of paragraph (d) insert “and”;
- (b) omit paragraph (f) (and the “and” preceding it).

Lump sum death benefits to be payable to persons aged 75 or over

- 33 Part 2 of Schedule 29 (lump sum death benefit rule) is amended as follows.
- 34 In paragraph 13 (defined benefits lump sum death benefit), omit paragraph (a).

- 35 (1) Paragraph 14 (pension protection lump sum death benefit) is amended as follows.
- (2) In sub-paragraph (1), omit paragraph (a).
- (3) In sub-paragraph (3), for the definition of “AC” substitute—
“AC is—
- (a) in a case where the member became entitled to the pension before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension, and
- (b) in a case where the member became entitled to the pension after having reached that age, the amount that would have been so crystallised but for paragraph 2 of Schedule 32.”
- 36 In paragraph 15 (uncrystallised funds lump sum death benefit), in sub-paragraph (1), omit paragraph (a).
- 37 (1) Paragraph 16 (annuity protection lump sum death benefit) is amended as follows.
- (2) In sub-paragraph (1), omit paragraph (a).
- (3) In sub-paragraph (3), for the definition of “AC” substitute—
“AC is—
- (a) in a case where the member became entitled to the pension or annuity before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension or annuity, disregarding paragraphs 3 and 4 of Schedule 32, and
- (b) in a case where the member became entitled to the pension or annuity after having reached that age, the amount that would have been so crystallised (disregarding those paragraphs) but for paragraph 2 of that Schedule.”
- 38 (1) Paragraph 17 (unsecured pension fund lump sum death benefit) is amended as follows.
- (2) For sub-paragraph (1) substitute—
“(1) For the purposes of this Part a lump sum death benefit is a drawdown pension fund lump sum death benefit if it is paid in respect of income withdrawal to which the member was entitled under an arrangement at the date of the member’s death.”
- (3) In sub-paragraph (2)—
- (a) for “an unsecured pension fund lump sum death benefit” substitute “a drawdown pension fund lump sum death benefit”;
- (b) omit paragraph (b) (but not the “and” following it).
- (4) In sub-paragraph (3), for “an unsecured pension fund lump sum death benefit” substitute “a drawdown pension fund lump sum death benefit”.
- (5) In sub-paragraph (4), for “unsecured pension fund” substitute “drawdown pension fund”.

- (6) The heading before paragraph 17 becomes “*Drawdown pension fund lump sum death benefit*”.
- 39 (1) Paragraph 18 (charity lump sum death benefit) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) omit paragraph (a);
 - (b) in paragraph (c), for the words from “in respect of” to “Schedule 28)” substitute “in respect of the member’s drawdown pension fund”;
 - (c) in paragraph (d), omit from “(or, if the member” to the end.
- (3) In sub-paragraph (2) –
- (a) omit paragraph (b);
 - (b) in paragraph (d), for “the dependant’s alternatively secured pension fund” substitute “the dependant’s drawdown pension fund”;
 - (c) in paragraph (e), omit from “(or, if neither the member” to the end.
- (4) In sub-paragraph (4), for the words from “representing” to “pension fund” substitute “representing what is the member’s or dependant’s drawdown pension fund”.
- 40 In paragraph 20(1) (trivial commutation lump sum death benefit), omit –
- (a) paragraph (a), and
 - (b) paragraph (c) (but not the “and” following it).

Serious ill-health lump sum charge

- 41 After section 205 insert –
- “205A Serious ill-health lump sum charge**
- (1) A charge to income tax, to be known as the serious ill-health lump sum charge, arises where a serious ill-health lump sum is paid by a registered pension scheme to a member who has reached the age of 75.
 - (2) The person liable to the serious ill-health lump sum charge is the scheme administrator.
 - (3) The scheme administrator is liable to the serious ill-health lump sum charge whether or not –
 - (a) the scheme administrator, and
 - (b) the person to whom the serious ill-health lump sum is paid, are resident, ordinarily resident or domiciled in the United Kingdom.
 - (4) The rate of the charge is 55% in respect of the lump sum.
 - (5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).
 - (6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.

- (7) A serious ill-health lump sum paid to a member who has reached the age of 75 is not to be treated as income for any purpose of the Tax Acts.”

Special lump sum death benefits charge

- 42 (1) Section 206 (special lump sum death benefits charge) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute –
“(c) a drawdown pension fund lump sum death benefit.”
- (3) After that subsection insert –
“(1A) The special lump sum death benefits charge also arises where –
(a) a defined benefits lump sum death benefit, or
(b) an uncrystallised funds lump sum death benefit,
is paid by a registered pension scheme in respect of a member who had reached the age of 75 at the date of the member’s death.”
- (4) In subsection (4), for “35%” substitute “55%”.
- (5) For subsection (7) substitute –
“(7) None of the following is to be treated as income for any purpose of the Tax Acts –
(a) any lump sum death benefit mentioned in subsection (1);
(b) a defined benefits lump sum death benefit or uncrystallised funds lump sum death benefit paid in respect of a member who had reached the age of 75 at the date of the member’s death.”

Lifetime allowance charge: benefit crystallisation events

- 43 In section 216(1) (benefit crystallisation events and amounts crystallised), in the table –
(a) in the entry for benefit crystallisation event 1, for “unsecured pension” substitute “drawdown pension”;
(b) for benefit crystallisation event 5A substitute –

“5A. The individual reaching the age of 75 having sums or assets held for the purposes of a money purchase arrangement under any of the relevant pension schemes

The aggregate of the amount of the sums and the market value of the assets representing the individual’s drawdown pension fund under the arrangement and the amount of any remaining unused funds, less the aggregate of amounts crystallised by benefit crystallisation event 1 in relation to the arrangement and the individual”.

- 44 (1) Schedule 32 (benefit crystallisation events: supplementary) is amended as follows.

- (2) In paragraph 3 (benefit crystallisation events 1 and 2: prevention of overlap) –
- (a) in sub-paragraph (1), for “unsecured pension fund” substitute “drawdown pension fund”;
 - (b) in sub-paragraph (2), for “unsecured pension” substitute “drawdown pension”.
- (3) In paragraph 4 (benefit crystallisation events 1 and 4: prevention of overlap) –
- (a) in sub-paragraph (1), for “unsecured pension fund” substitute “drawdown pension fund”;
 - (b) in sub-paragraph (2), for “unsecured pension” substitute “drawdown pension”.
- (4) In paragraph 5 (benefit crystallisation events 1 and 5: hybrid arrangements), in sub-paragraph (2), omit the words from “(with the effect that” to the end.
- (5) After paragraph 14 insert –

“Benefit crystallisation event 5A: meaning of “remaining unused funds”

14A For the purposes of benefit crystallisation event 5A “remaining unused funds” means –

- (a) in relation to a cash balance arrangement, a sum equal to what would, on the valuation assumption in section 277(a), be available for the provision of benefits to or in respect of the member if the member became entitled to them on reaching the age of 75, and
- (b) in relation to any other arrangement, such of the sums and assets held for the purposes of the arrangement as are not member-designated funds and have not been applied towards the provision of a scheme pension or a dependants’ scheme pension.”

- (6) After paragraph 15 insert –

“Benefit crystallisation event 6: prevention of overlap with other events

15A Benefit crystallisation event 6 does not apply in relation to a pension commencement lump sum if –

- (a) the individual becomes entitled to it before reaching the age of 75, but
- (b) it is not paid to the individual until after the individual has reached that age.”

- (7) In paragraph 17 (benefit crystallisation event 8: prevention of overlap with other events), in sub-paragraph (2) –
- (a) for “unsecured pension fund” substitute “drawdown pension fund”;
 - (b) for “unsecured pension” substitute “drawdown pension”.

Annual allowance charge: persons meeting flexible drawdown conditions

- 45 (1) In section 227 (annual allowance charge), at the end of subsection (4) insert –
 “But see section 227ZA (individuals who meet flexible drawdown conditions).”

(2) After section 227 insert –

“227ZA Individuals who meet flexible drawdown conditions

- (1) This section applies in the case of an individual in relation to whom there is a flexible drawdown arrangement under a pension scheme.
- (2) For each tax year following the first tax year in which there was a flexible drawdown arrangement in relation to the individual, section 227 applies to the individual as if the reference in subsection (4) of that section to the amount by which the total pension input amount exceeds the amount of the annual allowance were a reference to the amount in subsection (3) of this section.
- (3) The amount referred to in subsection (2) is –

$$\text{TPIA} - \text{RPIA}$$

where –

TPIA is the total pension input amount for the tax year, and
RPIA is so much of the aggregate of the pension input amounts in respect of each defined benefits or cash balance arrangement relating to the individual under any registered pension scheme of which the individual is not an active member as does not exceed the annual allowance.

- (4) For the tax year following the first tax year in which there was a flexible drawdown arrangement in relation to the individual, the reference in subsection (3) to a registered pension scheme of which the individual is not an active member includes, in a case where the individual was an active member of a registered pension scheme at any time during that first tax year but has not been such a member since the relevant time, a reference to that registered pension scheme. The “relevant time” is the time at which there first began to be a flexible drawdown arrangement in relation to the individual.
- (5) In this section “flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) applies.”

Miscellaneous consequential amendments

- 46 In section 164 (authorised member payments), in subsection (2)(b), after “the short service refund lump sum charge” insert “, the serious ill-health lump sum charge”.
- 47 In section 168(1) (lump sum death benefit rule), for paragraph (e) substitute –
“(e) a drawdown pension fund lump sum death benefit,”.
- 48 In section 169 (recognised transfers), in subsection (1D) –
 - (a) in paragraph (a), for “person’s unsecured pension fund or dependant’s unsecured pension fund” substitute “member’s drawdown pension fund or dependant’s drawdown pension fund”;
 - (b) omit paragraph (b) (and the “or” preceding it).
- 49 (1) Section 172B (increase in rights of connected person on death) is amended as follows.

