

INCOME TAX (PENSIONS) ACT 2008

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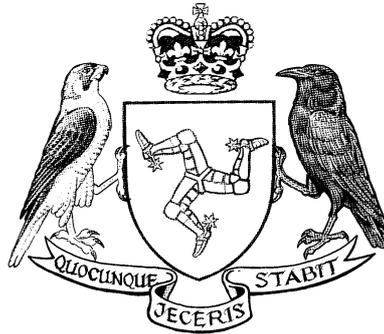
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Isle of Man } Signed in Tynwald: 20th May 2008
 to Wit } Received Royal Assent: 20th May 2008
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AN ACT

to amend the law relating to
 income tax in respect of
 retirement benefits schemes; and
 for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by
 and with the advice and consent of the Council and Keys in
 Tynwald assembled, and by the authority of the same, as follows:—

Withdrawals

1. After section 10 of the Income Tax (Retirement Benefit Schemes) Act 1978 (“the 1978 Act”) insert —

Occupational schemes

“Charge to tax on payment of pension” **10A.** (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.

[c.9]

(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.”

[c.7]

2. (1) In section 3(1) of the Income Tax Act 1989 (“the 1989 Act”) —

Personal pension schemes

[c.10]

- (a) for paragraph (a) (limitation of benefits of approved schemes to annuities) substitute —

“(a) the payment of —

- (i) an annuity satisfying the conditions in section 4;
- (ii) a sum or sums representing the withdrawal of funds and satisfying the requirements of section 4A and regulations made under that section;”;

- (b) for paragraph (c) (payment of annuity after death of member) substitute —

“(c) the payment after the death of a member of —

- (i) an annuity satisfying the conditions in section 6;
- (ii) a sum or sums representing the withdrawal of funds and satisfying the requirements of section 6A and regulations made under that section;”;

- (c) in paragraph (e), at the end add “or 8A”;

- (d) after paragraph (e) insert —

“(f) the payment after the death of a member of a lump sum satisfying the conditions in section 8B.”.

- (2) Subsection (1) applies only in respect of schemes approved after the date on which this section comes into operation.

- (3) After section 4 of the 1989 Act insert —

“Withdrawal of funds during life of member **4A.** (1) Subject to subsection (2), the withdrawal of funds must not commence before the member attains the age of 50 or after the member attains the age of 75.

(2) The withdrawal of funds may commence before the member attains the age of 50 if —

- (a) it is payable on the member becoming incapable through infirmity of body or mind of carrying on the member’s own occupation or any occupation of a similar nature for which the member is trained or fitted, or

- (b) the Assessor is satisfied that the member's occupation is one in which persons customarily retire before that age.

(3) Regulations may be made by the Treasury for the purposes of section 3(1)(a)(ii) to impose requirements that must be satisfied in respect of arrangements for the withdrawal of funds from approved schemes.

(4) Without prejudice to the generality of the powers in subsection (3), regulations under that subsection may —

- (a) provide rules for the determination of the meaning of “withdrawal of funds” for the purposes of this section;
- (b) provide for the circumstances in which funds may or may not be withdrawn;
- (c) include conditions and limitations on such withdrawal, which may be 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, the person entitled to or receiving the income or any other circumstances whatever; and
- (d) specify the withdrawals to which approvals under section 3(1)(a)(ii) may apply.

(5) Regulations under this section shall not come into operation unless they are approved by Tynwald.”.

(4) In section 5 of the 1989 Act (payment of lump sum) —

(a) for subsections (1) and (2) substitute —

“(1) The lump sum must be payable only if the member so elects on or before the date on which —

- (a) an annuity satisfying the conditions in section 4 is first payable to the member;
- (b) a withdrawal of funds satisfying the requirements of section 4A and regulations made under that section is first payable to the member,

under the arrangements made in accordance with the scheme.

(2) The lump sum must be payable when that annuity or the sum representing the withdrawal of funds is first payable.”.

