



**Isle of Man**

*Ellan Vannin*

**AT 9 of 1978**

**INCOME TAX (RETIREMENT BENEFIT  
SCHEMES) ACT 1978**





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## INCOME TAX (RETIREMENT BENEFIT SCHEMES) ACT 1978

*Received Royal Assent:* 31 May 1978  
*Passed:* 20 June 1978  
*Commenced:* 6 April 1978<sup>1</sup>

**AN ACT** to provide for the tax treatment of occupational pension schemes.

### **1 Conditions for approval of schemes**

[P1970/24/19]

- (1) The Assessor shall not approve any retirement benefits scheme for the purpose of this Act unless the scheme satisfies all of the conditions set out in subsection (2).
- (2) The said conditions are —
  - (a) that the scheme is bona fide established for the sole purpose of providing the relevant benefits in respect of service as an employee, being benefits payable to, or to the surviving spouse or civil partner, children or dependants or personal representatives of, the employee,<sup>1</sup>
  - (b) that the scheme 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,
  - (c) that there is a person resident in the Island who will be responsible for the discharge of all duties imposed on the administrator of the scheme under this Act,
  - (d) that the employer is a contributor to the scheme,
  - (e) that the scheme is established in connection with some trade or undertaking carried on in the Island by a person resident in the Island,

<sup>1</sup> See section 17(2) and paragraph 2 of Schedule 3.

- (f) that in no circumstances, whether during the subsistence of the scheme or later, can any amount be paid by way of repayment of an employee's contributions under the scheme.
- (3) Subject to subsection (1), the Assessor shall approve a retirement benefits scheme for the purpose of this Act if the scheme satisfies all of the conditions in this subsection, that is —
- (a) that any benefit for an employee is a pension on retirement, at a specified age not earlier than 60, and not later than 70, which does not exceed one-sixtieth of the employee's final remuneration for each year of service up to a maximum of 40,<sup>2</sup>
- (b) that any benefit for any surviving spouse or civil partner of an employee is a pension payable on his death after retirement such that the amount payable to the surviving spouse or civil partner by way of pension does not exceed two-thirds of any pension or pensions payable to the employee,<sup>3</sup>
- (c) that no other benefits are payable under the scheme,
- (d) that no pension is capable in whole or in part of surrender, commutation or assignment, except so far as the scheme allows an employee on retirement to obtain, by commutation of his pension, a lump sum or sums not exceeding in all three-eighths of his final remuneration for each year of service up to a maximum of 40.<sup>4</sup>

The conditions set out in subsection (2) and in this subsection are referred to in this Act as “**the prescribed conditions**”.

- (3A) If in the opinion of the Assessor the facts concerning any scheme or its administration cease to warrant the continuance of his approval of the scheme, he may at any time by notice in writing to the administrator withdraw his approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of the approval) as may be specified in the notice.<sup>5</sup>
- (4) Where an alteration has been made in a retirement benefits scheme, no approval given as regards the scheme before the alteration shall apply after the date of the alteration unless the alteration has been approved by the Assessor.
- (5) For the purpose of determining whether a retirement benefits scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions that scheme shall be considered in conjunction with any other retirement benefits scheme or schemes relating to employees of that class or description, and, if those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of each of them otherwise those conditions shall be taken to be satisfied in the case of none of them.

- (6) No approval shall be given as respects any period before 6th April 1978.

## 2 Discretionary approval

[P1970/24/20]

- (1) Subject to subsection (3), the Assessor may, if he thinks fit, having regard to the facts of a particular case, and subject to such conditions, if any, as he thinks proper to attach to the approval, approve a retirement benefits scheme for the purpose of this Act notwithstanding that it does not satisfy one or more of the prescribed conditions.<sup>6</sup>
- (2) The Assessor may in particular approve by virtue of this section a scheme —
- (a) which exceeds the limit imposed by the prescribed conditions as respects benefits for less than forty years' service, or
  - (b) which provides pensions for widows of employees on death in service, or for the children or dependants of employees, or
  - (c) which provides on death in service a lump sum of up to four times the employee's final remuneration (exclusive of any refunds of contributions), or
  - (d) which allows benefits to be payable on retirement within ten years of the specified age, or on earlier incapacity, or
  - (dd) which permits the receipt of relevant benefits by an employee while continuing to be employed by the employer but the scheme shall not permit the payment of relevant benefits before the normal retirement age under the scheme;<sup>7</sup>
  - (e) which provides for the return in certain contingencies of the employee's contributions, or
  - (ee) which provides for the payment to an employee of a lump sum that does not satisfy section 1(3)(d) but satisfies the early payment of lump sum conditions in section 2A, or<sup>8</sup>
  - (f) which relates to a trade or undertaking carried on only partly in the Island and by a person not resident in the Island, or
  - (ff) which, in accordance with regulations under subsection (5), provides in certain contingencies for the payment of trivial commutation lump sums, or<sup>9</sup>
  - (g) which provides in certain contingencies for securing relevant benefits (but no other benefits) by means of an annuity contract approved by the Assessor and made with an approved insurer of the employee's choice, or<sup>10</sup>
  - (h) to which the employer is not a contributor and which provides benefits additional to those provided by a scheme to which he is a contributor; or<sup>11</sup>

- (i) which does not satisfy the condition in section 1(3)(d) but —
  - (i) otherwise satisfies the prescribed conditions; and
  - (ii) a lump sum under the scheme does not exceed 30% of the total value, at the time when the lump sum is paid, of the benefits for the employee provided for by the arrangements made in accordance with the scheme.<sup>12</sup>
- (2A) [Repealed]<sup>13</sup>
- (3) The Assessor shall not approve a scheme by virtue of this section if to do so would be inconsistent with regulations made for the purposes of this section.<sup>14</sup>
- (4) Regulations made for the purposes of this section may restrict the Assessor's discretion to approve a scheme by reference to the benefits provided by the scheme, the investments held for the purposes of the scheme, the manner in which the scheme is administered, or any other circumstances whatever.<sup>15</sup>
- (5) The power to make regulations for the purposes of this section shall be exercisable by the Treasury.<sup>16</sup>
- (6) For the purposes of subsection (2)(ff), regulations under subsection (4) may —
- (a) make provision for the circumstances in which a lump sum will be treated as a trivial commutation lump sum;
  - (b) specify a commutation limit;
  - (c) specify the factors to be taken into account in determining whether the commutation limit is exceeded or not.<sup>17</sup>
- (7) The Treasury may by regulations provide for the method by which the total value of the benefits for the employee may be calculated and different methods may be provided for different purposes.<sup>18</sup>

## **2A Lump sum to employee: conditions**

- (1) These are the conditions referred to in section 2(2)(ee).
- (2) The lump sum must not exceed 30% of the total value of the benefits payable to the member at the time.
- (3) The lump sum must be payable only if the employee so elects before the date on which a pension is first payable to the employee under the scheme.
- (4) The lump sum must be payable before a pension is first payable but not in any case before the normal retirement age under the scheme.
- (5) The amount of the lump sum must be calculated as at the date on which the lump sum is payable by reference to the then known circumstances



and on the assumption that the other relevant benefits are calculated and taken on that date.