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- (2) In sub-paragraph (2)(b), for “member’s unsecured pension fund or dependant’s unsecured pension fund” substitute “member’s drawdown pension fund or dependant’s drawdown pension fund”.
- (3) In sub-paragraph (7A) –
- (a) in paragraph (a), for “dependants’ unsecured pension fund or dependants’ alternatively secured pension fund” substitute “dependant’s drawdown pension fund”;
 - (b) in paragraph (b), for “dependants’ unsecured pension fund” substitute “dependant’s drawdown pension fund”.
- (4) Omit sub-paragraph (8A).
- 50 Omit section 172BA (increase in rights on death arising from alternatively secured pension fund etc).
- 51 Omit section 181A (minimum level of payment of alternatively secured pensions).
- 52 (1) Section 182 (unauthorised borrowing: money purchase arrangements) is amended as follows.
- (2) In subsection (3) –
- (a) in paragraph (a), for “member’s unsecured pension fund or alternatively secured pension fund” substitute “member’s drawdown pension fund”;
 - (b) in paragraph (b), for “dependants’ unsecured pension funds or alternatively secured pension funds” substitute “dependants’ drawdown pension funds”.
- (3) In subsection (5), for “unsecured pension fund or alternatively secured pension fund” substitute “drawdown pension fund”.
- 53 In section 211 (surchargeable unauthorised member payments: valuation of crystallised rights), in subsection (1)(b), for “member’s unsecured pension fund or alternatively secured pension fund” substitute “member’s drawdown pension fund”.
- 54 In section 212 (surchargeable unauthorised member payments: valuation of uncrystallised rights), in subsection (2), for “member’s unsecured pension fund or alternatively secured pension fund” substitute “member’s drawdown pension fund”.
- 55 In section 241(1) (scheme chargeable payment), omit paragraph (aa) (and the “and” following it).
- 56 In section 268 (unauthorised payments surcharge and scheme sanction charge), in subsection (6), omit –
- (a) “172BA,” and
 - (b) “or arises under section 181A”.
- 57 In section 273A (insurance company liable as scheme administrator), in subsection (1), for paragraph (c) substitute –
- “(c) a drawdown pension fund lump sum death benefit”.
- 58 (1) Section 280(2) (general index) is amended as follows.
- (2) Omit the entries relating to “dependant’s alternatively secured pension fund” and “member’s alternatively secured pension fund”.

- (3) Omit the entries relating to “dependant’s unsecured pension fund” and “member’s unsecured pension fund” and at the appropriate place insert –

“dependant’s drawdown pension fund	paragraph 22 of Schedule 28”;
“member’s drawdown pension fund	paragraph 8 of Schedule 28”.

- (4) At the appropriate place insert –

“serious ill-health lump sum charge	section 205A(1)”.
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- (5) Omit the entry relating to “unsecured pension fund lump sum death benefit” and at the appropriate place insert –

“drawdown pension fund lump sum death benefit	paragraph 17 of Schedule 29”.
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- 59 (1) Schedule 29 (authorised lump sums) is amended as follows.
- (2) In paragraph 1 (pension commencement lump sum), in sub-paragraph (3)(b), omit “, otherwise than by virtue of the operation of paragraph 8(2) of Schedule 28,”.
- (3) In paragraph 3 (pension commencement lump sum: calculation of applicable amount) –
- (a) in sub-paragraph (1)(a), for “unsecured pension” substitute “drawdown pension”;
 - (b) in sub-paragraph (5)(a), for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”;
 - (c) in sub-paragraph (8)(a), for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”.
- (4) In paragraph 15 (uncrystallised funds lump sum death benefit), in sub-paragraph (2)(b), for “unsecured pension” substitute “drawdown pension”.
- 60 (1) Schedule 34 (non-UK schemes: application of certain charges) is amended as follows.
- (2) In paragraph 1(3) (member payment charges), after paragraph (c) insert –
“*(ca)* the serious ill-health lump sum charge.”
- (3) After paragraph 4 insert –
- “4A (1) For the purposes of determining whether a person meets the flexible drawdown conditions in section 165(3A) or 167(2A) –
- (a) any reference in paragraph 14A or 24B of Schedule 28 (minimum income requirement) to payments made to or in respect of a member of a registered pension scheme includes a reference to payments made to or in respect of a

- relieved member or transfer member of a relevant non-UK scheme,
- (b) any tax-relieved contributions made under a relevant non-UK scheme by or on behalf of, or in respect of, a member of the scheme are to be treated as if they were contributions to a registered pension scheme paid by or on behalf of, or in respect of, a member of the scheme,
 - (c) any tax-exempt provision made under a relevant non-UK scheme in relation to a member of the scheme is to be treated as if it was a contribution to a registered pension scheme paid by or on behalf of, or in respect of, a member of the scheme, and
 - (d) a person who is an active member of a relevant non-UK scheme is to be treated as if the person were an active member of a registered pension scheme.
- (2) In this paragraph “tax-exempt contributions” and “tax-exempt provision” have the same meaning as in paragraph 3.”
- (4) In paragraph 5—
- (a) for “Sections 205 and 206” substitute “Sections 205 to 206”;
 - (b) after “short service refund lump sum charge” insert “, serious ill-health lump sum charge”.
- (5) Omit paragraph 7ZA (unauthorised payment charge: alternatively secured pension etc).
- 61 (1) Schedule 36 (transitional provisions and savings) is amended as follows.
- (2) In paragraph 20 (amount of lifetime allowance available to person who had right to payment of pension on 5 April 2006), for sub-paragraph (4) substitute—
- “(4) In the case of drawdown pension, ARP is—
- (a) the maximum amount that may be paid in the drawdown pension year in which the time falls in accordance with pension rule 5 (see section 165), or
 - (b) in the case of an arrangement to which subsection (3A) of section 165 applies, the maximum amount that could have been paid in accordance with that rule in the drawdown pension year in which that subsection first applied to the arrangement if it had not so applied.”
- (3) In paragraph 29 (lump sum rights for members with enhanced protection)—
- (a) in sub-paragraph (2), in the text treated as substituted for sub-paragraphs (1) to (3) of paragraph 3 of Schedule 29, for “unsecured pension” (in both places) substitute “drawdown pension”;
 - (b) in sub-paragraph (3), in the text treated as substituted for sub-paragraphs (5) to (7A) of that paragraph—
 - (i) for “member’s unsecured pension fund” substitute “member’s drawdown pension fund”, and
 - (ii) for the definition of “AC” substitute—

“AC is—

 - (a) in a case where the member becomes entitled to the pension before reaching the age of 75,

- the amount crystallised by reason of the member becoming entitled to the pension, and
- (b) in a case where the member becomes entitled to the pension after reaching that age, the amount that would have been so crystallised but for paragraph 2 of Schedule 32.”
- (4) In paragraph 34 (entitlement to lump sums exceeding 25% of uncrystallised rights), in sub-paragraph (2), in the text treated as substituted for sub-paragraphs (5) to (8) of paragraph 2 of Schedule 29, for the definition of “AC” substitute –
- “AC is –
- (a) in a case where the member becomes entitled to the pension in connection with which the lump sum is paid before reaching the age of 75, the amount crystallised by reason of the member becoming entitled to the pension, and
- (b) in a case where the member becomes entitled to that pension after reaching that age, the amount that would have been so crystallised but for paragraph 2 of Schedule 32,
- (but this is subject to sub-paragraphs (7AA) and (7B)),”.
- (5) In paragraph 36 (right to payment of lump sum death benefit) –
- (a) in sub-paragraph (3) –
- (i) after paragraph (a) insert “and”, and
- (ii) omit paragraph (c) (and the “and” preceding it);
- (b) omit sub-paragraphs (4) and (8);
- (c) in sub-paragraph (9) –
- (i) for “, annuity protection lump sum death benefit or unsecured pension fund lump sum death benefit” substitute “or annuity protection lump sum death benefit”, and
- (ii) for “sub-paragraphs (3) to (8)” substitute “sub-paragraphs (3) to (7)”;
- (d) in sub-paragraph (10(a), for “, annuity protection lump sum death benefit or unsecured pension fund lump sum death benefit” substitute “or annuity protection lump sum death benefit”;
- (e) in sub-paragraph (11), in the definition of “TPLS”, for “, annuity protection lump sum death benefit or unsecured pension fund lump sum death benefit” substitute “or annuity protection lump sum death benefit”.

PART 2

AMENDMENTS OF OTHER LEGISLATION

Removal of certain charges to inheritance tax in respect of pension schemes

- 62 IHTA 1984 is amended as follows.
- 63 (1) Section 12 (dispositions allowable for income tax or conferring benefits under pension scheme) is amended as follows.

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- (2) After subsection (2) insert –
- “(2ZA) Where a person who is a member of a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme omits to exercise pension rights under the pension scheme, section 3(3) above does not apply in relation to the omission.”
- (3) Omit subsections (2A) to (2E).
- (4) In subsection (2F), omit paragraph (b) (and the “and” preceding it).
- (5) In subsection (2G) –
- (a) omit the definitions of “lump sum death benefit”, “pension death benefit” and “relevant dependant”;
- (b) in the definition of “pension”, for “that Part” substitute “Part 4”.
- 64 Omit the following provisions –
- (a) section 151A (person dying with alternatively secured pension fund);
- (b) section 151B (relevant dependant with pension fund inherited from member over 75);
- (c) section 151BA (rate or rates of charge under section 151B);
- (d) section 151C (dependant dying with other pension fund);
- (e) section 151D (unauthorised payment where person dies over 75 with pension or annuity);
- (f) section 151E (rate or rates of charge under section 151D).
- 65 In section 151 (treatment of pension rights, etc), in subsection (2), for “Subject to sections 151A and 151C below, an interest” substitute “An interest”.
- 66 In section 200 (transfer on death) –
- (a) in subsection (1), omit “(subject to subsection (1A) below)”;
- (b) omit subsection (1A).
- 67 In section 210 (pension rights, etc), omit subsections (2) and (3).
- 68 (1) Section 216 (delivery of accounts) is amended as follows.
- (2) In subsection (1), omit paragraph (bca).
- (3) In subsection (3)(a), omit “(or would do apart from section 151A(3)(b) or 151C(3)(b) above)”.
- (4) In subsection (4), omit “(or would be apart from section 151A(3)(b), 151C(3)(b) or 151B(4) above)”.
- (5) In subsection (6), omit paragraph (ac).
- (6) In subsection (7), for “, 126 or 151D” substitute “or 126”.
- 69 In section 226 (payment: general rules), in subsection (4) –
- (a) for “, 126, 151B or 151D” substitute “or 126”;
- (b) omit from “, or under section 151A” to “that section,”.
- 70 In section 233 (interest on unpaid tax), in subsection (1)(c) –
- (a) for “, 126, 151B or 151D” substitute “or 126”;
- (b) omit from “, or under section 151A” to “that section,”.

- 71 In section 272 (general interpretation), omit the definition of “scheme administrator”.