(5) After section 6 of the 1989 Act insert —

“Withdrawal
of funds
after death
of member

6A. (1) The withdrawal of funds after the death of a member may be made in accordance with this section and regulations made under subsection (3).

(2) A withdrawal of funds may only be paid to —

- (a) the surviving spouse of the member; or
- (b) a person who was at the member’s death a dependant of the member.

(3) Regulations may be made by the Treasury for the purposes of section 3(1)(c)(ii) to impose requirements that must be satisfied in respect of arrangements for the withdrawal of funds from approved schemes.

(4) Without prejudice to the generality of the powers in subsection (3), regulations under that subsection may —

- (a) provide rules for the determination of the meaning of “withdrawal of funds” for the purposes of this section;
- (b) provide for the circumstances in which funds may or may not be withdrawn;
- (c) include conditions and limitations on such withdrawal, which may be 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, the person entitled to or receiving the income or any other circumstances whatever; and
- (d) specify the withdrawals to which approvals under section 3(1)(c)(ii) may apply.

(5) Regulations under this section shall not come into operation unless they are approved by Tynwald.”.

(6) For section 8(1) of the 1989 Act (return of contributions on the death of a member) substitute —

“(1) The lump sum must be payable only if —

- (a) no annuity satisfying the conditions in either section 4 or section 6; and
- (b) no withdrawal of funds satisfying the requirements of section 4A or 6A and regulations made under those sections (as appropriate),

has become payable.”.

(7) After section 8 of the 1989 Act insert —

“Tax on
balance
of member’s
funds on
death of
member
after
commencement
of payment
of benefits

8A. (1) This section applies where —

- (a) an annuity satisfying the conditions in section 4; or
- (b) a withdrawal of funds satisfying the requirements of section 4A and regulations made under that section,

has become payable to the member before death but the scheme holds member’s funds after that member’s death in circumstances where section 8B does not apply.

(2) The value of the member’s funds is chargeable to income tax in the hands of the scheme administrator and accordingly the reference to “income tax” in section 114 of the 1970 Act shall include a reference to the tax payable under this section.

(3) Where the value of the member’s funds is subject to tax under subsection (2), income tax calculated at the prescribed rate (within the meaning of section 1 of the 1970 Act) shall be payable to the Assessor by the scheme administrator as a debt due in all respects as income tax due under the Income Tax Acts.

(4) The tax payable to the Assessor under subsection (3) shall be accounted for and paid over to the Assessor by the scheme administrator —

- (a) on or before the date on which the member’s funds are distributed; or
- (b) within 6 months of the date of death of the member,

whichever is the earlier.

(5) Any tax paid by under subsection (4), shall be deducted from the value of the member's funds.

(6) The Treasury may make such regulations as are necessary for the purpose of implementing this section.

(7) Without prejudice to the generality of subsection (6), regulations made under subsection (6) may provide for the method by which the value of the member's funds may be calculated and different methods may be provided for different purposes.

(8) Regulations under subsection (6) shall not come into operation unless they are approved by Tynwald.

Tax on
balance of
member's
funds after
death of
member -
supplementary

8B. (1) This section applies where —

- (a) an annuity satisfying the conditions in section 6; or
- (b) a withdrawal of funds satisfying the requirements of section 6A and regulations made under that section,

has become payable after the death of the member but the scheme holds member's funds following the cessation of the annuity or the final withdrawal of funds (as the case may be).

(2) The value of the member's funds is chargeable to income tax in the hands of the scheme administrator and accordingly the reference to "income tax" in section 114 of the 1970 Act shall include a reference to the tax payable under this section.

(3) Where the value of the member's funds is subject to tax under subsection (2), income tax calculated at the prescribed rate (within the meaning of section 1 of the 1970 Act) shall be payable to the Assessor by the scheme administrator as a debt due in all respects as income tax due under the Income Tax Acts.

(4) The tax payable to the Assessor under subsection (3) shall be accounted for and paid over to the Assessor by the scheme administrator —

- (a) on or before the date on which the member's funds are distributed; or

- (b) within 6 months of the date of cessation of the annuity or the final withdrawal of funds,

whichever is the earlier.

