

Statutory Document No. 2017/0375



*Income Tax Act 1970*

## **INCOME TAX (PENSIONS) (TEMPORARY TAXATION) ORDER 2018**

*Approved by Tynwald: 20<sup>th</sup> February 2018*

*Coming into Operation in accordance with article 2*

The Treasury makes the following Order under section 115A of the Income Tax Act 1970.

### **1 Title**

This Order is the Income Tax (Pensions) (Temporary Taxation) Order 2018.

### **2 Commencement**

If approved by Tynwald<sup>1</sup>, this Order comes into operation on the day after it is approved and shall have effect in respect of the income tax year commencing 6 April 2018.

### **3 Amendment of the Income Tax Act 1970**

(1) The Income Tax Act 1970 is amended as follows.

(2) After Part 5 (charities) insert –

#### **Part 5A – RELIEF ETC FOR OTHER PERSONAL AND OCCUPATIONAL PENSION SCHEMES**

##### **61G Definitions for this Part**

In this Part –

“administrator” means the person responsible for the management of a scheme approved under section 61H(2);

“annual allowance” means £50,000 or such amount as is prescribed by regulations made by the Treasury with the approval of Tynwald;

<sup>1</sup> Tynwald approval is required by section 115A(2) of the Income Tax Act 1970

“approved scheme” means a pension scheme approved by the Assessor under the *Income Tax (Retirement Benefit Schemes) Act 1978*, the *Income Tax Act 1989* or section 50B or 50C of this Act;

“member” means a member of a scheme approved under section 61H(2) regardless of whether the scheme is a personal pension scheme under section 61H(4) or an occupational pension scheme under section 61H(5);

“minimum allowance” means £3,600 or such other sum as is prescribed in regulations made by the Treasury with the approval of Tynwald;

“relevant benefits” means any lump sum or other like benefit; and

“relevant earnings” has the same meaning as in section 17 of the *Income Tax Act 1989*.

#### **61H Relief for certain personal and occupational pension schemes**

- (1) Exemption from income tax shall, on a claim being made, be allowed in respect of income derived from investments or deposits if, or to the extent that the Assessor is satisfied that, it is income from investments or deposits held for the purposes of a pension scheme approved under subsection (2).
- (2) Subject to subsection (3), the Assessor may, if the Assessor thinks fit, having regard to the facts of a particular case, and subject to such reasonable conditions, if any, as the Assessor thinks proper to attach to the approval, approve a pension scheme for the purposes of this section.
- (3) The Assessor shall not approve a scheme unless the scheme satisfies the condition in subsection (4) or (5).
- (4) The condition is that the scheme is a personal pension scheme –
  - (a) which is properly established under irrevocable trusts governed by the laws of the Island;
  - (b) the purpose of which is the provision of relevant benefits for the individual;
  - (c) from which the payment of relevant benefits cannot commence until the member attains the age of 55;
  - (d) which shall not at any time include any arrangements within it;
  - (e) which can only receive funds from an existing pension scheme if the scheme from which the funds are to be transferred is an approved scheme which is not a defined benefit pension scheme;
  - (f) the administrator and at least one trustee of which are resident in the Island; and

- (g) the administrator of which has a fixed place of business in the Island from which the administrator's business is conducted.
- (5) The condition is that the scheme is an occupational pension scheme –
- (a) which is properly established under irrevocable trusts in relation to a trade or undertaking;
  - (b) the purpose of which is the provision of relevant benefits in respect of a person's employment in the trade or undertaking;
  - (c) which is recognised by the employer and employees in the trade or undertaking;
  - (d) from which the payment of relevant benefits cannot commence until the member attains the age of 55;
  - (e) which shall not at any time include any arrangements within it;
  - (f) which can only receive funds from an existing pension scheme if the scheme from which the funds are to be transferred is an approved scheme which is not a defined benefit pension scheme;
  - (g) the administrator and at least one trustee of which are resident in the Island;
  - (h) the administrator of which has a fixed place of business in the Island from which the administrator's business is conducted;
  - (i) to which the employer is a contributor;
  - (j) which is established in connection with a trade or undertaking carried on in the Island by a person resident in the Island; and
  - (k) that is recognised by the employer and the employees to whom it relates, and that every employee who is, or has a right to be, a member of the scheme has been given written particulars of all essential features of the scheme which concern him or her.
- (6) Funds may be withdrawn in accordance with this Part before the member attains the age of 55 if they are payable in special circumstances or if they are payable on the member becoming incapable through infirmity of body or mind of carrying on his or her own occupation or any occupation of a similar nature for which the member is trained.
- (7) If a scheme which has been approved under subsection (2) is subsequently altered, approval will cease to apply to the scheme