- (6) Where an employee elects for a lump sum payable in accordance with this section, the other relevant benefits shall be calculated —
  - (a) in the case of a defined benefits scheme, in accordance with the rules of the scheme but only after taking account of the payment of the lump sum and without further reference to the arrangements under the scheme that provide for the payment of a lump sum; or
  - (b) in the case of a defined contributions scheme, the fund available after payment of the lump sum is to be available only for the purpose of purchasing an annuity or for the withdrawal of funds in accordance with the terms of the approved scheme.
- (7) Where a lump sum is paid in accordance with this section, the scheme trustees (if any) and the scheme administrator must within 3 months of the payment of that sum give notice of the payment to the Assessor in such form and containing such information as the Assessor may require.
- (8) The Treasury may by regulations provide for the method by which the total value of benefits payable to a member may be calculated and different methods may be provided for different classes of scheme.<sup>19</sup>

## 2B Annual allowance

The aggregate of all contributions that a person may make in any year of assessment (whether under a single scheme or under two or more schemes) shall not exceed the annual allowance.<sup>20</sup>

## 3 Certain approved schemes: exemptions and reliefs

[P1970/24/21]

- (1) This section has effect as respects —
  - (a) any approved scheme which is shown to the satisfaction of the Assessor to be established under irrevocable trusts, or
  - (b) any other approved scheme as respects which the Assessor, having regard to any special circumstances, directs that this section shall apply,

and any scheme which is for the time being within paragraph (a) or (b) is in this Act referred to as an “**exempt approved scheme**”.

- (2) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits if, or to such extent as the Assessor is satisfied that, it is income from investments or deposits held for the purposes of the scheme.

- (2A) In subsection (2), “investments” includes contracts entered into in the course of dealing in financial futures or traded options.<sup>21</sup>
- (2B) The Treasury may by regulations extend or restrict the meaning of the word “investments” for the purposes of subsection (2) and may make consequential amendments to subsection (2A).<sup>22</sup>
- (3) Any sum paid by an employer by way of contribution under the scheme shall for the purpose of income tax, be allowed to be deducted as an expense incurred in the year of assessment in which the sum is paid:
- Provided that —
- (a) the amount of an employer’s contributions which may be so deducted shall not exceed the amount contributed by him 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,
- (b) a sum not paid by way of an ordinary annual contribution shall for the purposes of this subsection be treated, as the Assessor may direct, either as an expense incurred in the basis period in which the sum is paid, or as an expense to be spread over such period of years as the Assessor thinks proper.
- (4) Any contribution paid under the scheme by an employee 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, subject to section 12C.<sup>23</sup>
- (4A) The amount allowed to be deducted by virtue of subsection (4) in respect of contributions paid by an employee in a year of assessment (whether under a single scheme or under two or more 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.<sup>24</sup>
- (5) [Repealed]<sup>25</sup>
- (6) This section has effect only as respects income arising or gains accruing or contributions paid at a time when the scheme is an exempt approved scheme.

#### 4 Certain statutory schemes: exemptions and reliefs

[P1970/24/22]

- (1) This section has effect as respects any statutory scheme established under any Act of Tynwald or by virtue of any resolution of Tynwald.
- (2) Any contribution paid under the scheme by any officer or employee shall, in assessing income tax, be allowed to be deducted as an expense incurred in any year of assessment in which the contribution is paid.<sup>26</sup>
- (2A) The amount allowed to be deducted by virtue of subsection (2) in respect of contributions paid by a person in a year of assessment (whether under a single scheme or under two or more 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.<sup>27</sup>
- (3) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits if, or to such extent as the Assessor is satisfied that, it is the income from investments or deposits held for the purposes of the scheme.<sup>28</sup>

#### 5 Taxation in respect of certain schemes

[P1970/24/23]

- (1) Subject to the provisions of this Act, where, pursuant to a retirement benefits scheme, the employer in any year of assessment pays a sum with a view to the provision of any relevant benefits for any employee of that employer, then (whether or not the accrual of the benefits is dependent on any contingency) —
  - (a) the sum paid, if not otherwise chargeable to income tax as income of the employee, shall be deemed for all the purposes of the Income Tax Acts to be income of that employee for that year of assessment and assessable to income tax, and
  - (b) [Repealed]<sup>29</sup>
- (2) Subject to the provisions of this Act, where —
  - (a) the circumstances in which the relevant benefits under a retirement benefits scheme are to accrue are not such as will render the benefits assessable to income tax as emoluments of the employee in respect of whom the benefits are paid, and

- (b) the provision of those benefits is not, or is not fully, secured by the payment of sums by the employer with a view to the provision of those benefits,

then (whether or not the accrual of the benefits is dependent on any contingency) an amount equal to the cost, estimated in accordance with subsection (3), of securing the provision by a third person of the benefits or, as the case may be, of the benefits so far as not already secured by the payment of such sums as are mentioned in subsection (1), shall be deemed for all purposes of the Income Tax Acts to be income of the employee for the year or years of assessment specified in subsection (3) and assessable to income tax.

- (3) The cost referred to in subsection (2) shall be estimated either —
- (a) as an annual sum payable in each year of assessment in which the scheme in question is in force or the employee is serving, up to and including the year of assessment in which the benefits accrue or there ceases to be any possibility of the accrual thereof, or
- (b) as a single sum payable in the year of assessment in which falls the date when the employee acquired the right to the relevant benefits, or the date when he acquired the right to any increase in the relevant benefits,

as may be more appropriate in the circumstances of the case.

- (4) Where the employer pays any sum as mentioned in subsection (1) in relation to more than one employee, the sum so paid shall, for the purpose of that subsection, be apportioned among those employees by reference to the separate sums which would have had to be paid to secure the separate benefits to be provided for them respectively, and the part of the sum apportioned to each of them shall be deemed for that purpose to have been paid separately in relation to that one of them.
- (5) Any reference in this section to the provision for an employee of relevant benefits includes a reference to the provision of benefits payable to that employee's spouse or civil partner, surviving spouse or civil partner, children, dependants or personal representatives.<sup>30</sup>

## 6 Exceptions from charge to tax under section 5

[P1970/24/24]

- (1) Neither subsection (1) nor subsection (2) of section 5 shall apply where the retirement benefits scheme in question is —
- (a) an approved scheme, or
- (b) a statutory scheme.
- (2) Neither subsection (1) nor subsection (2) of section 5 shall apply for any year of assessment where apart from those subsections the employee is

not assessable to income tax in respect of the emoluments of his employment.

- (3) Where, in respect of the provisions for an employee of any relevant benefits, a sum has been deemed to be income of his by virtue either of subsection (1) or subsection (2) of section 5 and subsequently the employee proves to the satisfaction of the Assessor that no payment in respect of, or in substitution for, the benefits has been made and that some event has occurred by reason of which no such payment will be made, and makes application for relief under this subsection within six years from the time when that event occurred, the Assessor shall give relief in respect of tax on that sum by repayment or otherwise as may be appropriate; and if the employee satisfies the Assessor as aforesaid in relation to some particular part of the benefits but not the whole thereof, the Assessor may give such relief as may seem to him just and reasonable.

