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Amendment 394

Schedule 23, page 180, line 36 [Vol II], leave out lines 36 to line 42 and insert—

‘(a) where no employment of the member to which the pension scheme relates is or has been other than contracted-out employment by reference to the pension scheme, is 125% of the rate of the basic pension at that time or such higher percentage of that rate as the Treasury may by regulations prescribe,

(b) where no such employment of the member is or has been contracted-out employment by reference to the pension scheme, is 250% of the rate of the basic pension at that time or such higher percentage of that rate as the Treasury may by regulations prescribe, and

(c) otherwise, is such percentage of the rate of the basic pension at that time falling between the percentages for the time being specified under or by virtue of paragraphs (a) and (b) as the Treasury by regulations prescribe;

and regulations under paragraph (c) may prescribe different percentages for different cases.’.

Amendment 395

Schedule 23, page 183 line 13 [Vol 2]

At end insert—

‘(4) In sub-paragraph (7), for “an amount crystallised by” substitute “the relevant amount in the case of”.’.

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Amendment 396

Schedule 23, page 185, line 32 [Vol II], at end insert—

‘Amendments and transitionals

32A (1) Section 281 (minor and consequential amendments) is amended as follows.

(2) After subsection (2) insert—

“(2A) The Treasury may by order make in any relevant enactment such amendments (including repeals and revocations) as may appear appropriate in consequence of, or otherwise in connection with, any amendment (or repeal or revocation) made in this Part by any enactment contained in an Act passed after this Act (an “amending Act”).

(2B) For this purpose a relevant enactment is—

- (a) an enactment contained in an Act passed, or
- (b) an instrument made,

before the passing of the amending Act or in the Session in which the amending Act is passed.”

(3) In subsection (3), after “(2) insert “or (2A)”.

(4) After that subsection insert—

“(4) An order under subsection (2) or (2A) may include provision having effect in relation to times before it is made if it does not increase any person’s liability to tax.”

32B (1) Section 283 (transitionals and savings) is amended as follows.

(2) After subsection (3) insert—

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“(3A) The Treasury may by order make any transitional provision which may appear appropriate in consequence of, or otherwise in connection with, any amendment (or repeal or revocation) made in this Part by any enactment contained in an Act passed after this Act (an “amending Act”).

(3B) An order under subsection (3A) may, in particular, include savings from the effect of any amendment (or repeal or revocation) made by the amending Act.

(3C) An order under subsection (2) or (3A) may include provision having effect in relation to times before it is made if it does not increase any person’s liability to tax.”

(3) In subsections (4) and (5), after “(2)” insert “or (3A)”.’.

Amendment 397

Page 190 line 26 [Vol 2], leave out from ‘for’ to end of line 28 and insert ‘ “of a pension scheme” there were substituted “of any arrangement within paragraph 15A(4) under a pension scheme”.’.

SUMMARY

1. These four amendments to Schedule 23 of the Finance Bill correct minor technical errors in the pension tax provisions. Amendments 394, 395 and 397 correct errors in Schedule 23 and amendment 396 provides for a change to Finance Act 2004 provisions.

DETAILS*Bridging pensions*

2. Amendment 394 makes a small change to paragraph 20 of Schedule 23 of the Finance Bill, which provides for the rules that

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permit schemes to pay additional pensions (bridging pensions) between the date of the member's retirement and state pension age.

3. Paragraph 20(3) of Schedule 23 of the Bill provides that the amount by which the bridging pension may be reduced is linked to the maximum amount of basic state pension that may be paid. As drafted, paragraph 20(3) of the Bill provides for different reductions for two categories of cases, one where the employment is or has been contracted out, in which case the permitted reduction is 125% of basic state pension and for all other cases the permitted reduction was 250% of basic state pension.
4. The amendment provides for a change to the contracted out category of schemes. The reduction of 125% of basic state pension will apply only where *all* employment relating to that scheme has been contracted out. It also introduces a third category for cases where there has been a mix of non-contracted-out and contracted out employment.
5. Amendment 394 introduces new paragraph 2(5)(a) of Schedule 28 Finance Act 2004. This provides that for a member whose employment to which the scheme relates has entirely been contracted-out employment then the permitted reduction in scheme pension is 125% of basic state pension, which effectively allows a bridging pension to be paid to the member of up to this amount. The paragraph also permits an amount of more than 125% of basic pension to be prescribed in regulations.
6. New paragraph 2(5)(b) of Schedule 28 introduced by the amendment provides for cases where the member's employment to which the pension scheme relates has never been contracted out employment. In this case, the permitted reduction in scheme pension is up to 250% of basic pension. A higher rate of bridging pension is permitted for such schemes, which will be contracted-in to SERPs or the State second pension to allow them to integrate the scheme pension not only with basic State retirement pension, but also with the additional pension element of State retirement

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pension. The paragraph also permits an amount of more than 125% of basic pension to be prescribed in regulations.