after the date of alteration unless the alteration has been approved by the Assessor.

- (8) A member of a scheme approved under subsection (2) cannot, at the same time, be a member of another scheme approved under subsection (2).

#### **61I Deduction from relevant earnings**

- (1) A contribution paid by an individual to a personal pension scheme approved under section 61H(2) of which the individual is a member shall be deducted from or set off against relevant earnings of the individual for the year of assessment in which the contribution is made.
- (2) The amount allowed to be deducted under subsection (1) in respect of contributions paid by an individual in a year of assessment (whether under a single scheme or under 2 or more different schemes) shall not exceed –
- (a) in the case of a person whose relevant earnings from all sources in that year are not less than the annual allowance, the annual allowance;
  - (b) in the case of a person whose relevant earnings from all sources in that year are less than the annual allowance but are not less than the minimum allowance, those earnings;
  - (c) in the case of a person whose relevant earnings from all sources in that year are less than the minimum allowance in any year of assessment, the minimum allowance.

#### **61J Deduction to be allowed as an expense**

- (1) Any sum paid by an employer by way of contribution to an occupational pension scheme approved under section 61H(2) shall, for the purpose of income tax, be allowed to be deducted as an expense in the year of assessment in which the sum is paid provided that the amount of an employer's contributions which may be so deducted shall not exceed the amount contributed by the employer under the scheme in respect of employees in a trade or undertaking in respect of the profits of which the employer is assessable to income tax.
- (2) Any contribution paid to an occupational pension scheme approved under section 61H(2) by a member shall, in assessing income tax, be allowed to be deducted as an expense incurred in the year of assessment in which the contribution is paid.
- (3) The amount to be deducted by virtue of subsection (2) in respect of contributions paid by a member in a year of assessment

(whether under a single scheme or under 2 or more different schemes) shall not exceed –

- (a) in the case of a person whose relevant earnings from all sources in that year are not less than the annual allowance, the annual allowance;
- (b) in the case of a person whose relevant earnings from all sources in that year are less than the annual allowance but are not less than the minimum allowance, those earnings;
- (c) in the case of a person whose relevant earnings from all sources in that year are less than the minimum allowance in any year of assessment, the minimum allowance.

**61K Transfer of approved scheme to pension scheme approved under section 61H**

- (1) This section applies to a pension scheme that is approved by the Assessor under section 50B or 50C.
- (2) Despite –
  - (a) section 50B requiring an approved scheme to have for its sole or main purpose the provision of relevant benefits as defined in that section; and
  - (b) section 50C requiring an approved scheme –
    - (i) to be a scheme whose sole purpose is the provision of relevant benefits as defined in section 50F; and
    - (ii) to be one in which at least 70% of a member's tax-relieved scheme funds are to provide the member with an income for life,

the Assessor shall allow a scheme approved under either section 50B or 50C to be transferred to a pension scheme approved under section 61H(2) for the purpose of allowing the member to access the funds in accordance with this Part, should the member so elect.