## **7 Amendment of schemes**

[P1971/68/22]

- (1) This section applies to any amendment of a retirement benefits scheme proposed in connection with an application for the Assessor's approval for the purpose of this Act which is needed in order to ensure that approval is so given, or designed to enhance the benefits under that scheme up to the limits suitable in a scheme for which approval is sought.
- (2) A provision, however expressed, designed to preclude any amendment of a scheme which would prejudice its approval under section 47 of the principal Act shall not prevent any amendment to which this section applies.<sup>31</sup>
- (3) In the case of a scheme which contains no powers of amendment, the administrator of the scheme may, with the consent of all members of the scheme, and of the employer (or of each of the employers), make in this scheme any amendment to which this section applies.

## **8 Charge to tax on repayment of employee's contribution**

[P1970/24/Sch 5]

- (1) Subject to the provisions of this section, a tax (hereinafter in this section referred to as "the tax") shall be charged under this section on any repayment to an employee during his life-time of any contributions (including interest, if any, thereon) if the repayment is made under —
  - (a) an approved scheme, or
  - (b) a statutory scheme.
- (2) Where any amount is chargeable to the tax, the administrator of the scheme shall be charged thereto on that amount.

- (3) The tax shall be at the rate of 7½ per cent.
- (4) The tax shall be chargeable on the amount paid or, if the rules of the scheme permit, on the amount before deduction of the tax, and the amount so charged to the tax shall not be treated as income for any other purpose of the Income Tax Acts.
- (5) This section shall not apply where the employee's employment was carried on outside the Island.
- (6) In this and section 9 in relation to a statutory scheme, "**employee**" includes any officer.

## 9 Charge to tax on commutation of an employee's entire pension

[P1970/24/Sch 5]

- (1) Where —
  - (a) an approved scheme, or
  - (b) a statutory scheme,contains a rule allowing, in special circumstances, a payment in commutation of an employee's entire pension, and any pension is commuted, whether wholly or not, under the rule, a tax (hereinafter referred to in this section as "the tax") shall be charged on the amount by which the sum receivable exceeds the greater of the two following sums, namely —
  - (i) the largest sum which would have been receivable in commutation of any part of the pension if the approved scheme, or as the case may be, the statutory scheme had secured that the aggregate value of the relevant benefits payable to an employee on or after retirement, excluding any pension which was not commutable, could not exceed three-eightieths of the final remuneration for each year of service up to a maximum of 40, or<sup>32</sup>
  - (ii) the largest sum which would have been receivable in commutation of any part of the pension under any rule of the approved scheme, or as the case may be, the statutory scheme authorising the commutation of part (but not the whole) of the pension, or which would have been so receivable but for the said circumstances.
- (2) Where any amount is chargeable to the tax the administrator of the scheme shall be charged to the tax on that amount.
- (3) The tax shall be at the rate of 7½ per cent.
- (4) This section shall not apply where the employee's employment was carried on outside the Island.

- (5) Where the pension has been secured by means of an annuity contract with an approved insurer and the sum receivable is payable under that contract by the insurer the references to the administrator of the scheme in subsection (2), section 8(2) and Schedule 1 are to be read as references to the insurer.<sup>33</sup>
- (6) [Repealed]<sup>34</sup>
- (7) This section does not apply in respect of the payment of a trivial commutation lump sum to which section 2(2)(ff) applies.<sup>35</sup>

#### **9A Charge to tax on commutation of some or all of an employee's pension after death of employee**

- (1) This section applies where —
  - (a) benefits came into payment before the death of the employee and the scheme holds employee's funds after that employee's death; or
  - (b) benefits became payable after the death of the employee and the scheme holds employee's funds following the cessation of payments; andthe employee's pension is commuted in accordance with this section.
- (2) The value of any employee's funds under this section shall be chargeable to a tax (hereinafter referred to in this section as "the tax").
- (3) Where any amount is chargeable to the tax the administrator of the scheme shall be charged to the tax on that amount and the tax charged shall be payable to the Assessor.
- (4) The tax shall be at the rate of 7½%.
- (5) Subsection (4) may be amended by order of the Treasury to specify a different rate of tax.
- (6) An order under this section shall not come into operation unless it is approved by Tynwald.
- (7) The tax payable to the Assessor under subsection (3) shall be accounted for and paid over to the Assessor by the administrator of the scheme —
  - (a) on or before the date on which the employee's funds are distributed; or
  - (b) within 6 months of the date of death of the employee, whichever is the earlier.
- (8) Any tax paid under subsection (7), shall be deducted from the value of the employee's funds.
- (9) The Treasury may make such regulations as are necessary for the purpose of implementing this section.

- (10) Regulations made under subsection (9) may, in particular, provide for the method by which the value of the employee's funds may be calculated and different methods may be provided for different purposes.
- (11) Regulations under subsection (9) shall not come into operation unless they are approved by Tynwald.<sup>36</sup>

## 10 Application of sections 8 and 9 to schemes under section 47 of the principal Act

The provisions of section 8 or, as the case may be, section 9 shall apply in respect of the repayment of contributions or commutation of pension made pursuant to any scheme to which section 47 of the principal Act applies as if such a scheme was an approved scheme within the meaning of this Act.<sup>37</sup>

### 10A Charge to tax on payment of pension

- (1) Where an approved scheme allows for the payment of a pension, the amount of any such payment is chargeable to income tax in the hands of the person receiving or entitled to the income.
- (2) The reference to "income tax" in section 114 of the principal Act 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.<sup>38</sup>

### 10B Charge to tax on trivial commutation lump sums

- (1) The prescribed proportion of a trivial commutation lump sum paid under arrangements to which section 2(2)(ff) applies is chargeable to income tax in the hands of the person receiving or entitled to the sum and accordingly the reference to "income tax" in section 114 of the principal Act shall include a reference to the tax payable under this section.

In this subsection, "the prescribed proportion" is 70% of the actuarial value of the total pension that is being commuted or such other proportion as may be prescribed in regulations under subsection (8).

- (2) [Repealed]<sup>39</sup>
- (3) [Repealed]<sup>40</sup>
- (4) [Repealed]<sup>41</sup>
- (5) [Repealed]<sup>42</sup>
- (6) [Repealed]<sup>43</sup>



- (7) [Repealed]<sup>44</sup>
- (8) The Treasury may make such regulations as are necessary for the purpose of implementing this section.
- (9) For the purposes of the *Income Tax (Instalment Payments) Act 1974*, the payment of a trivial commutation lump sum 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, subject to subsection (1).<sup>45 46</sup>

## 11 Supplementary provisions

The provisions of Schedule 1 shall have effect for supplementing the provisions relating to the tax chargeable under section 8, 9 or 10.

### 11A Charge to tax: unauthorised payments to or for employees

[P1988/1/600]

- (1) This section applies to any payment to or for the benefit of an employee, otherwise than in the course of payment of a pension, being a payment made out of funds which are held for the purposes of an approved scheme.
- (2) If the payment is not expressly authorised by the rules of the scheme, the employee (whether or not he is the recipient of the payment) shall be chargeable to income tax on the amount of the payment for the year of assessment in which the payment is made.
- (3) Any payments chargeable to income tax under this section shall not be chargeable to tax under section 8 or 9.
- (4) In this section, references to any payment include references to any transfer of assets or other transfer of money's worth.
- (5) 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 that individual also receives a payment to which subsection (1) applies, 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.<sup>47 48</sup>

### 11B Deduction of tax

- (1) Where a payment is subject to tax under section 11A(2) ("the payment"), a proportion of the payment calculated at the prescribed rate (as defined in section 1(2)(b) of the *Income Tax Act 1970* and within the meaning of section 1(3A) of that Act) shall be payable to the Assessor by the person making the payment ("the payer") as a debt due in all respects as income tax due under the Income Tax Acts.<sup>49</sup>

[Note: The prescribed rate of income tax has been determined by SD511/08 as 18% per annum effective in respect of the income tax year commencing 6/4/2008 and subsequent income tax years.]