Contracting-out of pension schemes

- 72 Until such time as the repeal of section 28A of the Pension Schemes Act 1993 (requirements for interim arrangements) by paragraph 11 of Schedule 4 to the Pensions Act 2007 has effect for all purposes, subsection (3) of that section has effect with the following amendments –

- (a) in paragraph (a) –
 - (i) for “unsecured pension year” substitute “drawdown pension year”,
 - (ii) after “twelve months” insert “(disregarding the second sentence of pension rule 5)”, and
 - (iii) omit “where the member has not reached the age of 75.”;
- (b) in paragraph (c) –
 - (i) for “unsecured pension year” substitute “drawdown pension year”,
 - (ii) after “twelve months” insert “(disregarding the second sentence of pension death benefit rule 4)”, and
 - (iii) omit “and the member’s widow, widower or surviving civil partner has not reached the age of 75.”;
- (c) omit paragraphs (b) and (d).

- 73 Until such time as the repeal of section 24A of the Pension Schemes (Northern Ireland) Act 1993 (requirements for interim arrangements) by paragraph 11 of Schedule 4 to the Pensions Act (Northern Ireland) 2008 has effect for all purposes, subsection (3) of that section has effect with the following amendments –

- (a) in paragraph (a) –
 - (i) for “unsecured pension year” substitute “drawdown pension year”,
 - (ii) after “twelve months” insert “(disregarding the second sentence of pension rule 5)”, and
 - (iii) omit “where the member has not reached the age of 75.”;
- (b) in paragraph (c) –
 - (i) for “unsecured pension year” substitute “drawdown pension year”,
 - (ii) after “twelve months” insert “(disregarding the second sentence of pension death benefit rule 4)”, and
 - (iii) omit “and the member’s widow, widower or surviving civil partner has not reached the age of 75.”;
- (c) omit paragraphs (b) and (d).

Foreign pensions: temporary non-residents

- 74 (1) In Part 9 of ITEPA 2003 (pension income), Chapter 4 (foreign pensions: general rules) is amended as follows.
- (2) In section 574 (“pension”: interpretation) –
- (a) for subsection (1) substitute –
 - “(1) For the purposes of this Chapter “pension” includes –

- (a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a relevant non-UK scheme or an overseas pension scheme,
 - (b) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004), and
 - (c) if conditions A and B are met, a pension which is paid voluntarily or is capable of being discontinued.”;
- (b) for subsection (4) substitute –
- “(4) In this section –
- “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders;
 - “overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7));
 - “relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004.”
- (3) In section 575(1) (taxable pension income), at the end insert “and section 576A”.
- (4) After section 576 insert –

“576A Temporary non-residents

- (1) If this section applies in relation to a tax year, any relevant non-UK income withdrawal under a relevant non-UK scheme which –
 - (a) is paid to a person in respect of a flexible drawdown arrangement relating to the person under the scheme,
 - (b) is paid in a year of non-residence, and
 - (c) would not, apart from this section, be chargeable to tax under this Part,
 is to be treated for the purposes of section 575 as if it arose in that tax year.
- (2) This section applies in relation to a tax year if –
 - (a) the person satisfies the residence requirements for the tax year (“the year of return”),
 - (b) the person did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,
 - (c) there are fewer than 5 tax years between –
 - (i) the last tax year before the year of return for which the person satisfied those requirements (“the year of departure”), and
 - (ii) the year of return, and
 - (d) the person satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.
- (3) For the purposes of this section –

- (a) a person satisfies the residence requirements for a tax year if, during any part of that year, the person is resident in the United Kingdom and not Treaty non-resident, and
 - (b) a person is Treaty non-resident at any time if, at that time, the person falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.
- (4) If—
 - (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for the year of return, and
 - (b) the person—
 - (i) is not domiciled in the United Kingdom in that year, or
 - (ii) is not ordinarily resident in the United Kingdom in that year,any amounts of relevant non-UK income withdrawal falling within subsection (1) which were remitted in a year of non-residence are treated as remitted in the year of return.
- (5) This section does not apply to any relevant non-UK withdrawal paid to or in respect of a relieved member of a relevant non-UK scheme unless the payment is referable to the member’s UK tax-relieved fund under the scheme.
- (6) This section does not apply to any relevant non-UK withdrawal paid to or in respect of a transfer member of a relevant non-UK scheme unless the payment is referable to the member’s relevant transfer fund under the scheme.
- (7) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any relevant non-UK income withdrawal treated by virtue of this section as arising in the year of return (or as preventing a charge to that tax from arising as a result).
- (8) In this section—
 - “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
 - “flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;
 - “member’s relevant transfer fund” has the same meaning as in Schedule 34 to FA 2004 (see paragraph 4(2) of that Schedule);
 - “member’s UK tax-relieved fund” has the same meaning as in that Schedule (see paragraph 3(2));
 - “relevant non-UK income withdrawal”, in relation to a relevant non-UK scheme, means an amount paid under the scheme which, if the scheme were a registered pension scheme, would be income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004);
 - “relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004;
 - “relieved member” and “transfer member” have the same meaning as in that Schedule (see paragraph 1(7) and (8));

“year of non-residence” means any tax year which falls between the year of departure and the year of return.”

Pensions under registered pension schemes: temporary non-residents

75 (1) In Part 9 of ITEPA 2003 (pension income), Chapter 5A (pensions under registered pension schemes) is amended as follows.

(2) In section 579B (taxable pension income), at the end insert –
 “This is subject to section 579CA.”

(3) After section 579C insert –

“579CA Temporary non-residents

(1) If this section applies in relation to a tax year, any income withdrawal or dependants’ income withdrawal under the registered pension scheme which –

- (a) is paid to a person in respect of a flexible drawdown arrangement relating to the person under the scheme,
- (b) is paid in a year of non-residence, and
- (c) would not, apart from this section, be chargeable to tax under this Part,

is to be treated for the purposes of section 579B as if it accrued in that tax year.

(2) This section applies in relation to a tax year if –

- (a) the person satisfies the residence requirements for the tax year (“the year of return”),
- (b) the person did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,
- (c) there are fewer than 5 tax years between –
 - (i) the last tax year before the year of return for which the person satisfied those requirements (“the year of departure”), and
 - (ii) the year of return, and
- (d) the person satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.

(3) For the purposes of this section –

- (a) a person satisfies the residence requirements for a tax year if, during any part of that year, the person is resident in the United Kingdom and not Treaty non-resident, and
- (b) a person is Treaty non-resident at any time if, at that time, the person falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.

(4) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any income withdrawal or dependants’ income withdrawal treated by virtue of this section as accruing in the year of return (or as preventing a charge to that tax from arising as a result).

(5) In this section –

“double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;

“flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;

“year of non-residence” means any tax year which falls between the year of departure and the year of return.”

(4) For section 579D (interpretation) substitute –

“579D Interpretation

In this Chapter –

“dependants’ income withdrawal” has the meaning given by paragraph 21 of Schedule 28 to FA 2004;

“income withdrawal” has the meaning given by paragraph 7 of that Schedule;

“pension under a registered pension scheme” includes –

(a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a registered pension scheme, and

(b) income withdrawal or dependants’ income withdrawal under a registered pension scheme.”

76 (1) Section 683 of ITEPA 2003 (PAYE income) is amended as follows.

(2) In subsection (3), for “subsections (3A) and (4)” substitute “subsections (3A) and (3B)”.

(3) After subsection (3A) insert –

“(3B) “PAYE pension income” for a tax year does not include any taxable pension income which is treated as accruing in that tax year by section 579CA (temporary non-residents).”

77 In Part 2 of Schedule 1 to ITEPA 2003 (index of defined expressions), at the appropriate place insert –

“dependants’ income withdrawal (in Chapter 5A of Part 9)	section 579D”;
“income withdrawal (in Chapter 5A of Part 9)	section 579D”.

Exemption from income tax of certain lump sums

78 (1) Section 636A of ITEPA 2003 (exemption for certain lump sums under registered pension schemes) is amended as follows.

(2) In subsection (1) –

(a) in paragraph (b), after “serious ill-health lump sum” insert “paid to a member who has not reached the age of 75”;

(b) in paragraph (d), after “defined benefits lump sum death benefit” insert “paid in respect of a member who had not reached the age of 75 at the date of the member’s death”;

- (c) in paragraph (e), after “uncrystallised funds lump sum death benefit” insert “paid in respect of such a member”.
- (3) After subsection (3) insert –
- “(3A) A serious ill-health lump sum which is paid under a registered pension scheme to a member who has reached the age of 75 is subject to income tax in accordance with section 205A of FA 2004 (charge to tax on scheme administrator in respect of such a lump sum) but not otherwise.”
- (4) In subsection (4) –
- (a) before paragraph (a) insert –
- “(za) a defined benefits lump sum death benefit paid in respect of a member who had reached the age of 75 at the date of the member’s death,”;
- (b) after paragraph (a) insert –
- “(aa) an uncrystallised funds lump sum death benefit paid in respect of a member who had reached the age of 75 at the date of the member’s death,”;
- (c) for paragraph (c) substitute –
- “(c) a drawdown pension fund lump sum death benefit,”.
- (5) In subsection (7) –
- (a) after ““defined benefits lump sum death benefit”,” insert –
- ““drawdown pension fund lump sum death benefit”,”;
- (b) after ““pension protection lump sum death benefit”,” insert “and”;
- (c) omit ““unsecured pension fund lump sum death benefit”,” (and the “and” preceding it).

Calculation of income tax liability

- 79 In section 30(1) of ITA 2007 (additional tax), after the entry relating to section 205 of FA 2004 insert –
- “section 205A of FA 2004 (pension schemes: the serious ill-health lump sum charge),”.

Consequential repeals

- 80 In consequence of the amendments made by this Schedule, omit the following provisions –
- (a) in Schedule 10 to FA 2005, paragraphs 18(4), 20, 23 and 25(3);
- (b) in FA 2006 –
- (i) in Schedule 22, paragraphs 3 to 9, 10(3) and 12, and
- (ii) in Schedule 23, paragraphs 29 and 30;
- (c) in FA 2007 –
- (i) in Schedule 19, paragraphs 2(3), 4, 11, 12(2) and (5), 13 to 15, 16(2) to (4) and (6), 18(4), 20 to 26 and 29(2), (4) and (5), and
- (ii) in Schedule 20, paragraph 11(3);
- (d) in FA 2008 –
- (i) in Schedule 4, paragraphs 4 and 9(2),
- (ii) in Schedule 28, paragraphs 6 to 14, and
- (iii) in Schedule 29, paragraph 16;

- (e) in F(No.2)A 2010 –
 - (i) section 6, and
 - (ii) Schedule 3.