- (3) Where a member of a scheme referred to in subsection (1) elects for that scheme to be transferred to a pension scheme approved under section 61H(2), the total value of the scheme that is to be transferred will be liable to a transfer fee of 10% of that total.
- (4) Any transfer fee arising under subsection (3) shall be deducted from the sum to be transferred before the transfer can take place.
- (5) For the purposes of subsection (3), the total value of the scheme must be calculated as at the date on which the transfer fee is deducted, by reference to the then known circumstances.
- (6) Where an amount is liable to a transfer fee under subsection (3) –

- (a) the fee shall be payable to the Assessor by the administrator of the scheme on the day on which the fee is deducted from the scheme; and
  - (b) on the same day, the administrator shall notify the Assessor of –
    - (i) the amount of fee paid;
    - (ii) the value of the pension scheme immediately prior to the payment of the fee;
    - (iii) the pension scheme reference number;
    - (iv) the name of the scheme;
    - (v) the scheme member's full name, date of birth and tax reference number.
- (7) When the transfer fee has been received by the Assessor, the Assessor will issue a notification to the administrator to confirm receipt.
- (8) When the administrator has received a notification issued under subsection (7), the scheme from which the fee has been deducted can be transferred to the pension scheme approved under section 61H(2).
- (9) If a scheme approved under section 50C is transferred to a pension scheme approved under section 61H(2) –
- (a) without a transfer fee being deducted under subsection (4);  
or
  - (b) without the administrator receiving a notification issued under subsection (7),
- the transfer will constitute an unauthorised payment for the purposes of sections 50D and 50E.
- (10) If an individual has made an election that has been approved under section 2ZA(3) or 2ZA(7)(b) and is in force and a transfer fee arises under subsection (3) in respect of a pension scheme of which the individual is a member, the transfer fee will not form a part of the income tax cap amount in section 2ZB as it is not a charge to income tax.

#### **61L Withdrawal of funds during life of member**

Subject to section 61H(4)(c), (5)(d) and (6), a member of a pension scheme approved under section 61H(2) may elect to receive either –

- (a) a single lump sum payment in commutation of the value of the entire pension scheme; or
- (b) payments consisting of –

- (i) an initial single lump sum payment of not less than 40% of the value of the entire pension scheme; and
- (ii) subsequently, the remainder of the funds in such amounts and at such times as specified by the member until the funds in the scheme have been extinguished.

#### **61M Charge to tax on payment of pension**

- (1) Where funds are withdrawn by a member under section 61L, the amount of any such withdrawal is chargeable to income tax in the hands of the person receiving or entitled to the income, subject to section 61N.
- (2) The reference to “income tax” in section 114 shall include a reference to the tax payable under this section.
- (3) For the purposes of the *Income Tax (Instalment Payments) Act 1974*, the payment of a pension shall be treated as the payment of remuneration by an employer and for that purpose the obligations falling on an employer under that Act shall fall on the scheme administrator.

#### **61N Lump sum payment**

- (1) Subject to subsection (3) –
  - (a) where a single lump sum payment is made under section 61L(a), 40% of the payment shall not be chargeable to income tax;
  - (b) where an initial single lump sum payment of not less than 40% of the value of the entire pension scheme is made under section 61L(b)(i), an amount of that payment equal to 40% of the value of the entire pension scheme shall not be chargeable to income tax.
- (2) The amount of the single lump sum payment in section 61L(a) and of the initial single lump sum payment in 61L(b)(i) must be calculated as at the date on which the lump sum is payable by reference to the then known circumstances.
- (3) Where the funds contain an amount that has been transferred from an approved scheme and the amount has been transferred after a lump sum has been paid from that approved scheme to the member, the amount that has been transferred shall not be included when calculating the amount of the payment that shall not be chargeable to income tax under subsection (1)(a) or (b).
- (4) Where a lump sum is paid in accordance with this section, the administrator must, within 30 days of the date on which the lump sum is paid, give notice of the payment to the Assessor in such

form and containing such information as the Assessor may require.

- (5) An administrator who fails to comply with this section shall be guilty of an offence.

#### **61O Employer's contributions**

Where contributions are paid by an employer to a personal pension scheme approved under section 61H(2) of which his or her employee is a member, those contributions shall not be regarded as emoluments of the employment chargeable to income tax.