- (2) The tax payable to the Assessor under subsection (1) shall be accounted for and paid over to the Assessor by the payer within 14 days of the date on which the payment is made.<sup>50</sup>
- (3) Any tax paid by the payer under subsection (1), shall —
  - (a) be deemed to be paid on behalf of the employee; and
  - (b) may be deducted from such payment.<sup>51</sup>
- (4) The payer shall give to the employee written notice of the deduction of tax in such form as the Assessor may approve.<sup>52</sup>
- (5) The Assessor shall issue to the employee a certificate in respect of the deduction and that certificate shall have the same effect as an assessment made upon him.
- (6) An employee who has had tax deducted under this section may, within 3 years after the deduction, apply to the Assessor to have his liability to income tax adjusted and the amount payable corrected.
- (7) If on an application under subsection (6), the employee satisfies the Assessor as to the proper amount payable, having regard to the total income of that person and the allowances to which that person may be entitled, the Assessor shall certify to the Treasury the amount of refund due to that person, and that amount shall be paid by the Treasury.<sup>53</sup>

### **11C Charge to tax: payments to employer**

- (1) Subsection (2) applies where a payment is made to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme and whether or not the payment is made in pursuance of Schedule 1A.
- (2) An amount equal to 40% of the payment shall be recoverable by the Assessor from the employer.
- (3) Subsection (2) does not apply to any payment —
  - (a) to the extent that, if this section had not been enacted, the employer would have been exempt, or entitled to claim exemption, from income tax in respect of the payment; or
  - (b) made before the scheme became an exempt approved scheme; or
  - (c) of any description prescribed in regulations made by the Treasury.
- (4) Regulations under this section shall not come into operation unless they have been approved by Tynwald.

- (5) In this section, references to any payment include references to any transfer of assets or other transfer of money's worth.<sup>54</sup>

### **11D 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 two or more schemes) exceed 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.
- (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 employee 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 an employee under subsection (3) shall be reduced by any amount paid by a scheme administrator under subsection (1).
- (5) An employee of an approved scheme 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.<sup>55</sup>

### **11E Supplementary charge on unauthorised payments to or for employees**

- (1) In addition to the income tax charge on a payment to which subsection 11A(1) applies if an unauthorised payment is made, the employee shall be liable to a supplementary charge of 20% of the value of the unauthorised payment.
- (2) The Assessor may, if he thinks fit, remit any supplementary charge or portion of a charge payable under this section.
- (3) The value of the unauthorised payment to be used for calculating the supplementary charge shall be the value of the payment prior to any deduction specified in subsection 11B(1).
- (4) The supplementary charge shall be payable to the Assessor by the payer 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 payer within 14 days of the date on which the payment is made.
- (6) Any supplementary charge paid by the payer under subsection (4) —
  - (a) shall be deemed to be paid on behalf of the employee; and
  - (b) shall be deducted from the payment.
- (7) The payer shall give to the employee written notice of the deduction of the supplementary charge in such form as the Assessor may approve.
- (8) The Assessor shall issue to the employee a certificate in respect of the deduction and that certificate shall have the same effect as an assessment made upon the employee.
- (9) An employee 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.<sup>56</sup>

## **12 Charge to tax on repayment to employer**

[P1970/24/Sch 5]

- (1) When any payment is made or becomes due to an employer out of funds which are or have been held for the purposes of an exempt approved scheme then if the scheme relates to a trade, profession or vocation carried on by the employer, the payment shall be treated for the purposes of the Income Tax Acts as a receipt of that trade, profession or vocation receivable when the payment falls due or on the last day on which the trade, profession or vocation is carried on by the employer, whichever is the earlier.
- (2) This section shall not apply to a payment which fell due before the scheme became an exempt approved scheme.<sup>57</sup>

### **12A Surplus funds**

Schedule 1A (which relates to surplus funds in certain pension schemes) shall have effect.<sup>58</sup>

### **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.<sup>59</sup>

### 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.<sup>60</sup>

### 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.<sup>61</sup>

## 13 Definition of retirement benefits scheme

[P1970/24/25]

- (1) In this Act “**retirement benefits scheme**” means, subject to the provisions of this section, a scheme for the provision of benefits consisting of or including relevant benefits, but does not include any national scheme providing such benefits.
- (2) References in this Act to a scheme include references to a deed, agreement, series of agreements, or other arrangements providing for relevant benefits notwithstanding that it or they relates or relate only to –
  - (a) a small number of employees, or to a single employee, or
  - (b) the payment of a pension starting immediately on the making of the arrangements.
- (3) The Assessor may, if he thinks fit, treat a retirement benefits scheme relating to different classes or descriptions as being for the purposes of this Act two or more separate retirement benefit schemes relating respectively to such one or more of those classes or descriptions of those employees as the Assessor thinks fit.
- (4) For the purposes of this section, and for any other provision of this Act –
  - (a) employees may be regarded as belonging to different classes or descriptions if they are employed by different employers, and

- (b) a particular class or description of employees may consist of a single employee, or any number of employees, however small.

## 14 Interpretation and supplemental

[1970/24/26]

- (1) In this Act, except where the context otherwise requires —

“**administrator**” in relation to a retirement benefits scheme means the person or persons having the management of the scheme;

“**annual allowance**” means £50,000 or such other amount as is prescribed by regulations made by the Treasury and, but without prejudice to Part 5 of the *Interpretation Act 2015* (functions and powers), different allowances may be made for different provisions or purposes;<sup>62</sup>

“**approved insurer**” means an insurer approved by the Assessor for the purposes of this Act and such an approval may specify named insurers or classes of insurers which are to be treated as approved;<sup>63</sup>

“**approved scheme**” means a retirement benefits scheme for the time being approved by the Assessor for the purposes of this Act;

“**basis period**” means the period during which income that is assessable to income tax for any year of assessment arises or accrues;<sup>64</sup>

“**the Board**” means the Treasury;<sup>65</sup>

“**director**” in relation to a company includes —

- (a) in the case of a company the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body,
- (b) in the case of a company the affairs whereof are managed by a single director or similar person, that director or person,
- (c) in the case of a company the affairs whereof are managed by the members themselves, a member of that company, and includes a person who is to be or has been a director;

“**employee**” —

- (a) in relation to a company, includes any officer of the company, any director of the company and any other person taking part in the management of the affairs of the company, and
- (b) in relation to any employer, includes a person who is to be or has been an employee, and “**employer**” and other cognate expressions shall be construed accordingly;

“**exempt approved scheme**” has the meaning given by section 3(1);

“**final remuneration**” means the average annual remuneration of the last three years’ service;

“**Income Tax Acts**” means the principal Act and any other Act relating to income tax;

“**minimum allowance**” means £3600 or such other amount as is prescribed by regulations made by the Treasury and, but without prejudice to section 26 of the *Interpretation Act 1976*, different allowances may be made for different provisions or purposes;<sup>66</sup>