(5) Any tax paid by under subsection (4), shall be deducted from the value of the member's funds.

(6) The Treasury may make such regulations as are necessary for the purpose of implementing this section.

(7) Without prejudice to the generality of subsection (6), regulations made under subsection (6) may provide for the method by which the value of the member's funds may be calculated and different methods may be provided for different purposes.

(8) Regulations under subsection (6) shall not come into operation unless they are approved by Tynwald."

- (8) After section 22 of the 1989 Act insert —

"Charge to tax on withdrawal of funds

22A. (1) The amount of funds withdrawn from an approved scheme under arrangements to which section 3(1)(a)(ii) or 3(1)(c)(ii) applies shall be treated as earned income and is chargeable to income tax in the hands of the person receiving or entitled to the income and accordingly the reference to "income tax" in section 114 of the 1970 Act shall include a reference to the tax payable under this section.

(2) For the purposes of the Income Tax (Instalment Payments) Act 1974, the withdrawal of funds 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." [c.7]

Investment rules

3. After section 3(2A) of the 1978 Act insert —

1978 Act :
investments

"(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)."

4. After section 21(2) of the 1989 Act insert —

1989 Act :
investments

“(3) The Treasury may by regulations extend or restrict the meaning of the word “investments” for the purposes of subsection (1) and may make consequential amendments to subsection (2).

(4) Regulations under subsection (3) shall not come into operation unless they are approved by Tynwald.”.

Trivial commutation

Occupational schemes :
trivial commutation lump sums

5. In the 1978 Act —

(a) after section 2(2)(f) insert —

“(ff)which, in accordance with regulations under subsection (5), provides in certain contingencies for the payment of trivial commutation lump sums, or”;

(b) at the end of section 2 add —

“(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.”;

(c) in section 9, at the end add —

“(7) This section does not apply in respect of the payment of a trivial commutation lump sum to which section 2(2)(ff) applies.”;

(d) after section 10A insert —

“Charge to tax on trivial commutation lump sums

10B. (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) Income tax chargeable under subsection (1) shall be calculated at the prescribed rate within the meaning of section 1 of the principal Act.

(3) The amount of the income tax chargeable under subsection (1) shall be deducted and paid to the Assessor by the scheme administrator as a debt due to the Treasury.

(4) The amount payable to the Assessor under subsection (2) shall be accounted for and paid over to the Assessor by the scheme administrator within 14 days of the date on which the payment of the trivial lump sum is made.

(5) Any amount paid by the scheme administrator under subsection (2) shall be deemed to be paid on behalf of the scheme member in respect of income tax chargeable under subsection (1).

(6) The scheme administrator shall give to the scheme member written notice of the deduction of tax in such form as the Assessor may approve.

(7) The notice under subsection (6) shall be treated as an assessment to income tax made upon the scheme member and section 107 (repayment of tax) of the principal Act shall apply accordingly.

(8) The Treasury may make such regulations as are necessary for the purpose of implementing this section.”.

6. In the 1989 Act —

(a) in section 3(1)(b), at the end add “or 5A”;

(b) after section 5 insert —

“Payment of trivial commutation lump sum **5A.** (1) This section applies where a payment of a trivial commutation lump sum becomes payable to a member of a scheme.

(2) The Treasury may by regulations —

Personal pension schemes : trivial commutation lump sums

- (a) make provision for the circumstances in which a lump sum will be treated as a trivial commutation lump sum for the purposes of this Act;
- (b) provide for the method of calculating a trivial commutation lump sum;
- (c) fix a commutation limit which may apply in respect of single schemes or as an aggregate limit for all schemes of which a person is a member; and
- (d) specify the factors to be taken into account in determining whether the commutation limit is exceeded or not.”;

(c) after section 22A of the 1989 Act insert —

“Charge to tax on trivial commutation lump sum **22B.** (1) The amount of a trivial commutation lump sum shall be treated as earned income and is chargeable to income tax in the hands of the person receiving or entitled to the income and accordingly the reference to “income tax” in section 114 of the 1970 Act shall include a reference to the tax payable under this section.