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISION

General

- 81 Subject to the provisions of this Part, the amendments made by this Schedule have effect for tax years beginning on and after 6 April 2011.

Drawdown pension

- 82 Any person who, immediately before 6 April 2011, was entitled to unsecured pension or alternatively secured pension is to be treated, on and after that date, as entitled to drawdown pension.
- 83 Paragraph 6 of Schedule 28 to FA 2004 (short-term annuity) has effect on and after 6 April 2011 as if the reference to an annuity purchased by the application of sums and assets representing the whole or any part of the member's drawdown pension fund in respect of an arrangement included a reference to an annuity purchased before that date by the application of sums and assets representing the whole or any part of the member's unsecured pension fund in respect of the arrangement.

Member's drawdown pension fund

- 84 Paragraph 8(1A) of Schedule 28 to FA 2004 (member's drawdown pension fund) has effect on and after 6 April 2011 as if any reference to sums or assets having been designated as available for the payment of drawdown pension included a reference to sums or assets having been designated, before that date, as available for the payment of unsecured pension or alternatively secured pension.

Drawdown pension year and basis amount for drawdown pension year

- 85 (1) This paragraph applies in the case of a person who, immediately before 6 April 2011, was entitled to unsecured pension.
- (2) Paragraph 9 of Schedule 28 to FA 2004 (drawdown pension year) has effect on and after 6 April 2011 as if the reference in sub-paragraph (1)(a) to the day on which the member first becomes entitled to drawdown pension were a reference to the day on which the current pension year began.
- (3) In this paragraph and paragraphs 86 and 87 "the current pension year" means the unsecured pension year which began on or after 7 April 2010.
- 86 (1) This paragraph applies in the case of a person who, immediately before 6 April 2011 –
- (a) was entitled to unsecured pension, and
 - (b) had not reached the age of 75.

- (2) Pension rule 5 in section 165 of FA 2004 has effect in relation to the current pension year, and each other drawdown pension year ending on or before the relevant date, as if for “100%” there were substituted “120%”.
- (3) Subject to sub-paragraphs (4)(b) and (5) of paragraph 10 of Schedule 28 to FA 2004 (basis amount), the amount which, immediately before 6 April 2011, was the basis amount for the current pension year by virtue of that paragraph continues, on and after that date, to be the basis amount for that pension year, and each other drawdown pension year ending on or before the relevant date, for the purposes of pension rule 5 in section 165 of that Act.
- (4) The “relevant date” is the earlier of the following –
 - (a) the day on which the current reference period ends, and
 - (b) if a transfer within sub-paragraph (8) occurs in relation to the person, the day on which the drawdown pension year in which the transfer takes place ends.
- (5) Subject to paragraph 10 of Schedule 28 to FA 2004, “the current reference period” is the period of 5 years comprising –
 - (a) the current pension year,
 - (b) any unsecured pension years that –
 - (i) began after the end of the last reference period ending before 6 April 2011, and
 - (ii) ended before that date,and
 - (c) if the sum of the years falling within paragraphs (a) and (b) is less than five, one or more drawdown pension years beginning after 6 April 2011.
- (6) Paragraph 10 of that Schedule has effect with the modifications described in sub-paragraph (7).
- (7) The modifications are –
 - (a) the reference in sub-paragraph (1) to the first drawdown pension year is to be read as a reference to the first drawdown pension year beginning after the relevant date;
 - (b) any reference in sub-paragraphs (1ZA) to (1C) to a reference period is to be read as including a reference to the current reference period;
 - (c) sub-paragraph (4) has effect for drawdown pension years beginning after 6 April 2011 and ending on or before the relevant date as it has effect for drawdown pension years falling within a reference period, but as if –
 - (i) paragraph (a) were omitted, and
 - (ii) in paragraph (b), for “otherwise” there were substituted “if there has been a recent annuity, recent additional fund designation or recent pension sharing event”;
 - (d) in sub-paragraphs (7) to (8A) any reference to drawdown pension or the member’s drawdown pension fund is to be read as including, in relation to anything occurring before 6 April 2011, a reference to unsecured pension or the member’s unsecured pension fund.
- (8) A transfer is within this sub-paragraph if –
 - (a) it takes place on or after 6 April 2011, and

- (b) it is a recognised transfer for the purposes of Part 4 of FA 2004 (see section 169).
- 87 (1) This paragraph applies in the case of a person who –
 - (a) reached the age of 75 on or after 22 June 2010 and before 6 April 2011, and
 - (b) immediately before 6 April 2011, is entitled to unsecured pension.
- (2) Pension rule 5 in section 165 of FA 2004 has effect in relation to the current pension year as if for “100%” there were substituted “120%”.
- (3) The amount which, immediately before 6 April 2011, was the basis amount for the current pension year by virtue of paragraph 10 of Schedule 28 to FA 2004 continues, on and after that date, to be the basis amount for that pension year for the purposes of pension rule 5 in section 165 of that Act.
- (4) The amendments made by paragraph 11 have effect in relation to drawdown pension years beginning on or after 6 April 2011.
- 88 (1) This paragraph applies in the case of a person who –
 - (a) reached the age of 75 before 22 June 2010, and
 - (b) immediately before 6 April 2011, has a member’s unsecured pension fund by virtue of paragraph 11(6) and (7) of Schedule 28 to FA 2004 (cases where member’s whereabouts are unknown at age 75).
- (2) In a case where the scheme administrator has been unable to ascertain the person’s whereabouts during the relevant period, paragraph 9 of Schedule 28 to FA 2004 (drawdown pension year) has effect on and after 6 April 2011 as if the reference in sub-paragraph (1)(a) to the day on which the member first becomes entitled to drawdown pension were a reference to any later day on which the person’s whereabouts are subsequently ascertained by the scheme administrator.
- (3) The “relevant period” is the period beginning with the person’s 75th birthday and ending with 5 April 2011.
- (4) In a case where the person’s whereabouts have been ascertained by the scheme administrator within the period of 6 months ending on 6 April 2011, paragraph 9 of that Schedule has effect on and after 6 April 2011 as if the reference in sub-paragraph (1)(a) to the day on which the member first becomes entitled to drawdown pension were a reference to 6 April 2011.
- (5) Paragraph 10A of that Schedule (basis amount for persons aged 75 or over) has effect as if –
 - (a) the reference in sub-paragraph (2) to the first drawdown pension year following that in which the member reached the age of 75 were a reference to the first drawdown pension year beginning on or after 6 April 2011, and
 - (b) for sub-paragraph (3) there were substituted –
 - “(3) “The nominated date”, in relation to the first drawdown year beginning on or after 6 April 2011, is the first day of that year.”
- 89 (1) This paragraph applies in the case of a person who, immediately before 6 April 2011, was entitled to alternatively secured pension.

- (2) Paragraph 9 of Schedule 28 to FA 2004 (drawdown pension year) has effect on and after 6 April 2011 as if the reference in sub-paragraph (1)(a) to the day on which the member first becomes entitled to drawdown pension were a reference to the day on which the current pension year began.
- (3) In this paragraph “the current pension year” means the alternatively secured pension year which began on or after 7 April 2010.
- (4) The amount which, immediately before 6 April 2011, was the basis amount for the current pension year by virtue of paragraph 13 of Schedule 28 to FA 2004 continues, on and after that date, to be the basis amount for that year for the purposes of pension rule 5 in section 165 of that Act.

Dependants’ drawdown pension

- 90 Any person who, immediately before 6 April 2011, was entitled to dependants’ unsecured pension or dependants’ alternatively secured pension is to be treated, on and after that date, as entitled to dependants’ drawdown pension.
- 91 Paragraph 20 of Schedule 28 to FA 2004 (short-term annuity) has effect on and after 6 April 2011 as if the reference to an annuity purchased by the application of sums and assets representing the whole or any part of the dependant’s drawdown pension fund in respect of an arrangement included a reference to an annuity purchased before that date by the application of sums and assets representing the whole or any part of the dependant’s unsecured pension fund in respect of the arrangement.

Dependant’s drawdown pension fund

- 92 Paragraph 22(2) of Schedule 28 to FA 2004 (dependant’s drawdown pension fund) has effect on and after 6 April 2011 as if any reference to sums or assets having been designated as available for the payment of dependants’ drawdown pension included a reference to sums or assets having been designated, before that date, as available for the payment of dependants’ unsecured pension or dependants’ alternatively secured pension.

Drawdown pension year and basis amount for drawdown pension year

- 93 (1) This paragraph applies in the case of a person who, immediately before 6 April 2011, was entitled to dependants’ unsecured pension.
- (2) Paragraph 23 of Schedule 28 to FA 2004 (drawdown pension year) has effect on and after 6 April 2011 as if the reference in sub-paragraph (1)(a) to the day on which the dependant first becomes entitled to dependants’ drawdown pension were a reference to the day on which the current pension year began.
- (3) In this paragraph and paragraphs 94 and 95 “the current pension year” means the unsecured pension year which began on or after 7 April 2010.
- 94 (1) This paragraph applies in the case of a person who, immediately before 6 April 2011 –
- (a) was entitled to dependants’ unsecured pension, and
 - (b) had not reached the age of 75.