“**pension**” includes annuity;

“**the permitted maximum**” [Repealed]<sup>67</sup>

“**principal Act**” means the *Income Tax Act 1970*;

“**relevant benefits**” means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or death, or in anticipation of retirement, or, in connection with past service, after retirement or death, or to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a person occurring during his service or of his death by accident so occurring and for no other reason;

“**relevant earnings**” has the same meaning as in Part 1 of the 1989 Act;<sup>68</sup>

“**remuneration**” does not include —

- (a) anything in respect of which tax is chargeable and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares, or
- (b) anything in respect of which tax is chargeable by virtue of section 48A of the principal Act (payments on termination of employment, etc.);<sup>69</sup>

“**service**” means service as an employee of the employer in question and other expressions, including “**retirement**”, shall be construed accordingly;

“**statutory scheme**” means a retirement benefits scheme established by or under any enactment or resolution of Tynwald —

- (a) the particulars of which are set out in any enactment, or resolution of Tynwald; or
  - (b) which has been approved as an appropriate scheme by Tynwald or the Public Sector Pensions Authority.<sup>70</sup>
- (2) Any reference in this Act to the provisions of relevant benefits, or of a pension, for employees of an employer includes a reference to the provision thereof by means of a contract between the administrator or the employer or the employee and a third person; and any reference to pensions or contributions paid, or payments made, under a scheme includes a reference to pensions or contributions paid or payments made, under such a contract entered into for the purposes of the scheme.<sup>71</sup>



- (3) Schedule 2 shall have effect for supplementing this Act.

**15 Transitional provisions**

The transitional provisions in Schedule 3 shall have effect.

**16 [Repealed]<sup>72</sup>**

**17 Short title and commencement**

- (1) This Act may be cited as the Income Tax (Retirement Benefit Schemes) Act 1978, and shall be construed as one with the Income Tax Acts 1970 to 1976 and those Acts and this Act may together be cited as the Income Tax Acts 1970 to 1978.
- (2) Without prejudice to paragraph 2 of Schedule 3, this Act shall come into operation on the 6th April 1978.



**Schedule 1****PROVISIONS SUPPLEMENTARY TO THE TAX CHARGEABLE IN RESPECT OF  
THE REPAYMENT OF CONTRIBUTIONS PAID UNDER PENSION SCHEMES**

## Section 11

1. The administrator shall notify the Assessor of any amounts chargeable to tax under section 8, 9 or 10 within 21 days of such amounts being paid.
2. The administrator shall give such information relating to the amounts paid as the Assessor may require.
3. The Assessor shall give the administrator a notice of the amount of the tax payable under section 8, 9 or 10 (hereinafter in this Schedule referred to as “the tax”) and the date on or before which the tax shall be paid.
4. Any person aggrieved by the amount of tax in respect of which notice has been served under paragraph 3 may appeal against the notice and the provisions of sections 87 to 91 of the principal Act shall, with such modifications as are necessary, apply in respect of such an appeal as if the said notice were an assessment for income tax.
5. No payment of the tax shall be stayed pending an appeal unless the Commissioners may otherwise direct.
6. The tax shall until paid be a preference debt due to the Crown.
7. The tax shall be recoverable by the Assessor and sections 99 and 100 of the principal Act shall, with such modifications as may be necessary, apply accordingly.<sup>73</sup>
8. The tax shall be part of the general revenue of the Island.
9. The provisions of section 119 of the principal Act shall apply for the purpose of varying the rate of tax for the time being specified in sections 8 and 9 as they do in relation to any sums of money specified in that Act.
10. Subject to the preceding paragraphs, the Board may make such regulations as it shall consider necessary or expedient for making further provision relating to the administration or recovery of the tax and for that purpose may apply the provisions of the principal Act with such modifications as the Board shall consider desirable.<sup>74</sup>

**Schedule 1A****PENSION SCHEME SURPLUSES**Section 12A<sup>75</sup>

## PART I – PAYMENTS TO EMPLOYERS

1. (1) This paragraph applies where a payment is made to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme.

(2) An amount equal to 40 per cent. of the payment shall be recoverable by the Assessor from the employer.

(3) This paragraph applies whether or not the payment is made in pursuance of Part II.

(4) Section 12 (charge to tax on payments to employer) shall not apply to a payment to which this paragraph applies or would apply apart from sub-paragraph (5) or (6).

(5) This paragraph does not apply to a payment to the extent that, if this paragraph had not been enacted, the employer would have been exempt, or entitled to claim exemption, from income tax in respect of the payment.

(6) This paragraph does not apply where the employer is a charity; and “charity” here shall be construed in accordance with section 15(a) of the *Income Tax Act 1970*.

(7) This paragraph does not apply to any payment of any prescribed description.

(8) This paragraph does not apply to a payment made before the scheme became an exempt approved scheme.

(9) References in this paragraph to a payment include references to a transfer of assets or other transfer of money’s worth.

(10) This paragraph applies to a payment made after this paragraph comes into operation unless made as mentioned in sub-paragraph (11) or (12).

(11) This paragraph does not apply to a payment made in pursuance of the winding-up of the scheme where the winding-up commenced on or before that date.

(12) This paragraph does not apply to a payment made in pursuance of an application which —

(a) was made to the Assessor on or before that date and was not withdrawn before the making of the payment, and

(b) sought the Assessor’s assurance that the payment would not lead to a withdrawal of approval under section 1.

2. (1) In relation to an amount recoverable as mentioned in paragraph 1(2), regulations may make any of the provisions mentioned in sub-paragraph (2); and for this purpose the amount shall be treated as if it were an amount of income tax chargeable on the employer for the year of assessment in which the payment is made.

(2) The provisions are —

- (a) the provision requiring the administrator of the scheme or the employer (or both) to furnish to the Assessor, in respect of the amount recoverable and of the payment concerned, information of a prescribed kind;
  - (b) provision enabling the Assessor to serve a notice or notices requiring the administrator or employer (or both) to furnish to the Assessor, in respect of the amount and payment, particulars of a prescribed kind;
  - (c) provision requiring the administrator to deduct out of the payment the amount recoverable and to account to the Assessor for it;
  - (d) provision as to circumstances in which the employer may be assessed in respect of the amount recoverable;
  - (e) provision that, in a case where the employer may be assessed in respect of the amount recoverable but has not paid it (or part of it) within a prescribed period, the administrator may be assessed and charged (in the employer's name) in respect of the amount (or part) unpaid;
  - (f) provision that, in a case where the amount recoverable (or part of it) has been recovered from the administrator by virtue of an assessment in the employer's name, the administrator is entitled to recover from the employer a sum equal to the amount (or part);
  - (g) provision enabling the employer or administrator (as the case may be) to appeal against an assessment made on him in respect of the amount recoverable;
  - (h) provision as to when any sum in respect of the amount recoverable is payable to the Assessor by the administrator or employer and provision requiring interest to be paid on any sum so payable;
  - (i) provision that an amount paid to the Assessor by the administrator shall be treated as paid on account of the employer's liability under paragraph 1(2).
- (3) For the purpose of giving effect to any other provision mentioned in subparagraph (2), regulations under this paragraph may include provision applying (with or without modifications) provisions of the enactments relating to income tax.
3. Subject to any provision of regulations under paragraph 2 —
- (a) a payment to which paragraph 1 applies shall not be treated as a profit or gain brought into charge to income tax and shall not be treated as part of the employer's income for any purpose of the Income Tax Acts, and

- (b) the amount recoverable shall not be subject to any exemption or reduction (by way of relief, set-off or otherwise) or be available for set-off against other tax.