#### **61P Commutation of member's pension after death of member**

- (1) This section applies where –
- (a) relevant benefits did not become payable before the death of the member; or
  - (b) relevant benefits came into payment under section 61L(b) before the death of the member and the scheme still holds funds of the member after that member's death.
- (2) Where subsection (1) applies, the member's pension shall be commuted in full within 2 years of the date of death of the member.
- (3) The value of any member's funds commuted under this section shall not be chargeable to income tax.

#### **61Q Charge to tax: unauthorised payments**

- (1) Any payment made out of funds which are or have been held for the purposes of a scheme approved under section 61H(2) to or for the benefit of a person which is not expressly authorised by the rules of the scheme shall be an unauthorised payment and shall be chargeable to income tax on the member (whether or not the member is the recipient of the payment) in the year of assessment in which the payment is made.
- (2) Any income tax chargeable under subsection (1) shall be accounted for and paid over to the Assessor by the administrator within 14 days of the date on which the unauthorised payment is made.
- (3) Any tax paid by the administrator under subsection (2) shall be –
- (a) deemed to be paid on behalf of the member; and
  - (b) deducted from the unauthorised payment.
- (4) The administrator shall give to the member written notice of the deduction of the charge in such form as the Assessor may approve.



- (5) The Assessor shall issue to the member a certificate in respect of the deduction and that certificate shall have the same effect as an assessment made upon the member.
- (6) In this section, references to any payment include references to any transfer of assets or other transfer of money's worth.
- (7) If an individual has made an election that has been approved under section 2ZA(3) or 2ZA(7)(b) and is in force and that individual is also the member referred to in subsection (1), the income tax cap amount applicable to the election shall be increased by a sum equal to 20% of the payment in the year of assessment in which the payment is received.
- (8) A member of a scheme approved under section 61H(2) may appeal to the Commissioners against a charge to tax under this section in the same manner as an appeal against an assessment to income tax and the Commissioners may confirm, rescind or amend the charge.

#### **61R Supplementary charge on unauthorised payments**

- (1) In addition to the income tax charge specified in section 61Q(1), if an unauthorised payment is made, the member will be liable to a supplementary charge of 20% of the value of the unauthorised payment.
- (2) The value of the unauthorised payment to be used for calculating the supplementary charge shall be the value of the payment prior to making any deduction in accordance with section 61Q(3)(b).
- (3) The Assessor may, if the Assessor thinks fit, remit any supplementary charge or portion of a charge payable under this section.
- (4) The supplementary charge shall be payable to the Assessor by the administrator as a debt due in all respects as if it were income tax due under the Income Tax Acts.
- (5) The supplementary charge shall be accounted for and paid over to the Assessor by the administrator within 14 days of the date on which the relevant payment is made.
- (6) Any supplementary charge paid by the administrator under subsection (4) shall be –
  - (a) deemed to be paid on behalf of the member; and
  - (b) deducted from the unauthorised payment.
- (7) The administrator shall give to the member written notice of the deduction of the supplementary charge in such form as the Assessor may approve.

- (8) The Assessor shall issue to the member a certificate in respect of the deduction and that certificate shall have the same effect as an assessment made upon the member.
- (9) A member of an approved scheme may appeal to the Commissioners against a supplementary charge under this section in the same manner as an appeal against an assessment to income tax and the Commissioners may confirm, rescind or amend the charge.