- (2) Pension death benefit rule 4 in section 167 of FA 2004 has effect in relation to the current pension year, and each other drawdown pension year ending on or before the relevant date, as if for “100%” there were substituted “120%”.
- (3) Subject to sub-paragraphs (4)(b) and (5) of paragraph 24 of Schedule 28 to FA 2004 (basis amount), the amount which, immediately before 6 April 2011, was the basis amount for the current pension year by virtue of that paragraph continues, on and after that date, to be the basis amount for that pension year, and each other drawdown pension year ending on or before the relevant date, for the purposes of pension death benefit rule 4 in section 167.
- (4) The “relevant date” is the earlier of the following –
 - (a) the day on which the current reference period ends, and
 - (b) if a transfer within sub-paragraph (8) occurs in relation to the person, the day on which the drawdown pension year in which the transfer takes place ends.
- (5) Subject to paragraph 24 of Schedule 28 to FA 2004, “the current reference period” is the period of 5 years comprising –
 - (a) the current pension year,
 - (b) any unsecured pension years that –
 - (i) began after the end of the last reference period ending before 6 April 2011, and
 - (ii) ended before that date,and
 - (c) if the sum of the years falling within paragraphs (a) and (b) is less than five, one or more drawdown pension years beginning after 6 April 2011.
- (6) Paragraph 24 of that Schedule has effect with the modifications described in sub-paragraph (7).
- (7) The modifications are –
 - (a) the reference in sub-paragraph (1) to the first drawdown pension year is to be read as a reference to the first drawdown pension year beginning after the relevant date;
 - (b) any reference in sub-paragraphs (1ZA) to (1C) to a reference period is to be read as including a reference to the current reference period;
 - (c) sub-paragraph (4) has effect for drawdown pension years beginning after 6 April 2011 and ending on or before the relevant date as it has effect for drawdown pension years falling within a reference period, but as if –
 - (i) paragraph (a) were omitted, and
 - (ii) in paragraph (b), for “otherwise” there were substituted “if there has been a recent annuity, recent additional fund designation or recent pension sharing event”;
 - (d) in sub-paragraphs (7) to (8A) any reference to dependants’ drawdown pension or the dependant’s drawdown pension fund is to be read as including, in relation to anything occurring before 6 April 2011, a reference to dependants’ unsecured pension or the dependant’s unsecured pension fund.
- (8) A transfer is within this sub-paragraph if –
 - (a) it takes place on or after 6 April 2011, and

- (b) it is a recognised transfer for the purposes of Part 4 of FA 2004 (see section 169).
- 95 (1) This paragraph applies in the case of a person who –
- (a) reached the age of 75 on or after 22 June 2010 and before 6 April 2011, and
 - (b) immediately before 6 April 2011, is entitled to dependants' unsecured pension.
- (2) Pension death benefit rule 4 in section 167 of FA 2004 has effect in relation to the current pension year as if for “100%” there were substituted “120%”.
- (3) The amount which, immediately before 6 April 2011, was the basis amount for the current pension year by virtue of paragraph 24 of Schedule 28 to FA 2004 continues, on and after that date, to be the basis amount for that year for the purposes of pension death benefit rule 4 in section 167 of that Act.
- (4) The amendments made by paragraph 23 have effect in relation to drawdown pension years beginning on or after 6 April 2011.
- 96 (1) This paragraph applies in the case of a person who, immediately before 6 April 2011, was entitled to dependants' alternatively secured pension.
- (2) Paragraph 23 of Schedule 28 to FA 2004 (drawdown pension year) has effect on and after 6 April 2011 as if the reference in sub-paragraph (1)(a) to the day on which the dependant first becomes entitled to dependants' drawdown pension were a reference to the day on which the current pension year began.
- (3) In this paragraph “the current pension year” is the alternatively secured pension year which began on or after 7 April 2010.
- (4) The amount which, immediately before 6 April 2011, was the basis amount for the current pension year by virtue of paragraph 27 of Schedule 28 to FA 2004 continues, on and after that date, to be the basis amount for that year for the purposes of pension death benefit rule 4 in section 167 of that Act.

Lump sums and lump sum death benefits

- 97 The amendments made by paragraphs 27, 28 and 59(2) and (3) have effect in relation to any lump sum to which a person becomes entitled for the purposes of Part 4 of FA 2004 on or after 6 April 2011.
- 98 The amendments made by paragraphs 29 to 32, 41, 46, 58(4), 60(2) and (4), 61(3) and (4), 78(2)(a) and (3) and 79 have effect in relation to lump sums paid on or after 6 April 2011.
- 99 The amendments made by paragraphs 34 to 40, 42, 47, 49, 50, 56(a), 57, 58(5), 59(4), 61(5) and 78(2)(b) and (c), (4) and (5) have effect in relation to deaths occurring on or after 6 April 2011.

Lifetime allowance charge

- 100 (1) The amendments made by paragraphs 43, 44 and 61(2) have effect in relation to benefit crystallisation events occurring on or after 6 April 2011.
- (2) Any reference in a provision within sub-paragraph (3) to an amount previously crystallised on the designation of sums or assets as available for

the payment of drawdown pension includes a reference to an amount crystallised before 6 April 2011 on the designation of sums or assets as available for the payment of unsecured pension.

- (3) The provisions are –
- (a) paragraph 3(2) of Schedule 32 (benefit crystallisation events 1 and 2: prevention of overlap);
 - (b) paragraph 4(2) of that Schedule (benefit crystallisation events 1 and 4: prevention of overlap);
 - (c) paragraph 17(2) of that Schedule (benefit crystallisation event 8: prevention of overlap with other events).

Inheritance tax

- 101 The amendments made by paragraph 63 have effect in relation to dispositions made (or treated as made) on or after 6 April 2011.
- 102 The amendments made by paragraphs 64 to 71 have effect in relation to deaths occurring on or after 6 April 2011.

Consequential repeals

- 103 Any repeal in paragraph 80 has effect to the same extent as the provision of this Schedule to which the repeal relates.

Power to make retrospective provision in orders and regulations under Part 4 of FA 2004

- 104 (1) This paragraph applies to any order or regulations under Part 4 of FA 2004 which –
- (a) are made in the tax year beginning on 6 April 2011, and
 - (b) are made in consequence of, or for the purposes of, or for giving full effect to, the amendments made by Part 1 of this Schedule.
- (2) Section 282 of that Act (orders and regulations) has effect in relation to any order or regulations to which this paragraph applies as if in subsection (A1) the words “if that provision does not increase any person’s liability to tax” were omitted.

Application of rules of pension schemes

- 105 The trustees or managers of a registered pension scheme may make any payment under the scheme which, by virtue of the amendments made by this Schedule, is an authorised member payment (within the meaning of section 164 of FA 2004), despite any provision of the rules of the pension scheme (however framed) prohibiting the making of such a payment.

DRAFT EXPLANATORY NOTE

PENSION SCHEMES ETC

SUMMARY

1. The clause and Schedule amend Part 4 of Finance Act (FA) 2004 as it relates to certain tax rules relating to registered pension schemes that apply to individuals reaching the age of 75.
2. From 6 April 2011 the effective requirement to buy an annuity by the age of 75 will be removed and the alternatively secured pension rules repealed. Individuals will be able to leave their pension funds invested in a drawdown arrangement and to make withdrawals throughout their retirement, subject to an annual cap. The maximum withdrawal of income that an individual will be able to make from most drawdown funds on reaching minimum pension age will be capped at 100 per cent of the equivalent annuity that could have been bought with the fund value. This maximum capped amount will be determined at least every three years until the end of the year in which the member reaches the age of 75, after which reviews to determine the maximum capped withdrawal will be carried out annually.
3. Individuals able to demonstrate that they have a secure pension income for life of at least £20,000 a year will have full access to their drawdown funds without any annual cap. All withdrawals from drawdown funds will be subject to tax as pension income. An individual making a withdrawal from a drawdown pension fund during a period when they are resident outside the UK for a period of less than five full tax years will be liable for UK income tax on that withdrawal for the tax year in which they become UK resident again.
4. Any new pension savings by an individual after he or she has demonstrated that their secure lifetime pension income is at least £20,000 a year will be liable to the annual allowance charge on all pension input amounts. Most of the rules preventing registered pension schemes from paying lump sum benefits after the member has reached the age of 75 are being removed. The tax rate for all lump sum death benefits is set at 55 per cent, apart from death benefits for those who die before age 75 without having taken a pension, which will remain tax free.
5. With effect from 6 April 2011, inheritance tax (IHT) will not typically apply to drawdown pension funds remaining under a registered pension scheme, including when the individual dies after reaching the age of 75. Also with effect from 6 April 2011, IHT anti-

avoidance charges that apply to registered pension schemes and Qualifying Non UK Pension (QNUP) Schemes where the scheme member omits to take their retirement entitlements (e.g. a failure to buy an annuity) will be removed. These changes will also apply to superannuation funds that are occupational pension schemes by virtue of section 615(3) of the Income and Corporation Taxes Act 1988 (ICTA).

DETAILS OF THE SCHEDULE

6. Paragraph 1 introduces amendments to Part 4 of FA 2004.
7. Paragraphs 2(1) and 2(2) amend the pension rules in section 165 of FA 2004 by amending pension rules 4 and 5 and deleting pension rules 6 and 7. This removes both the distinction between the type of pension that can be paid before and after reaching the age of 75. It also replaces the concepts of “unsecured” and “alternatively secured” pensions with the concept of a “drawdown” pension and caps the amount that can be paid out of such a pension at 100 per cent of the equivalent annuity that could have been bought with the fund value unless the conditions set out in new section 165(3A) are met.
8. Paragraph 2(3) provides that a person is treated as becoming entitled to a pension when funds are designated as available to pay a drawdown pension.
9. Paragraph 2(4) inserts new sections 165(3A) and 165(3B) into FA 2004. These two sections set out the criteria that have to be met for a member of a registered pension scheme not to be subject to a cap on their drawdown pension. The member must make a declaration to the scheme administrator that he meets the “flexible drawdown conditions” and the scheme administrator must accept the declaration. To meet the flexible drawdown conditions:
 - the member must have a minimum pension income for the tax year;
 - there must not be any contributions paid to a member’s money purchase scheme during the tax year; and
 - where the member has a defined benefits or cash balance arrangement under the scheme, he must have stopped being an active member by the time of the declaration. More details of the minimum income requirement are given in new paragraph 14A of Schedule 28, inserted by paragraph 13 of this Schedule.
10. Paragraph 3 introduces the amendments made to Part 1 of Schedule 28 to FA 2004 by paragraphs 4 to 13.

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11. Paragraphs 4 and 5 amend paragraphs 4 and 5 of Schedule 28 to FA 2004 to remove the definitions of unsecured and alternatively secured pensions and introduce a new definition of drawdown pension.
12. Paragraph 6 amends the definition of short-term annuity in paragraph 6 to Schedule 28 to FA 2004. A short-term annuity is a form of drawdown pension. The amendments provide that payments under a short-term annuity do not have to end when the member reaches the age of 75 and make other consequential changes to the definition so it refers to drawdown pension rather than to unsecured pension.
13. Paragraph 7 amends the definition of “income withdrawal” in paragraph 7 of Schedule 28 to FA 2004 so it refers to drawdown pension rather than to unsecured or alternatively secured pensions.
14. Paragraphs 8(1) to (4) and 8(6) amend paragraph 8 of Schedule 28 to FA 2004 to replace the definition of “an unsecured pension fund” with a definition of “a drawdown pension fund”.
15. Paragraph 8(5) provides that relevant uncrystallised funds are not treated as having been designated as available for payment of a drawdown pension immediately before the member reaches the age of 75.
16. Paragraphs 9(1), 9(2) and 9(4) amend paragraph 9(1) of Schedule 28 to FA 2004 which replace the definition of “unsecured pension year” with a definition of “drawdown pension year”.
17. Paragraph 9(3) introduces a new paragraph 9(2) of Schedule 28 to FA 2004 which provides that drawdown pension under an arrangement relating to the member may carry on after the member reaches the age of 75.
18. Paragraphs 10(1) to (6) and 10(8) to (11) amend paragraph 10 of Schedule 28 to FA 2004 and define how the basis amount is generally determined for the purposes of working out the amount of drawdown pension that may be paid in each drawdown pension year in accordance with pension rule 5 in section 165 of FA 2004 if the year begins before the member has reached the age of 75. The maximum amount that the member may withdraw in accordance with pension rule 5 is determined at least every three years.
19. Paragraph 10(7) inserts new paragraph 10(6A) into paragraph 10 to Schedule 28 to FA 2004 which provides that where the fund value determining the basis amount falls despite there having been an additional fund designation, the reduction in the maximum amount that the member may withdraw in accordance with pension rule 5 in

section 165 of FA 2004 is not applied until the following drawdown pension year.