## PART II – REDUCTION OF SURPLUSES

4. (1) The Treasury may make regulations providing for this Part to apply, as from a prescribed date, in relation to any exempt approved scheme of a prescribed kind.

(2) The Treasury may make regulations providing for prescribed provisions of this Part to apply, as from a prescribed date, in prescribed circumstances, and subject to any prescribed omissions or modifications, in relation to any exempt approved scheme or another prescribed kind.

5. (1) The administrator of a scheme in relation to which this Part applies shall, in prescribed circumstances and at a prescribed time, either produce to the Assessor a written valuation such as is mentioned in sub-paragraph (2) or give to the Assessor a certificate such as is mentioned in sub-paragraph (3).

(2) The valuation must be a valuation of the assets held for the purposes of the scheme and the liabilities of the scheme, must be determined in accordance with prescribed principles and fulfil prescribed requirements, and must be signed by a person with qualifications of a prescribed kind.

(3) The certificate must state whether or not the value of the assets (as determined in accordance with prescribed principles) exceeds the value of the liabilities (as so determined) by a percentage which is more than the prescribed maximum, must be in a prescribed form, and must be signed by a person with qualifications of a prescribed kind.

6. (1) Subject to paragraph 7(4), where a valuation produced under paragraph 5 shows, or a certificate given under that paragraph states, that the value of the assets exceeds the value of the liabilities by a percentage which is more than the prescribed maximum, the administrator of the scheme shall within a prescribed period submit to the Assessor for his approval proposals which comply with sub-paragraph (2).

(2) The proposals must be proposals for reducing (or, subject to paragraph (b), eliminating) the excess in a way or ways set out in the proposals and falling within sub-paragraph (3); and they must be such as to secure that –

- (a) by the end of a prescribed period the percentage (if any) by which the value of the assets exceeds the value of the liabilities is no more than the prescribed maximum, and
- (b) if the way, or one of the ways, set out in the proposals falls within sub-paragraph (3)(a), there remains an excess which is of a level not less than the prescribed minimum.

(3) Subject to sub-paragraph (4), the permitted ways of reducing or eliminating the excess are —

- (a) making payments to an employer;
- (b) suspending for a period (of 5 years or less) set out in the proposals an employer's obligation to pay contributions under the scheme or reducing for such a period the amount of an employer's contributions under the scheme;
- (c) suspending for a period (of 5 years or less) set out in the proposals the obligation of employees to pay contributions under the scheme or reducing for such a period the amount of employees' contributions under the scheme;
- (d) improving existing benefits provided under the scheme;
- (e) providing new benefits under the scheme;
- (f) such other ways as may be prescribed.

(4) In prescribed circumstances sub-paragraph (3) shall apply subject to such omissions or modifications as may be prescribed.

(5) Subject to paragraph 7(4), if the administrator of the scheme fails to submit proposals to the Assessor within the period mentioned in sub-paragraph (1), or if proposals submitted to him within that period are not approved by him within a further prescribed period, paragraph 10 shall apply.

7. (1) Where a valuation has been produced under paragraph 5, the Assessor may serve on the administrator of the scheme a notice requiring him to furnish the Assessor, within a prescribed period, with such particulars relating to the valuation as may be specified in the notice.

(2) Where a certificate has been given under paragraph 5, the Assessor may serve on the administrator of the scheme a notice requiring him to produce to the Assessor, within a prescribed period, a written valuation such as is mentioned in paragraph 5(2).

(3) Where a valuation has been produced in compliance with a notice served under sub-paragraph (2), the Assessor may serve on the administrator of the scheme a further notice requiring him to furnish the Assessor, within a prescribed period, with such particulars relating to the valuation as may be specified in the notice.

(4) Where a notice is served on the administrator of a scheme under sub-paragraph (1) or (2), paragraph 6(1) and (5) shall cease to apply.

8. (1) Where particulars have been furnished under paragraph 7, or a valuation has been produced under that paragraph, the Assessor shall, within a prescribed period, serve on the administrator of the scheme a notice —

- (a) stating that he accepts the valuation produced under paragraph 5 or, as the case may be, 7, or

- (b) stating that he does not accept the valuation so produced, and specifying his estimate of the value of the liabilities of the scheme at the relevant time and his estimate of the value of the assets held for the purposes of the scheme at that time.

(2) For the purposes of sub-paragraph (1)(b), the relevant time is the time specified in the valuation produced under paragraph 5 or 7 as the time by reference to which the values of the assets and liabilities are determined.

(3) Where —

- (a) in a case falling within sub-paragraph (1)(a), the valuation shows that the value of the assets exceeds the value of the liabilities by a percentage which is more than the prescribed maximum, or
- (b) in a case falling within sub-paragraph (1)(b), the value of the assets as estimated by the Assessor exceeds the value of the liabilities as so estimated by a percentage which is more than the prescribed maximum,

the administrator of the scheme shall within a prescribed period submit to the Assessor for his approval proposals which comply with paragraph 6(2) to (4).

(4) If the administrator of the scheme fails to submit proposals to the Assessor within the period mentioned in sub-paragraph (3), or if proposals submitted to him within that period are not approved by him within a further prescribed period, paragraph 10 shall apply.

9. (1) Where proposals are submitted to the Assessor under paragraph 6(1) or 8(3) and he approves them within the further prescribed period mentioned in paragraph 6(5) or 8(4), the administrator of the scheme shall carry out the proposals within the period mentioned in paragraph 6(2).

(2) If the administrator fails to carry out the proposals within that period, paragraph 10 shall apply.

10. (1) Where this paragraph applies the Assessor may specify a percentage equivalent to the fraction —

- (a) whose numerator represents his estimate of the value of the liabilities of the scheme at the relevant time increased by a prescribed percentage, and
- (b) whose denominator represents their estimate of the value of the assets held for the purposes of the scheme at that time.

(2) For the purposes of this paragraph the relevant time is the time specified —

- (a) in the valuation produced or certificate given under paragraph 5, or
- (b) where a valuation has been produced under paragraph 7, in that valuation,



as the time by reference to which the values of the assets and liabilities are determined.

(3) Where a percentage has been so specified section 3(2) (income tax exemption) shall apply only to that percentage of any income derived in the relevant period from the assets held for the purposes of the scheme.

(4) In this paragraph “the relevant period” means the period beginning at the relevant time and ending when it is proved to the satisfaction of the Assessor that the value of the assets (as determined in accordance with prescribed principles) exceeds the value of the liabilities (as so determined) by a percentage which is no more than the prescribed maximum.

11. (1) The Treasury may make regulations providing that an appeal may be brought against a notice under paragraph 8(l)(b) as if it were notice of the decision of the Assessor on a claim made by the administrator of the scheme concerned.

(2) Regulations under this paragraph may include —

- (a) provision that bringing an appeal shall suspend the operation of paragraph 8(3) and (4);
- (b) other provisions consequential on the provision that an appeal may be brought (including provisions modifying this Part).