#### **61S Charge on excess contributions**

- (1) If in any year of assessment the aggregate of all contributions in that year which are made in respect of a person (whether under a single scheme or under 2 or more different schemes) exceeds the annual allowance the scheme administrator shall, within 14 days of the end of the tax month in which the scheme administrator becomes aware or should have become aware of the excess, account for and pay to the Assessor a charge of 40% of the excess.
- (2) A failure by a scheme administrator to comply with subsection (1) shall –
  - (a) have the effect that the charge payable under that subsection shall be recoverable as a debt from the administrator; and
  - (b) be grounds for the withdrawal of approval under section 61H(2).
- (3) Where the scheme administrator could not reasonably have been aware of an excess referred to in subsection (1), the charge shall be a debt due by the member concerned in all respects as income tax due under the Income Tax Acts at the rate of 40%.
- (4) The amount of any charge payable by a scheme member under subsection (3) shall be reduced by any amount paid by a scheme administrator under subsection (1).
- (5) A member of a scheme approved under section 61H(2) may appeal to the Commissioners against a charge under this section in the same manner as an appeal against an assessment to income tax and the Commissioners may confirm, rescind or amend the charge.

#### **61T Winding up of scheme**

The administrator shall wind up a scheme approved under section 61H(2) within 12 months of the scheme's funds being exhausted.

**61U Administration**

- (1) The Treasury may make such regulations as are necessary for the purpose of implementing this Part.
- (2) Without limiting subsection (1), regulations may –
  - (a) amend the conditions which a scheme must satisfy in order to gain approval;
  - (b) vary any amount or time period specified in this Part;
  - (c) restrict the Assessor's discretion to approve a scheme under section 61H(2) by reference to such criteria or circumstances as may be specified in the regulations;
  - (d) introduce procedures which the administrator of such a scheme must follow in order to gain approval.
- (3) Regulations under subsection (1) shall not come into operation unless they are approved by Tynwald.

**61V Recycling of funds**

- (1) Funds withdrawn by a member under section 61L cannot at any time be paid into a pension scheme approved by the Assessor under section 61H(2).
- (2) Where a member pays a contribution under a scheme approved under section 61H(2) and some, or all, of that contribution consists of funds that have been withdrawn from an approved scheme as defined in section 61G, section 61I or 61J shall not apply to the amount of the contribution that consists of those funds.

**61W Reporting requirement**

- (1) Where a single payment in excess of £10,000 is made by way of contribution into a scheme approved under section 61H(2) by an employer contributing to the scheme, the administrator shall notify the Assessor of that payment no later than 30 days after the end of the tax year in which the payment is made.
- (2) The Assessor may give a notice to a scheme administrator requiring the administrator to provide the Assessor with –
  - (a) such particulars as the notice may require relating to contributions paid to a scheme approved under section 61H(2);
  - (b) such particulars as the notice may require relating to payments by way of return of contributions;
  - (c) such other details as the notice may require.

- (3) An administrator to whom a notice is given under subsection (2) shall comply with the notice within the period of 30 days beginning with the day on which it is given.
- (4) An administrator who fails to comply with this section shall be guilty of an offence.

**61X Information: offences**

A person who knowingly makes a false statement or false representation under this Part for the purpose of obtaining for himself or herself or any other person any relief from or repayment of tax under this Part shall be guilty of an offence. **22**.

**4 Amendment to the Income Tax (Retirement Benefit Schemes) Act 1978**

- (1) The Income Tax (Retirement Benefit Schemes) Act 1978 is amended as follows.
- (2) At the end of section 3(4), insert **23**, subject to section 12C **22**.
- (3) After section 12A, insert –

**23 12B Transfer of approved scheme to pension scheme approved under section 61H of the principal Act**

- (1) This section applies to a retirement benefits scheme that is approved by the Assessor for the purposes of this Act.
- (2) Despite the requirement in section 1(2)(a) that a scheme must be bona fide established for the sole purpose of providing the relevant benefits in respect of service as an employee in order for the scheme to be approved, the Assessor will allow a scheme approved for the purposes of the Act to be transferred to a pension scheme approved under section 61H of the principal Act for the purpose of allowing the member to access the funds in accordance with Part 5A of that Act, should the member so elect.
- (3) Where a member of a scheme specified in subsection (1) elects for that scheme to be transferred to a pension scheme approved under section 61H of the principal Act, the total value of the scheme that is to be transferred will be liable to a transfer fee of 10% of that total.
- (4) Any transfer fee arising under subsection (3) shall be deducted from the sum to be transferred before the transfer can take place.
- (5) For the purposes of subsection (3), the total value of the scheme must be calculated as at the date on which the transfer fee is deducted, by reference to the then known circumstances.
- (6) Where an amount is liable to a transfer fee under subsection (3) –