20. Paragraph 11 inserts new paragraph 10A into Schedule 28 to FA 2004. It defines how the basis amount is determined for the purposes of working out the amount of drawdown pension that can be paid in each drawdown pension year if that year begins on or after the member reaching the age of 75. The maximum capped amount that may be withdrawn is determined annually. New paragraphs 10A(3) and (4) of Schedule 28 to FA 2004 provide that the scheme administrator and member may agree, if they so wish, to use the value of the sums and assets in the drawdown pension fund when the member reached the age of 75 to determine the amount of drawdown pension that the member may receive for the first drawdown year to begin on or after the member reaching the age of 75, instead of valuing the sums and assets on the first day of the year or on a nominated date up to 60 days before that.
21. Paragraph 12 removes a number of rules which relate to alternatively secured pensions.
22. Paragraph 13 inserts new paragraphs 14A to 14D into Schedule 28 to FA 2004. These paragraphs define how and when the minimum income requirement is satisfied.
23. New paragraph 14A provides that the member meets the minimum income requirement when he or she has at least £20,000 of “relevant income”, defines relevant income and describes sources of pension income that do not count as relevant pension income.
24. New paragraph 14B provides a power to vary the amount of the minimum income threshold by Treasury Order. It also provides a regulation making power to change the description of payments that count towards the minimum income threshold and provide that certain types of payment will not be taken into account when determining whether the minimum income threshold is met.
25. New paragraph 14C defines “relevant time” i.e. the time the member has to ascertain their relevant pension income for the purposes of a valid declaration that he or she meets the flexible drawdown conditions provided by new section 165(3B) of FA 2004 (inserted by paragraph 2(4) of this Schedule). Where no previous declaration has been made, the relevant time is when the member makes that first declaration. Where a, previous declaration has been made the relevant time is when the member first actually became eligible to receive flexible withdrawals from a drawdown pension fund.
26. New paragraph 14D provides for the requirements of a valid declaration that the member meets the flexible drawdown conditions

to be set out in regulations. The declaration is accepted for the purposes of new section 165(3A)(c) of FA 2004 (inserted by paragraph 2(4) of this Schedule) if the scheme administrator is satisfied that the person meets the flexible drawdown condition.

27. Paragraph 14 changes the pension death benefit rules in section 167 of FA 2004 by amending pension death benefit rules 3 and 4 and deleting pension death benefit rules 5 and 6. This removes the distinction between the type of pension death benefits that can be paid before and after the age of 75. It also replaces the concepts of “dependants’ unsecured” and “dependants’ alternatively secured” pensions with “dependants’ drawdown pension” and caps the amount that can be paid out of a dependants’ drawdown pension at 100 per cent of the equivalent annuity that could have been bought with the fund value. Paragraph 14(3) inserts new sections 167(2A) and (2B) into FA 2004 and sets out the rules for when the 100 per cent cap in respect of a dependant’s drawdown pension arrangement does not need to be applied.
28. Paragraph 15 introduces the amendments made to Part 2 of Schedule 28 to FA 2004 (pension death benefit rules) by paragraphs 16 to 25.
29. Paragraphs 16, 17, 19 and 20 amend a number of definitions so they refer to dependants’ drawdown pensions rather than to unsecured or alternatively secured pensions and delete references to dependants’ alternatively secured pension funds which are no longer required.
30. Paragraph 18 amends the definition of dependants’ short-term annuity in paragraph 20 of Schedule 28 to FA 2004. A dependants’ short-term annuity is a form of dependants’ drawdown pension. The amendments provide that payments under a dependant’s short-term annuity payments may carry on after the member reaches the age of 75.
31. Paragraphs 20(1), 20(2), 20(3) and 20(5) amend a number of definitions so they refer to a dependant’s drawdown pensions rather than to unsecured or alternatively secured pensions and delete references to a dependant’s alternatively secured pension funds which are no longer required
32. Paragraph 20(4) provides that dependants’ drawdown pension may carry on after the member reaches the age of 75.
33. Paragraphs 21(1), 21(2) and 21(4) amend a number of definitions so they refer to a dependant’s drawdown pensions rather than to unsecured or alternatively secured pensions and deleting references to a dependant’s alternatively secured pension funds which are no longer required.

34. Paragraph 21(3) provides that dependants' drawdown pension may carry on after the member reaches the age of 75.
35. Paragraphs 22 amends paragraph 24 of Schedule 28 to FA 2004 setting out how the "basis amount" is determined for the purposes of working out the amount of dependants' drawdown pension that can be paid in each drawdown pension year where the dependant has not reached the age of 75. The maximum amount that may be withdrawn is determined at least every three years until the end of the year in which the dependant reaches the age of 75, after which reviews to determine the maximum capped withdrawal are carried out annually.
36. Paragraph 23 inserts new paragraph 24A into Schedule 28 to FA 2004 setting out how the "basis amount" is determined for the purposes of working out the amount of dependant's drawdown pension that can be paid in each drawdown pension year where the dependant has reached the age of 75. The maximum amount that may be withdrawn is determined annually.
37. Paragraph 24 inserts new paragraphs 24B to 24E into Schedule 28 to FA 2004. These paragraphs set out rules for when withdrawals of income from a dependants' drawdown pension fund are not limited to 100 per cent of the "basis amount". These are similar to the rules applying to the original member's drawdown pension fund as provided under the amendments made by paragraph 13 of this Schedule.
38. Paragraph 25 removes a number of rules which relate to dependants' alternatively secured pensions.
39. Paragraph 26 introduces the amendments made to Part 1 of Schedule 29 to FA 2004 (lump sum rule) by paragraphs 27 to 28.
40. Paragraph 27 amends paragraph 1 of Schedule 29 to FA 2004 to provide that a pension commencement lump sum may be paid when the member becomes entitled to it when aged 75 or over. A member is treated as becoming entitled to a pension commencement lump sum when the member becomes entitled to the relevant pension which the lump sum is paid in connection with.
41. Paragraph 28 amends the calculation in paragraph 3 of Schedule 29 to FA 2004 and provides how the applicable amount is determined when a member becomes entitled to a relevant pension after reaching the age of 75. The concept of the applicable amount limits the tax free pension commencement lump sum to an amount that is broadly no more than one quarter of the value of the individual's pension rights. The legislation being amended here expresses the value of the pension rights in terms of the amount crystallised by the rights to the pension and lump sum for the purposes of the lifetime allowance.

Once a member has reached the age of 75 the lifetime allowance is generally no longer relevant so, in this case, paragraph 28 provides that the applicable amount is to be determined by reference to the amount that would have been crystallised by that event were it to have been a benefit crystallisation event (but was not because the member was aged 75 or over). The permitted maximum pension commencement lump sum is the lower of the available portion and the applicable amount due to paragraph 2(5) of Schedule 29 to FA 2004.

42. Paragraph 29(1) amends paragraph 3A of Schedule 29 to FA 2004, rules on recycling of pension commencement lump sums.
43. Paragraph 29(3) inserts new paragraph 3A(4A) into Schedule 29 to FA 2004 and provides that paragraph 3A of that Schedule does not apply in relation to pension commencement lump sums recycled into contributions paid on or after the member reaching the age of 75. Such contributions are not relievable pension contributions under section 188 of FA 2004.
44. Paragraph 29(4) amends paragraph 3A of Schedule 29 to FA 2004 so that where the entitlement to the pension commencement lump sum arose when the member is aged 75 or more, the appropriate amount is the amount of the lump sum paid.
45. Paragraph 30 amends paragraph 4(1) of Schedule 29 to FA 2004 so that a serious ill-health lump sum may be paid when the member is aged 75 or over.
46. Paragraph 31 amends paragraph 7(1)(e) of Schedule 29 to FA 2004 so that a trivial commutation lump sum may be paid when the member is aged 75 or over.
47. Paragraph 32 amends paragraph 10(1) of Schedule 29 to FA 2004 so that that a winding-up lump sum may be paid when the member is aged 75 or over.
48. Paragraph 33 introduces amendments made to Part 2 of Schedule 29 to FA 2004 by paragraphs 34 to 40 of this Schedule.
49. Paragraph 34 amends paragraph 13 of Schedule 29 to FA 2004 so that a defined benefits lump sum may be paid when the member is aged 75 or over.
50. Paragraph 35(1) introduces amendments to paragraph 14 of Schedule 29 to FA 2004 (pension protection lump sum benefits).