## Schedule 2

### SUPPLEMENTAL PROVISIONS

#### Section 14

#### *Application for approval of a scheme*

1. (1) An application for the approval for the purposes of this Act of any retirement benefits scheme shall be made in writing by the administrator of the scheme to the Assessor before the end of the first year of assessment for which approval is required, and shall be accompanied by —

- (a) two copies of the instrument or other document constituting the scheme; and
- (b) two copies of the rules of the scheme and, except where the application is being sought on the setting up of the scheme, two copies of the accounts of the scheme for the last year for which such accounts have been made up; and
- (c) such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the setting up of the scheme) as the Assessor may consider relevant.<sup>76</sup>

(2) The form in which an application for approval is to be made, or in which any information is to be given, in pursuance of this paragraph shall be such as is required by the Assessor.<sup>77</sup>

*Information about payment under approved schemes*

2. (1) In the case of every approved scheme, the administrator of the scheme, and every employer who pays contributions under the scheme, shall, within thirty days from the date of a notice from the Assessor requiring them so to do —

- (a) furnish to the Assessor a return containing such particulars of contributions paid under the scheme as the notice may require;
- (b) prepare and deliver to the Assessor a return containing particulars of all payments under the scheme, being —
  - (i) payments by way of return of contributions (including interest on contributions, if any),
  - (ii) payments by way of commutation of, or in lieu of, pensions, or other lump sum payments,
  - (iii) other payments made to an employer;
- (c) furnish to the Assessor a copy of the accounts to the scheme to the last date previous to the notice to which such accounts have been made up together with such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the conduct of the scheme in the period to which the account relates) as the Assessor considers relevant.

(2) Where benefits provided for an employee under an approved scheme or a statutory scheme have been secured by means of an annuity contract with an approved insurer, the insurer shall, within thirty days from the date of a notice from the Assessor requiring it to do so, prepare and deliver to the Assessor a return containing particulars of —

- (a) any payments under the contract by way of commutation of, or in lieu of, a pension, or any other lump sum payments under the contract, and
- (b) any payments made under the contract to the employer.<sup>78</sup>

*Information about schemes, other than approved or statutory schemes*

3. (1) This paragraph has effect as respects a retirement benefits scheme which is neither an approved scheme nor a statutory scheme.

(2) It shall be the duty of every employer —

- (a) if there subsists in relation to any of his employees any such scheme to which he contributes, to deliver particulars of that scheme to the Assessor within three months beginning with the

date on which the scheme first comes into operation in relation to any of his employees, or the date of the coming into operation of this paragraph, whichever is the later, and<sup>79</sup>

(b) when required to do so by the Assessor, to furnish within the time limited by the notice such particulars as the Assessor may require with regard to —

- (i) any retirement benefits scheme relating to the employer; or
- (ii) the employees of his to whom such scheme relates.

(3) It shall be the duty of the administrator of any such scheme, when required to do so by notice given by the Assessor, to furnish within the time limited by the notice such particulars as the Assessor may require with regard to the scheme.

#### *Responsibility for the administration of a scheme*

4. (1) If the administrator of a retirement benefits scheme defaults or cannot be traced or dies, the employer shall be responsible in his place for the discharge of all duties imposed on the administrator under this Act (including this Schedule) and shall be liable for any tax due from him in his capacity as administrator.

(1A) Sub-paragraph (1) does not apply if the employer is not a contributor to the scheme.<sup>80</sup>

(2) No liability incurred under this Act by the administrator of a scheme, or by an employer, shall be affected by the termination of the scheme or by it ceasing to be an approved scheme, or to be an exempt approved scheme.

(3) Reference in this paragraph to the employer include, where the employer is resident outside the Island, references to any branch or agent of the employer in the Island.

(4) In this paragraph “branch or agent” means any factor, agent, receiver, branch or manager.

#### *Regulations*

5. Without prejudice to paragraph 10 of Schedule 1, the Board may make regulations generally for the purpose of carrying this Act into effect.

5A. Without prejudice to the generality of paragraph 5, regulations under that paragraph may require the administrator of any scheme to give written notice to the Assessor of the happening of such events or matters as are specified in the regulations and within such period as is so specified.<sup>81</sup>

6. Regulations made under this Act shall not take effect until they have been approved by Tynwald.

*Offences*

7. Any person who without reasonable excuse contravenes any provision of this Act or any regulations made thereunder, or who without reasonable excuse makes or delivers any untrue statement as to any of the matters required by this Act or the said regulations shall be guilty of an offence and shall be liable on summary conviction to a fine of £5,000.<sup>82</sup>

**Schedule 3****TRANSITIONAL PROVISIONS**Section 15<sup>83</sup>

1. Section 47 of the principal Act (relief for superannuation funds) —
  - (a) shall not apply to a retirement benefits scheme which is or has at any time been approved for the purposes of this Act;
  - (b) shall not apply to a scheme which comes into being after 5th April 1978 or which is altered after the date;
  - (c) shall cease to have effect on 6th April 1980.
  
2. Section 5 (taxation in respect of certain schemes) —
  - (a) in the case of a scheme which comes into being any time after the 5th April 1978 but before 6th April 1980, or which is altered at a time between those two dates, shall come into force at that time,
  - (b) shall come into force for all purposes on 6th April 1980.

**Schedule 4<sup>84</sup>**

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Para (a) amended by Civil Partnership Act 2011 Sch 14.

<sup>2</sup> Para (a) amended by Income Tax (Pensions) Act 2008 s 15(1), and applies only in respect of schemes approved after 15/7/2008 (see s 15(2)).

<sup>3</sup> Para (b) amended by Civil Partnership Act 2011 Sch 14.

<sup>4</sup> Para (d) amended by Income Tax Act 1989 Sch 5 and by Income Tax (Pensions) Act 2008 s 9(1) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>5</sup> Subs (3A) inserted by Income Tax Act 1989 Sch 5.

<sup>6</sup> Subs (1) amended by Income Tax Act 1989 Sch 5.

<sup>7</sup> Para (dd) inserted by Income Tax (Pensions) Act 2008 s 12(1) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>8</sup> Para (ee) inserted by Income Tax (Pensions) Act 2008 s 10(1) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>9</sup> Para (ff) inserted by Income Tax (Pensions) Act 2008 s 5(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>10</sup> Para (g) substituted by Income Tax Act 1989 Sch 5 and amended by Income Tax (Pensions) Act 2008 s 15(3)(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>11</sup> Para (h) added by Income Tax Act 1989 Sch 5 and amended by Income Tax (Pensions) Act 2008 s 7(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>12</sup> Para (i) added by Income Tax (Pensions) Act 2008 s 7(b) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>13</sup> Subs (2A) repealed by Income Tax (Pensions) Act 2008 s 15(3)(b) effective income tax year commencing 6/4/2008 and subsequent years.