- (a) the fee shall be payable to the Assessor by the administrator of the scheme on the day on which the fee is deducted from the scheme; and
  - (b) on the same day, the administrator shall notify the Assessor of –
    - (i) the amount of fee paid;
    - (ii) the value of the pension scheme immediately prior to the payment of the fee;
    - (iii) the pension scheme reference number;
    - (iv) the name of the scheme;
    - (v) the scheme member's full name, date of birth and tax reference number.
- (7) When the transfer fee has been received by the Assessor, the Assessor will issue a notification to the administrator to confirm receipt.
- (8) When the administrator has received a notification issued under subsection (7), the scheme from which the fee has been deducted can be transferred to the pension scheme approved under section 61H of the principal Act.
- (9) If a scheme specified in subsection (1) is transferred to a pension scheme approved under section 61H of the principal Act –
- (a) without a transfer fee being deducted under subsection (4); or
  - (b) without the administrator receiving a notification issued under subsection (7),
- the transfer will constitute an unauthorised payment for the purposes of sections 11A and 11E.
- (10) If an individual has made an election that has been approved under section 2ZA(3) or 2ZA(7)(b) of the principal Act and is in force and a transfer fee arises under subsection (3) in respect of a pension scheme of which the individual is a member, the transfer fee will not form a part of the income tax cap amount in section 2ZB of the principal Act as it is not a charge to income tax.

### **12C Recycling of funds withdrawn from another approved pension scheme**

Where an employee pays a sum by way of contribution under a scheme and some, or all, of that sum consists of funds that have been withdrawn from a pension scheme approved under this Act, the principal Act or under the *Income Tax Act 1989*, section 3(4) shall not apply to the amount of the sum that consists of those funds.

**12D Reporting requirement**

- (1) Where a single payment in excess of £10,000 is made by an employer by way of contribution, into a retirement benefits scheme that is approved by the Assessor for the purposes of this Act, the administrator shall notify the Assessor of that payment no later than 30 days after the end of the tax year in which the payment is made.
- (2) An administrator who fails to comply with this section shall be guilty of an offence. **22**.

**5 Amendment to the Income Tax Act 1989**

- (1) The Income Tax Act 1989 is amended as follows.
- (2) At the end of section 13(1), insert **23**, subject to section 37B **22**.
- (3) After section 23, insert –

**23AA Reporting requirement**

- (1) Where a single payment in excess of £10,000 is made by an employer by way of contribution, into a scheme approved under section 2, the administrator shall notify the Assessor of that payment no later than 30 days after the end of the tax year in which the payment is made.
  - (2) An administrator who fails to comply with this section shall be guilty of an offence. **22**.
- (4) After section 37, insert –

**37A Transfer of approved personal pension scheme to pension scheme approved under section 61H of the Income Tax Act 1970**

- (1) This section applies to a personal pension scheme that is approved under section 2.
- (2) Despite the definition of “personal pension scheme” in section 1, the Assessor will allow a scheme approved under section 2 to be transferred to a pension scheme approved under section 61H of the *Income Tax Act 1970* (hereinafter referred to in this section as a “1970 Act scheme”) for the purpose of allowing the member to access the funds in accordance with Part 5A of that Act, should the member so elect.
- (3) Where a member of a scheme specified in subsection (1) elects for that scheme to be transferred to a 1970 Act scheme the total value of the scheme that is to be transferred will be liable to a transfer fee of 10% of that total.
- (4) Any transfer fee arising under subsection (3) shall be deducted from the sum to be transferred before the transfer can take place.