51. Paragraph 35(2) amends paragraph 14(1) of Schedule 29 to FA 2004 so a defined benefits lump sum death benefit may be paid when the member is aged 75 or over.
52. Paragraph 35(3) sets out how the pension protection limit is determined when the member became entitled at age 75 or over to the pension or annuity in respect of which a pension protection lump sum is paid. The pension protection limit is determined by deducting the pension payments made from the value of the pension rights when the member became entitled it. Paragraph 14 of Schedule 29 expresses the value of the pension rights in terms of the amount crystallised by the rights to a pension for the purposes of the lifetime allowance. Once a member has reached the age of 75 the lifetime allowance is generally no longer relevant so in this case, paragraph 35 provides that the pension protection limit is determined by reference to the amount that would have been crystallised by the member becoming entitled to the pension were it to have been a benefit crystallisation event (but was not because the member was at that time aged 75 or over). The pension protection limit is the maximum amount that may be paid as a pension protection lump sum death benefit. It is liable to the special lump sum death benefits charge under section 206 of FA 2004.
53. Paragraph 36 amends paragraph 15 of Schedule 29 to FA 2004 so that an uncrystallised funds lump sum death benefit may be paid when the member is aged 75 or over.
54. Paragraph 37(1) introduces amendments to paragraph 16 of Schedule 29 to FA 2004 (annuity protection lump sum death benefit) made by paragraphs 37(2) and 37(3).
55. Paragraph 37(2) amends paragraph 16(1) of Schedule 29 to FA 2004 so that an annuity protection lump sum death benefit may be paid when the member is aged 75 or over.
56. Paragraph 37(3) provides how the annuity protection limit is determined when the member became entitled at age 75 or over to the pension or annuity in respect of which an annuity protection lump sum is paid. The annuity protection limit is determined by deducting the pension payments made from the value of the pension rights when the member became entitled it. Paragraph 16 of Schedule 29 to FA 2004 expresses the value of the pension rights in terms of the amount crystallised by the rights to a pension for the purposes of the lifetime allowance. Once a member has reached the age of 75 the lifetime allowance is generally no longer relevant so, in this case, paragraph 37(3) provides that the annuity protection limit is to be determined by reference to the amount that would have been crystallised by the member becoming entitled to the pension or annuity were it to have been a benefit crystallisation event (but was

not because the member was at that time aged 75 or over). The annuity protection limit is the maximum amount that may be paid as an annuity protection lump sum death benefit. It is liable to the special lump sum death benefits charge under section 206 of FA 2004.

57. Paragraph 38(1) introduces amendments to paragraph 17 of Schedule 29 to FA 2004 so that a drawdown pension fund lump sum death benefit can be paid, rather than an unsecured pension fund lump sum death benefit.
58. Paragraphs 38(2) to (6) provide for a drawdown pension fund lump sum death benefit to be paid, rather than an unsecured pension fund lump sum death benefit.
59. Paragraph 39(1) introduces amendments to paragraph 18 of Schedule 29 to FA 2004 (charity lump sum death benefit).
60. Paragraph 39(2) amends paragraph 18(1) of Schedule 29 to FA 2004 so that a charity lump sum death benefit may be paid tax free from a drawdown pension fund whether or not the member has reached the age of 75. The payment can only be made when the member has no dependants and it is paid to a charity nominated by the member.
61. Paragraph 39(3) amends paragraph 18(2) of Schedule 29 to FA 2004 so that a charity lump sum death benefit may be paid tax free from a dependants' drawdown pension fund whether or not the dependant has reached the age of 75. The payment can only be made when there are no other dependants of the member and it is paid to a charity nominated by either the member or dependant.
62. Paragraph 39(4) amends paragraph 18(4) of Schedule 29 to FA 2004 so that there is a cap on the amount of the charity lump sum death benefit at the value of the sums and assets in the drawdown pension fund immediately before the payment is made.
63. Paragraph 40 amends paragraph 20(1) of Schedule 29 to FA 2004 so that a trivial commutation lump sum death benefit may be paid when the member is aged 75 or over.
64. Paragraph 41 inserts new section 205A into FA 2004 and provides for a serious ill-health lump sum charge. The charge will arise where a serious ill-health lump sum is paid to a member who is aged 75 or over. The scheme administrator will be liable to the charge at a rate of 55 per cent on the gross amount of the lump sum. Serious ill-health lump sums are tax free when paid to a member who has not yet reached the age of 75.

65. Paragraph 42 amends section 206 of FA 2004 which contains the special lump sum death benefits charge rules so they cover a drawdown pension fund rather than an unsecured pension fund and adds two new occasions on which the special lump sum death benefits charge arises. It also changes the rate of charge to 55 per cent.
66. Paragraph 43 provides for a new benefit crystallisation event 5A, which occurs when a member with a money purchase arrangement reaches the age of 75.
67. Paragraph 44(1) introduces amendments to Schedule 32 to FA 2004 (benefit crystallisation events: supplementary).
68. Paragraphs 44(2) to (3) and (7) make amendments to paragraphs 3, 4 and 17 of Schedule 32 to FA 2004 substituting drawdown pension fund for unsecured pension.
69. Paragraph 44(4) amends paragraph 5(2) of Schedule 32 to FA 2004 to omit ‘with the effect that’ so that uncrystallised funds are not treated as part of an unsecured pension fund.
70. Paragraph 44(5) inserts new paragraph 14A into Schedule 32 to FA 2004. It provides a definition of “remaining uncrystallised funds” for the purposes of new benefit crystallisation event 5A (see the note to paragraph 43 of the legislation).
71. Paragraph 44(6) inserts new paragraph 15A into Schedule 32 to FA 2004 and provides that where a member becomes entitled to a pension commencement lump sum before the age of 75 but it is not paid until after, it is not treated as a benefit crystallisation event 6.
72. Paragraph 45 inserts new section 227ZA into FA 2004. This provides that where a member enters flexible drawdown, any subsequent pension input amounts in respect of a registered pension scheme of which they are an active member are subject to the annual allowance charge in full, without the benefit of the annual allowance.
73. Paragraph 46 amends section 164(2)(b) of FA 2004 so as to extend the regulation making power contained in section 164(1)(f). Provision may be made in regulations that payments that have been prescribed as authorised payments using this power may be subject to the ill-health lump sum charge.
74. Paragraph 47 amends section 168(1) of FA 2004 to provide for a drawdown pension fund lump sum death benefit to be a specified category of authorised lump sum death benefit.

75. Paragraph 48 amends section 169(1D) of FA 2004 to provide a power to make regulations enabling transfers of sums or assets made out of a drawdown pension fund to a new arrangement to be treated as if they were sums or assets held under the old arrangement to the extent provided for. The paragraph also replaces references to unsecured pensions and alternatively secured pensions with references to drawdown pensions.
76. Paragraph 49(1) to (4) amends the provisions in section 172B of FA 2004 in respect of increases in rights of connected persons on death to remove references to unsecured and alternatively secured pension funds and substitute with references to drawdown pension funds.
77. Paragraph 50 omits section 172BA of FA 2004 so that the rules on increases in rights on death arising from alternatively secured pension funds cease to have effect.
78. Paragraph 51 omits section 181A of FA 2004 so that the rules setting minimum levels of payments out of alternatively secured pensions cease to have effect.
79. Paragraphs 52 to 54 amends sections 182, 211 and 212 of FA 2004 to remove references to unsecured and alternatively secured pension funds and substitute with references to drawdown pension funds.
80. Paragraph 55 amends the definition of scheme chargeable payment in section 241 of FA 2004 to omit the cross reference to section 181A of FA 2004 which concerns minimum withdrawals from alternatively secured pensions.
81. Paragraph 56 deletes the cross references to sections 172BA and 181A of FA 2004, which are being deleted from section 268(6) of FA 2004.
82. Paragraph 57 removes the reference in section 273A of FA 2004 to the liability of insurance companies to pay the special lump sum death benefits charge in respect of an unsecured pension fund lump sum death benefit and substitutes a reference to a drawdown pension fund lump sum death benefit.
83. Paragraph 58 amends the general index in section 280(2) of FA 2004 to reflect changes provided for in the Schedule.
84. Paragraph 59 provides consequential amendments to paragraphs 1, 3 and 15 of Schedule 29 to FA 2004 (Authorised Lump Sums).

85. Paragraph 60(1) and (2) provides consequential amendments to paragraph 1(3) of Schedule 34 to FA 2004 (non-UK schemes: application of certain charges).
86. Paragraph 60(3) inserts new paragraph 4A into Schedule 34 to FA 2004 which defines how to determine whether a member of a relevant non-UK scheme meets the flexible drawdown conditions.
87. Paragraph 61(1) to (5) provides consequential amendments to paragraphs 20, 29, 34 and 36 of Schedule 36 to FA 2004 (transitional provisions and savings).
88. Part 2 of the Schedule provides amendments to legislation other than FA 2004.
89. Paragraph 62 provides for amendments to the Inheritance Tax Act 1984 (IHTA).
90. Paragraph 63(1) introduces the amendments made to section 12 of IHTA by the rest of the paragraph.
91. Paragraph 63(2) inserts a new subsection into section 12 of IHTA. New section 12(2ZA) provides that the IHT charges for omissions (for example, failure to buy an annuity) in relation to registered pension schemes, qualifying non-UK pensions as defined at section 271A of IHTA and superannuation schemes within section 615(3) of ICTA will no longer apply.
92. Paragraph 63(3) provides for the removal of sections 12(2A) to (2E) of IHTA. Sections 12(2A) to (2D) currently provide for IHT charges in the event of omissions by members of registered pension schemes, qualifying non-UK pensions as defined at section 271A of IHTA and superannuation schemes within section 615(3) of ICTA. Section 12(2E) currently prevents a double charge arising under sections 3(1) or 3(3) and sections 151A to E. As the latter charges are being removed by this measure the charge under section 3(1) is reinstated.
93. Paragraph 63(4) provides for the removal of the term “registered” from section 12(2F)(b) of IHTA.
94. Paragraph 63(5) provides for the removal of terms from section 12(2G) of IHTA which are currently contained in sections 12(2A) to 12(2E) of IHTA but which are removed by paragraph 63(3) of this schedule.
95. Paragraph 64 provides for the removal of sections 151A to 151E of IHTA. These changes remove the IHT charge that can currently apply to alternatively secured pensions.

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96. Paragraph 65 provides for the removal from section 151 of IHTA of any references to sections which are removed by virtue of the preceding paragraph.
97. Paragraph 66 provides for the removal of section 200(1A) of IHTA and any reference thereto in section 200(1) of IHTA. This subsection currently makes the scheme administrator liable for the tax chargeable under sections 151A to 151C of IHTA.
98. Paragraph 67 provides for the removal of sections 210(2) and (3) of IHTA. These subsections currently set out who is liable for charges under section 151B and section 151D of IHTA which are removed by virtue of this measure.
99. Paragraph 68(1) to (6) provides for the inheritance tax rules governing the delivery of accounts as currently set out in section 216 of IHTA to be amended to reflect the removal of charges by virtue of this measure.
100. Paragraph 69 provides for the inheritance tax rules governing the due date and payment, as currently set out in section 226(4) of IHTA to be amended to reflect the removal of charges by virtue of this measure.
101. Paragraph 70 provides for the inheritance tax rules governing interest due on amounts brought into charge, as currently set out in section 233(1)(c) of IHTA, to be amended to reflect the removal of charges by virtue of this measure.
102. Paragraph 71 provides for the removal of the definition of the term “scheme administrator” from section 272 of IHTA, the necessity for which is removed by virtue of this measure.
103. Paragraphs 72 and 73 are consequential changes required to apply the limit on withdrawals from a drawdown pension fund insofar as the sums and assets in the fund represent Protected Rights. The limits on withdrawals imposed by pension rule 5 in section 165 of FA 2004 and by pension death benefit rule 4 in section 167 of that Act cannot be disapplied in relation to Protected Rights
104. Paragraph 74(1) makes amendments to Part 9 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Part 9 imposes tax charges on pension income.
105. Paragraph 74(2) provides that foreign pensions within Part 9 of ITEPA include among other things annuities and income withdrawals under overseas pension schemes.