- <sup>14</sup> Subs (3) added by Income Tax Act 1989 Sch 5.
- <sup>15</sup> Subs (4) added by Income Tax Act 1989 Sch 5.
- <sup>16</sup> Subs (5) added by Income Tax Act 1989 Sch 5.
- <sup>17</sup> Subs (6) added by Income Tax (Pensions) Act 2008 s 5(b) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>18</sup> Subs (7) added by Income Tax (Pensions) Act 2008 s 7(c) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>19</sup> S 2A inserted by Income Tax (Pensions) Act 2008 s 10(2) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>20</sup> S 2B inserted by Income Tax (Pensions) Act 2008 s 13(3) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>21</sup> Subs (2A) inserted by Income Tax (Amendment) Act 1986 s 7.
- <sup>22</sup> Subs (2B) inserted by Income Tax (Pensions) Act 2008 s 3 effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>23</sup> Subs (4) amended by Income Tax Act 1989 Sch 5 and by SD2017/0375.
- <sup>24</sup> Subs (4A) inserted by Income Tax Act 1989 Sch 5 and amended by Income Tax (Pensions) Act 2008 s 13(1) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>25</sup> Subs (5) repealed by Income Tax Act 2009 Sch 2.
- <sup>26</sup> Subs (2) amended by Income Tax Act 1989 Sch 5 and by Income Tax Act 2009 Sch 2.
- <sup>27</sup> Subs (2A) inserted by Income Tax Act 1989 Sch 5 and amended by Income Tax (Pensions) Act 2008 s 13(2) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>28</sup> Subs (3) added by Income Tax, Etc. (Amendment) Act 1985 s 11.
- <sup>29</sup> Para (b) repealed by Income Tax Act 2009 Sch 2.
- <sup>30</sup> Subs (5) amended by Civil Partnership Act 2011 Sch 14.
- <sup>31</sup> S 47 of the principal Act repealed by this Act Sch 4, with effect from 6 April 1980.
- <sup>32</sup> Para (i) amended by Income Tax Act 1989 Sch 5 and by Income Tax (Pensions) Act 2008 s 9(1) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>33</sup> Subs (5) added by Income Tax Act 1989 Sch 5.
- <sup>34</sup> Subs (6) repealed by Income Tax (Pensions) Act 2008 s 15(3)(c) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>35</sup> Subs (7) added by Income Tax (Pensions) Act 2008 s 5(c) effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>36</sup> S 9A inserted by SD807/10 and confirmed by Income Tax Act 2011 s 4, effective 22/10/2010.
- <sup>37</sup> Note: S 47 of the principal Act repealed by this Act Sch 4 with effect from 6 April 1980.
- <sup>38</sup> S 10A inserted by Income Tax (Pensions) Act 2008 s 1 effective income tax year commencing 6/4/2008 and subsequent years.
- <sup>39</sup> Subs (2) repealed by SD2016/0024.
- <sup>40</sup> Subs (3) repealed by SD2016/0024.
- <sup>41</sup> Subs (4) repealed by SD2016/0024.

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<sup>42</sup> Subs (5) repealed by SD2016/0024.

<sup>43</sup> Subs (6) repealed by SD2016/0024.

<sup>44</sup> Subs (7) repealed by SD2016/0024.

<sup>45</sup> Subs (9) inserted by SD2016/0024, effective income tax year commencing 06/04/2016 and all subsequent years.

<sup>46</sup> S 10B inserted by Income Tax (Pensions) Act 2008 s 5(d) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>47</sup> Subs (5) substituted by SD2014/0019 and confirmed by Income Tax Act 2015 s 4, effective 21/02/ 2014, with savings (see SD2014/0019 Art 5).

<sup>48</sup> S 11A inserted by Income Tax Act 1995 s 14.

<sup>49</sup> Subs (1) amended by Income Tax (Pensions) Act 2008 s 15(5)(a) and (b) effective income tax year commencing 6/4/2008 and subsequent years and by SD807/10 and confirmed by Income Tax Act 2011 s 4, effective 22/10/ 2010.

<sup>50</sup> Subs (2) amended by Income Tax (Pensions) Act 2008 s 15(5)(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>51</sup> Subs (3) amended by Income Tax (Pensions) Act 2008 s 15(5)(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>52</sup> Subs (4) amended by Income Tax (Pensions) Act 2008 s 15(5)(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>53</sup> S 11B inserted by Income Tax Act 1995 s 14.

<sup>54</sup> S 11C inserted by Income Tax Act 1995 s 14.

<sup>55</sup> S 11D inserted by Income Tax (Pensions) Act 2008 s 13(4) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>56</sup> S 11E inserted by SD807/10 and confirmed by Income Tax Act 2011 s 4, effective 22/10/ 2010.

<sup>57</sup> Note: S 12 excluded by this Act Sch 1A para 1(4).

<sup>58</sup> S 12A inserted by Income Tax Act 1989 Sch 4.

<sup>59</sup> S 12B inserted by SD 2017/0375, effective in respect of income tax year commencing 6 April 2018.

<sup>60</sup> S 12C inserted by SD 2017/0375, effective in respect of income tax year commencing 6 April 2018.

<sup>61</sup> S 12D inserted by SD 2017/0375, effective in respect of income tax year commencing 6 April 2018.

<sup>62</sup> Definition of “annual allowance” inserted by Income Tax (Pensions) Act 2008 s 13(5), effective income tax year commencing 6/4/2008 and subsequent years, and amended by Interpretation Act 2015 s 106 and by SD2017/0376, effective income tax year commencing 06/04/2018 and subsequent years.

<sup>63</sup> Definition of “approved insurer” inserted by Income Tax (Pensions) Act 2008 s 15(3)(d) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>64</sup> Note: Definition of “basis period” now redundant.

<sup>65</sup> Definition of “the Board” substituted by Treasury Act 1985 Sch 2.

<sup>66</sup> Definition of “minimum allowance” inserted by Income Tax (Pensions) Act 2008 s 13(5) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>67</sup> Definition of “the permitted maximum” repealed by Income Tax (Pensions) Act 2008 s 9(2) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>68</sup> Definition of “relevant earnings” inserted by Income Tax (Pensions) Act 2008 s 13(5) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>69</sup> Definition of “remuneration” inserted by Income Tax Act 1989 Sch 5.

<sup>70</sup> Para (b) amended by Public Services Commission Act 2015 Sch.

<sup>71</sup> Subs (2) amended by Income Tax Act 1989 Sch 5.

<sup>72</sup> S 16 repealed by Statute Law Revision Act 1983 Sch 2.

<sup>73</sup> Para 7 amended by Income Tax, Etc. (Amendment) Act 1985 Sch 1.

<sup>74</sup> Para 10 modified by this Act Sch 2 para 5.

<sup>75</sup> Sch 1A inserted by Income Tax Act 1989 Sch 4.

<sup>76</sup> Subpara (1) amended by Income Tax Act 1989 Sch 5.

<sup>77</sup> Subpara (2) added by Income Tax Act 1989 Sch 5.

<sup>78</sup> Subpara (2) added by Income Tax 1989 Sch 5 and amended by Income Tax (Pensions) Act 2008 s 15(3)(e) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>79</sup> Item (a) amended by Income Tax Act 1989 Sch 5.

<sup>80</sup> Subpara (1A) inserted by Income Tax Act 1989 Sch 5.

<sup>81</sup> Para 5A inserted by Income Tax (Pensions) Act 2008 s 15(6)(a) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>82</sup> Para 7 amended by Income Tax (Pensions) Act 2008 s 15(6)(b) effective income tax year commencing 6/4/2008 and subsequent years.

<sup>83</sup> Transitional provisions redundant with effect from 6 April 1980.

<sup>84</sup> Sch 4 repealed by Statute Law Revision Act 1983 Sch 2.