(2) Income tax chargeable under subsection (1) shall be calculated at the prescribed rate (within the meaning of section 1 of the 1970 Act) and shall be deducted and paid to the Assessor by the scheme administrator as a debt due in all respects as income tax due under the Income Tax Acts.

(3) The tax payable to the Assessor under subsection (2) shall be accounted for and paid over to the Assessor by the scheme administrator within 14 days of the date on which the payment is made.

(4) Any tax paid under subsection (2), shall —

- (a) be deemed to be paid on behalf of the scheme member; and
- (b) may be deducted from such payment.

(5) The scheme administrator shall give to the scheme member written notice of the deduction of tax in such form as the Assessor may approve.

(6) The Treasury may make such regulations as are necessary for the purpose of implementing this section.

(7) Regulations under subsection (6) shall not come into operation unless they are approved by Tynwald.”.

Lump sums on retirement

7. In section 2 of the 1978 Act —

(a) in subsection (2)(h) after “contributor” add “or,”;

(b) after subsection (2)(h) insert —

“(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.”;

(c) after subsection (6) insert —

“(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.”.

8. (1) For section 5(3) (limitation on lump sums) of the 1989 Act substitute —

“(3) The lump sum must not exceed 30% of the total value, at the time when the lump sum is paid, of the benefits for the member provided for by the arrangements made by the member in accordance with the scheme.”.

(2) Section 5(4) of the 1989 Act is repealed.

9. (1) In sections 1(3)(d) and 9(1)(i) of the 1978 Act, the words “(disregarding any excess of that remuneration over the permitted maximum)” shall cease to have effect.

Lump sum
limit :
occupational
pension
schemes

Lump sum
limit :
personal
pension
schemes

Voluntary
contributions :
abolition of
permitted
maximum

(2) In section 14(1) of the 1978 Act, the definition of “the permitted maximum” shall cease to have effect.

(3) In Schedule 5 to the 1989 Act (amendments to 1978 Act), paragraphs 1(1)(a), 5(1)(a) and 6(1)(a)(i) shall cease to have effect.

Lump sum - early payment

Payment of lump sums before normal retirement : occupational schemes

10. (1) After section 2(2)(e) of the 1978 Act insert —

“(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”;

(2) After section 2 of the 1978 Act insert —

“Lump sum to employee : conditions **2A.** (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.”.

11. (1) In section 5 of the 1989 Act —

- (a) in subsection (2), at the beginning insert “Subject to section 5B,”;
- (b) at the end add —

Payment of lump sums before commencement of annuity or withdrawal of funds : personal pension schemes

“(6) Where a lump sum is paid in accordance with this section, the scheme administrator must within 3 months of the payment of that sum give notice of the payment to the Assessor in such form as the Assessor requires.”.

(2) After section 5A of the 1989 Act insert —

“Lump sum to member before commencement of annuity or withdrawal of funds: conditions

5B. (1) If the scheme provides for early payment to a member of a lump sum that does not satisfy section 5(2), the Assessor may approve the scheme if it satisfies the following conditions —

- (a) the lump sum must not be paid before the member attains the minimum age at which an annuity or withdrawal of funds can commence under section 4(2) or (3) but must be paid before payment of the annuity or withdrawal commences;
- (b) the amount of the lump sum must be calculated as at the date on which an annuity or withdrawal of funds is first payable by reference to the then known circumstances

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

- (c) where a member elects for a lump sum payable in accordance with this section, the remainder of the member's fund 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 section 3(1)(a)(ii).

(2) Where a lump sum is paid in accordance with this section, the scheme administrator must within 3 months of the payment of that sum give notice of the payment to the Assessor in such form as the Assessor requires.”.

- (3) In section 3(1)(b) of the 1989 Act, for “section 5 or 5A;” substitute “section 5, 5A or 5B;”.