106. Paragraph 74(3) makes a consequential change to section 575(1) of ITEPA.
107. Paragraph 74(4) inserts new section 576A into ITEPA.
108. New section 576A(1) provides that a withdrawal from a flexible drawdown pension fund under a relevant non-UK scheme during a year in which the individual is resident outside the UK is to be treated as pension income for the tax year in which the individual becomes resident in the UK once more.
109. New section 576A(2) provides that the section applies only when the individual did not satisfy the residence requirements for a temporary period and prescribes what counts as temporary non-residence.
110. New section 576A(3) defines the residence requirements for the purposes of section 576A(2).
111. New section 576A(4) provides that when an individual is chargeable to tax on the remittance basis and both withdraws an amount from a flexible drawdown pension fund and remits this to the UK during a period of temporary non-residence, the remittance will be treated as if it were actually remitted in the year in which the individual becomes UK resident again.
112. New sections 576A(5) and (6) provide that the section does not apply unless the withdrawal from a flexible drawdown pension fund is referable to either the individual's UK tax-relieved fund or his or her relevant transfer fund. A member's UK tax-relieved fund is created by the accumulation of pension rights supported by UK tax relief. A member's relevant transfer fund is created by the transfer to the relevant non-UK scheme from a registered pension scheme or from another relevant non-UK scheme.
113. New section 576A(7) provides that no double taxation relief arrangements prevent a charge to tax under section 575 of ITEPA from arising by virtue of section 576A.
114. New section 576A(8) provides definitions for the purposes of the section.
115. Paragraph 75(1) and (2) make consequential changes to section 579B of ITEPA.
116. Paragraph 75(3) inserts new section 579CA into ITEPA.
117. New section 579CA(1) provides that a withdrawal from a flexible drawdown pension fund under a registered pension scheme during a year in which the individual is resident outside the UK is to be treated

as pension income for the tax year in which the individual becomes resident in the UK once more.

118. New section 579CA(2) provides that the section applies only when the individual did not satisfy the residence requirements for a temporary period and prescribes what counts as temporary non-residence.
119. New section 579CA(3) defines the residence requirements for the purposes of section 579CA(2).
120. New section 579CA(4) provides that no double taxation relief arrangements prevent a charge to tax under section 579B of ITEPA from arising by virtue of section 579CA.
121. New section 579CA(5) provides definitions for the purposes of the section.
122. Paragraph 75(4) inserts new section 579D into ITEPA.
123. New section 579D provides definitions for the purposes of Chapter 5A of Part 9 of ITEPA (pensions under registered pension schemes).
124. Paragraphs 76 and 77 make consequential amendments for the purposes of ITEPA.
125. Paragraph 78(1) to (4) amends section 636A of ITEPA and provides for certain lump sums to be exempt from tax only when paid to a member who has not reached the age of 75. Where the member has reached the age of 75, income tax is charged only under section 205A of FA 2004. References to unsecured pensions are substituted by references to drawdown pensions.
126. Paragraph 79 amends a cross reference in section 30 of the Income Tax Act 2007 to include references to the new section 205A of FA 2004.
127. Paragraph 80 provides for a number of consequential repeals to be made.
128. Part 3 of the Schedule makes a number of commencement and transitional provisions.
129. Paragraph 81 provides for the new rules to take effect on and after 6 April 2011.
130. Paragraph 82 provides that a person who immediately before 6 April 2011 was entitled to unsecured pension or alternatively secured pension is treated from this date as entitled to drawdown pension.

131. Paragraph 83 provides that where the legislation stipulates that a short term annuity has to be bought out of the assets in a drawdown pension fund that this includes annuities bought out of assets in an unsecured pension fund before 6 April 2011.
132. Paragraph 84 provides that where the legislation stipulates that sums or assets have been designated as available for payment out of the funds of a drawdown pension, that this includes sums or assets designated as available for an unsecured pension or alternatively secured pension fund before 6 April 2011.
133. Paragraph 85(1) to (3) provides that where a member was entitled to an unsecured pension, the start of the next pension year for their drawdown pension will be the anniversary of the start of the unsecured pension year which includes 6 April 2011.
134. Paragraph 86(1) to (8) sets out rules for working out the maximum amount that members who had unsecured pension fund arrangements and were under the age of 75 before 6 April 2011 can draw from a drawdown pension fund. It provides that the current withdrawal limits and the ability to re-determine the basis amount only every five years are preserved until the first drawdown pension year to start after the relevant date. The relevant date is the earlier of:
- the date the current reference period ends; and
 - the end of the drawdown pension year in which there is a recognised transfer to another scheme.
135. Paragraph 87(1) to (2) sets out rules for working out the maximum amount that members who had unsecured pension fund arrangements and who reached the age of 75 on or after 22 June 2010 and before 6 April 2011 can draw from a drawdown pension fund in the drawdown pension year which includes 6 April 2011.
136. Paragraphs 87(3) and (4) provides that members with an unsecured pension whose 75th birthday was on or after 22 June 2010 can withdraw income of up to 120 per cent of the basis amount for the drawdown pension year which includes 6 April 2011 falls.
137. Paragraph 88(1) to (5) sets out rules for individuals who have reached the age of 75 before 22 June 2010 and who immediately before 6 April 2011 had an unsecured pension because their whereabouts were unknown to the scheme administrator. It provides that in these circumstances, there is a new drawdown pension year starting either:
- on 6 April 2011 if the scheme administrator ascertained their whereabouts before that date but the six month period of grace has not yet elapsed and the sums and assets have not all been used to

provide an annuity or scheme pension and so remain held for the purposes of the unsecured pension fund on 5 April 2011; or

- on the date on which the scheme administrator ascertains their whereabouts after 5 April 2011.

Annual reviews and withdrawals capped at 100 per cent of the basis amount apply to these formerly untraceable members from the first day of the start of this drawdown pension year on or after 6 April 2011.

138. Paragraph 89(1) sets out rules for members who immediately before 6 April 2011 were entitled to an alternatively secured pension.
139. Paragraph 89(2) provides that for a member with an alternatively secured pension, the drawdown pension year is the same as the alternatively secured pension year.
140. Paragraph 89(3) provides that for the purposes of determining the drawdown pension year, the current pension year for a member of an alternatively secured pension scheme is the alternatively secured pension scheme year which began on or after 7 April 2010.
141. Paragraph 89(4) provides that the basis amount for the current year where the individual was a member of an alternatively secured pension scheme continues to be the basis amount for the current year under their drawdown pension.
142. Paragraph 90 to 96 make provisions for dependants of members with unsecured or alternatively secured pensions equivalent to the changes described above in relation to paragraphs 82 to 87 and paragraph 89 this Schedule.
143. Paragraph 97 provides that the amendments in relation to pension commencement lump sums apply to lump sums to which the member became entitled on or after 6 April 2011.
144. Paragraph 98 provides that the amendments in relation to lump sums other than pension commencement lump sums and lump sum death benefits apply to lump sums paid on or after 6 April 2011.
145. Paragraph 99 provides that the amendments to lump sum death benefit rules apply to lump sums paid in respect of deaths on or after 6 April 2011.
146. Paragraph 100(1) to (3) provides that the changes to the benefit crystallisation event rules apply to benefit crystallisation events occurring on or after 6 April 2011.

147. Paragraph 101 provides that the amendments to the IHT charges under section 12 of IHTA shall have effect in respect of dispositions made or treated as being made on or after 6 April 2011.
148. Paragraph 102 provides that the amendments to the IHT charges under section 151 and related administrative arrangements, as outlined in paragraphs 64-71, shall have effect in relation to deaths occurring on or after 6 April 2011.
149. Paragraph 103 makes provision for how the consequential repeals in paragraph 80 are to have effect.
150. Paragraph 104 extends the regulation making power in section 282 of FA 2004 so that regulations giving effect to this measure can have retrospective effect even if they increase an individual's liability to tax.
151. Paragraph 105 provides that payments may be made by registered pension schemes that are authorised member payments by virtue of this Schedule even if the pension scheme rules prohibit such a payment.

BACKGROUND NOTE

152. The Schedule removes the effective requirement for members of registered pension schemes to buy an annuity by the age of 75 following an announcement by the Government that it intended to remove this requirement. A consultation document *Removing the requirement to annuitise by age 75* was published on 15 July 2010, inviting views on the issues around the precise design of the new rules required to do so. The formal consultation concluded on 10 September 2010.
153. The current tax rules require that tax-relieved pension savings must be used to secure an income by age 75. This requirement is intended to ensure that pension savings accumulated with the help of tax relief are used to provide an income on retirement.
154. Most members of defined contribution (DC) schemes secure a retirement income by buying an annuity. Up until now, the options for members of DC schemes who do not wish to buy an annuity have been limited to:
 - before age 75, an unsecured pension arrangement (USP) which enables individuals to leave their pension fund invested while drawing down an income; and

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- after age 75, an alternatively secured pension arrangement (ASP) which is similar to USP but with a lower maximum drawdown limit.
155. Under the new rules, the concepts of USP and ASP will disappear and there will be a single alternative to an annuity, a drawdown pension. The maximum withdrawal of income that an individual may make from most drawdown funds will be capped at 100 per cent of the equivalent annuity that could have been bought with the fund value. However, individuals who can demonstrate that they have secure pension income for life of at least £20,000 will have unrestricted access to receive their drawdown fund as pension income.
156. Transitional rules were legislated in section 6 of and Schedule 3 to F(No.2)A 2010. These rules modify how certain rules relating to registered pension schemes apply to individuals reaching age 75 on or after 22 June 2010, the date of the June Budget when the changes were announced.
157. If you have any questions about this change or comments on the legislation, please send an email to pensions.policy@hmrc.gsi.gov.uk or contact Stephen Webb on 020 7147 2872 or Peter Seedhouse on 020 7147 2529.