- (5) For the purposes of subsection (3), the total value of the scheme must be calculated as at the date on which the transfer fee is deducted, by reference to the then known circumstances.
- (6) Where an amount is liable to a transfer fee under subsection (3) –
- (a) the fee shall be payable to the Assessor by the administrator of the scheme on the day on which the fee is deducted from the scheme; and
  - (b) on the same day, the administrator shall notify the Assessor of –
    - (i) the amount of fee paid;
    - (ii) the value of the pension scheme immediately prior to the payment of the fee;
    - (iii) the pension scheme reference number;
    - (iv) the name of the scheme;
    - (v) the scheme member's full name, date of birth and tax reference number.
- (7) When the transfer fee has been received by the Assessor, the Assessor will issue a notification to the administrator to confirm receipt.
- (8) When the administrator has received a notification under subsection (7), the scheme from which the fee has been deducted can be transferred to the 1970 Act scheme.
- (9) If a scheme specified in subsection (1) is transferred to a 1970 Act scheme –
- (a) without a transfer fee being deducted under subsection (3); or
  - (b) without the administrator being notified under subsection (7),
- the transfer will constitute an unauthorised payment for the purposes of sections 25 and 25A.
- (10) If an individual has made an election that has been approved under section 2ZA(3) or 2ZA(7)(b) of the *Income Tax Act 1970* and is in force and a transfer fee arises under subsection (3) in respect of a pension scheme of which the individual is a member, the transfer fee will not form a part of the income tax cap amount in section 2ZB of the *Income Tax Act 1970* as it is not a charge to income tax.

### **37B Recycling of funds withdrawn from another approved pension scheme**

Where an individual pays a contribution under approved personal pension arrangements made by the individual and some, or all, of that

contribution consists of funds that have been withdrawn from a pension scheme approved under this Act, the *Income Tax Act 1970* or the *Income Tax (Retirement Benefit Schemes) Act 1978*, section 13(1) shall not apply to the amount of the contribution that consists of those funds. **22**.

**MADE 25<sup>TH</sup> JANUARY 2018**

**A L CANNAN**  
*Minister for the Treasury*



*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order is made under section 115A of the Income Tax Act 1970. It inserts a new Part into the Income Tax Act 1970 to provide tax relief for income derived from investments and deposits held for the purposes of certain approved personal and occupational pension schemes.

It allows a member to withdraw funds from the new scheme before the age of 55 in special circumstances and restricts a person to being a member of no more than one such scheme at any one time. It allows certain contributions to the new scheme to be deducted as an expense or from relevant earnings and provides that if a scheme approved under section 50B or 50C of the Act is transferred to a new scheme then a 10% transfer fee must be paid before the transfer can take place. The Order also enables a member of the new scheme to access the entire pension fund from the age of 55, of which 40% will be paid free of tax, and provides that contributions paid by an employer to a new personal pension scheme will not be treated as emoluments chargeable to income tax. Any funds remaining after the member's death may be commuted and paid free of tax. For both personal and occupational schemes it provides for a charge on unauthorised payments and for a supplementary charge on those payments, the former of which will be added to the tax cap amount where appropriate; it also provides for a charge on excess contributions. The Order enables Treasury to make regulations for implementing the Part; it also contains measures addressing the recycling of funds withdrawn from various approved pension schemes. The final provisions of the new Part contain a reporting requirement for single payments of more than £10,000 made by an employer to a scheme approved under the Part, and also a provision making it an offence for a person to make a false statement or false representation under the Part to obtain relief or repayment of tax.

The Order also amends the Income Tax (Retirement Benefit Schemes) Act 1978 and the Income Tax Act 1989 to provide that if a scheme approved under either Act is transferred to the new pension scheme introduced into the Income Tax Act 1970 by this Order then a 10% transfer fee must be paid before the transfer can take place. The Order further amends both Acts to provide that if funds are withdrawn from a pension scheme approved under the Income Tax Acts and then paid into a scheme approved under either Act, the funds paid in will not be deducted from relevant earnings or deducted as an expense. Finally, both Acts are also amended to introduce a reporting requirement for single payments of more than £10,000 made by an employer to a scheme approved under the respective Act.