Continuation in employment

Payment of benefits while continuing in employment

- 12.** (1) After section 2(2)(d) of the 1978 Act insert —

“(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;”.

- (2) After section 3(2) of the 1989 Act, add —

“(3) Subsection (1) shall not prevent the approval of a scheme which permits the receipt of benefits by a member while continuing in employment.”.

Contributions - annual allowance, etc

Annual allowance for contributions: occupational pension schemes

- 13.** (1) In section 3(4A) of the 1978 Act, for the words from “shall not exceed” to “that year” substitute “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.”.

(2) In section 4(2A) of the 1978 Act, for the words from “shall not exceed” to “that year” substitute “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.”.

(3) After section 2A of the 1978 Act insert —

“Annual allowance **2B.** 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.”.

(4) After section 11C of the 1978 Act insert —

“Charge on excess contributions **11D.** (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.”.

(5) In section 14(1) of the 1978 Act, insert —

[c.20]

““annual allowance” means £300,000 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;

“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;

“relevant earnings” has the same meaning as in Part 1 of the 1989 Act;”.

Annual allowance for contributions : personal pension schemes

[c.20]

14. (1) In section 1(1) of the 1989 Act, before the definition of “approved” insert —

“ “annual allowance” means £300,000 or such 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;”.

(2) For section 11 of the 1989 Act substitute —

“Excess contributions **11.** The Assessor shall not approve a personal pension scheme unless it makes provision, in relation to

arrangements made in accordance with the scheme for ensuring that the aggregate of all contributions in any year of assessment (whether under a single scheme or under two or more schemes) do not exceed the annual allowance.”.

(3) In section 13 of the 1989 Act, at the beginning insert “(1)” and at the end add —

“(2) The amount allowed to be deducted by virtue of subsection (1) in respect of contributions paid by an individual 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.

(3) In this section, “minimum allowance” means £3,600 or such other sum as is prescribed in regulations made by the Treasury with the approval of Tynwald.”.

(4) After section 22B of the 1989 Act insert —

“Charge
on excess
contributions

22C. (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 under section 24.

(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 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.”.

(5) Sections 14(1), (2), (4) and (5), 15 and 16 of the 1989 Act shall cease to have effect.

(6) In section 14(3) of the 1989 Act —

(a) the words “Without prejudice to subsection (1),” are omitted;

(b) the word “net” is omitted.

General

Miscellaneous
amendments
to 1978 Act

15. (1) In section 1(3)(a) of the 1978 Act, the words “(or, if the employee is a woman, 55)” shall cease to have effect.

(2) Subsection (1) applies only in respect of schemes approved after the date on which this paragraph comes into operation.

(3) In the 1978 Act —

(a) in section 2(2) (cases for discretionary approval), in paragraph (g) for “insurance company” substitute “approved insurer”;

(b) section 2(2A) shall cease to have effect;

(c) section 9(6) shall cease to have effect;

(d) in section 14(1), after the definition of “annual allowance” insert —

““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;”;

(e) in Schedule 2, in paragraph 2(2), the words “(within the meaning given by section 1(1) of the Income Tax Act 1989)” shall cease to have effect.

(4) Paragraph 6 of Schedule 5 to the Insurance Act 1986 [c.24] (amendment of section 2(2A) of the 1978 Act) shall cease to have effect.

(5) In section 11B of the 1978 Act —

(a) for “payee”, wherever occurring, substitute “payer”;

(b) in subsection (1), for “20% of the amount of the payment” substitute “a proportion of the payment calculated at the prescribed rate (within the meaning of section 1 of the principal Act)”.

(6) In Schedule 2 to the 1978 Act (supplemental provisions) —

(a) after paragraph 5 insert —

“**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.”;

(b) in paragraph 7 for the words from “under the principal Act” to the end substitute “and shall be liable on summary conviction to a fine of £5,000.”.

16. (1) In section 1(1) of the 1989 Act, in the definition of “personal pension scheme” after “annuities” insert “, the withdrawal of funds”.

Miscellaneous
amendments
to 1989 Act

(2) In section 17 of the 1989 Act —

(a) in subsection (2)(a), the words “other than a pensionable office or employment” shall cease to have effect;

(b) for subsection (3) substitute —

“(3) In subsection (1), “income” means income after —

- (a) deductions under sections 31 and 31B of the 1970 Act; and
- (b) deductions in respect of losses or capital allowances, being losses or capital allowances arising from activities profits or gains of which would be included in computing the relevant earnings.”.

(3) Sections 12(3), 18 and 19 of the 1989 Act shall cease to have effect.

(4) In section 17 of the 1989 Act, at the end add —

“(7) The Treasury may by regulations amend the definition of “relevant earnings” and may amend this section accordingly.

(8) Regulations under subsection (7) shall not come into operation unless they are approved by Tynwald.”.

(5) After section 23 of the 1989 Act insert —

“Reporting to Assessor **23A.** (1) The Treasury may by regulations require the administrator of a 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.

(2) Regulations under this section shall not come into operation unless they are approved by Tynwald.”.

(6) Part II of Schedule 5 to the 1989 Act shall cease to have effect.

Amendment to 1970 Act

17. (1) For section 50B of the 1970 Act substitute —

“Relief for certain personal and occupational pension schemes **50B.** (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 such extent as the Assessor is satisfied that, it is income from investments or deposits held for the purposes of a pension scheme which is approved under subsection (2).

(2) Subject to subsection (3), the Assessor may, if he thinks fit, having regard to the facts of a particular

case, and subject to such reasonable conditions, if any, as he 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 under subsection (2) unless the scheme —

(a) is a personal pension scheme —

- (i) which is made by an individual who is not resident in the Island and whose employment, trade or profession, if any, is exercised outside the Island;
- (ii) which is properly established under irrevocable trusts governed by the laws of the Island;
- (iii) which has for its sole or main purpose the provision of relevant benefits for the individual; and
- (iv) the administrator of which is resident in the Island; or

(b) is an occupational pension scheme —

- (i) which is properly established under irrevocable trusts in relation to a trade or undertaking carried on wholly or partly outside the Island;
- (ii) which has for its sole or main purpose the provision of relevant benefits in respect of persons' employment in the trade or undertaking wholly outside the Island;
- (iii) which is recognised by the employer and employees in the trade or undertaking; and
- (iv) the administrator of which is resident in the Island.

(4) For the purposes of subsection (3), the performance of duties in the Island which are merely incidental to the performance of other duties outside the Island, shall be treated as performed outside the Island.

(5) The payment of a relevant benefit made under a scheme approved under subsection (2) to a person not

resident in the Island shall not be income in respect of which income tax may be imposed under the Income Tax Acts.

(6) The Treasury may by regulations restrict the Assessor's discretion to approve a scheme under this section by reference to such criteria or circumstances as may be specified in the regulations.

(7) In this section —

“administrator” means the person responsible for the management of the scheme;

“relevant benefits” means any pension, annuity, lump sum, gratuity or other like benefit given or to be given on retirement or death, or in anticipation of retirement.

(8) Regulations under subsection (6) shall not come into operation unless they are approved by Tynwald.”.

[c.12] (2) Section 8 of the Income Tax Act 1995 is repealed.

Interpretation **18.** In this Act —

[XXI p.260] “the 1970 Act” means the Income Tax Act 1970;

[c.9] “the 1978 Act” means the Income Tax (Retirement Benefits Schemes) Act 1978;

[c.10] “the 1989 Act” means the Income Tax Act 1989.

Short title and commencement **19.** (1) This Act may be cited as the Income Tax (Pensions) Act 2008.

(2) This Act shall come into force on such day as the Treasury may by order appoint and different days may be so appointed for different provisions and for different purposes.

(3) An order under subsection (2) may —

(a) provide for this Act or any provision of this Act to have effect in respect of a year of assessment specified in the order, including the year of assessment in which the order is made;

(b) make such transitional provisions or savings as the Treasury may consider necessary in connection with any provision brought into force by the order.