7. New paragraph 2(5)(c) of Schedule 28 introduced by the amendment provides for a regulation-making power to prescribe the reduction in scheme pension for schemes that do not fall into either of the categories of the above, which will be schemes where there has been a mix of non-contracted-out and contracted-out employment. In such cases, regulations may be made to prescribe a reduction between the rates provided for in the other two categories, so between 125% and 250% of basic state pension. Within this range, different percentages may be prescribed for different circumstances.

Pension commencement lump sums: scheme pensions under money purchase arrangement

8. Amendment 395 ensures that the proportion of an individual's lifetime maximum entitlement to tax-free lump sums, which has been used up through the purchase of previous scheme pensions from money purchase arrangements, is calculated fully by reference to the purchase price of those pensions.
9. The measure to which this amendment relates changes the basis for calculating a member's entitlement to a tax-free lump sum when the member acquires a scheme pension from a money purchase arrangement. It provides that the tax-free lump sum entitlement in these circumstances is one third of the purchase price of the pension. The measure makes the same change to the basis of calculation when testing how much tax-free lump sum allowance an individual has left after purchasing a scheme pension. The tax-free lump sum allowance is broadly 25% of the lifetime allowance.
10. The effect of this amendment is that the amount of the tax-free lump sum allowance, which has been used up through the taking of any scheme pension from a money purchase arrangement, is up-rated by applying the percentage increase in the lifetime allowance to the "relevant amount". The "relevant amount" is defined in new Paragraphs (6A) and (6B) of Schedule 29 FA04.

**HM REVENUE AND CUSTOMS FINANCE BILL 2006
COMMITTEE
SCHEDULE 23**

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Transitional and consequential powers

11. Amendment 396 to Schedule 23 ensures that orders or regulations made under two of the main powers in the original simplification legislation introduced in FA 2004 can be used in respect of amendments to the pensions simplification legislation enacted after 6 April 2006 (the start of the new regime). The amendments also ensure that such regulations can have effect from that date but only if the effect of the regulation is wholly relieving.
12. Section 281 Finance Act 2004 allows the Treasury to make regulations providing minor and consequential amendments.
13. Similarly, section 283 Finance Act 2004 allows the Treasury to make transitional provisions.
14. Paragraph 32A of Schedule 23 of the Bill amends section 281.
15. Paragraph 32A(2) inserts new subsections (2A) and (2B) to make clear that the Treasury may make orders relating to minor and consequential amendments in connection with Part 4 not merely in relation to Part 4 as originally enacted but also as from time to time amended.
16. Paragraph 32A(3) inserts "or (2A)" in subsection (3).
17. Paragraph 32A(4) inserts new subsection (4) to make clear that the power is exercisable retrospectively only if it does not increase any person's liability to tax.
18. Paragraph 32B(1) amends section 283 of the Finance Act 2004.
19. Paragraph 32B(2) inserts new subsections (3A) (3B) and (3C) to make clear that the Treasury may make orders relating to any transitional provision in connection with Part 4 not merely in relation to Part 4 as originally enacted but also as from time to time amended. The power to make an order is exercisable retrospectively only if it does not increase any person's liability to tax.

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20. Paragraph 32B(3) inserts "or (3A)" in subsection (4) and (5) after "(2)".

Transitional protection: taking account of death benefits

21. Amendment 397 ensures that all members of insured occupational schemes with more than 19 members, who have claimed transitional enhanced protection from the lifetime allowance charge, would not lose that protection for death benefits merely because the scheme has changed the policy or the insurer the policy is held with.
22. This measure enables a person, who receives lump sum death benefits from a defined benefits or cash balance occupational pension scheme, to claim increased enhanced protection from the lifetime allowance charge. The protection may be available where the individual who has died was due enhanced protection, the death benefits exceed the amount protected and death benefits would also have been payable on 5 April 2006 on broadly the same terms. Another condition is that the deceased individual was employed continuously with the same company or with the same group of companies from 6 April 2006 until he or she died.
23. The amendment to new Paragraph 15A(6)(b) of Schedule 36 FA04 provides that persons, who receive lump sum death benefits from an occupational pension scheme, will not lose their right to enhanced protection from the lifetime allowance charge because the pension scheme has insured its obligation to pay death benefits and the scheme has either changed its insurance provider or significantly varied the terms of the policy since 6 April 2006. But this will only apply where the scheme in question has more than 19 members.

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BACKGROUND NOTE

Bridging pensions

24. Bridging pensions are what some occupational schemes use to “integrate” their scheme pension with the state pension. For example: if an individual who retires at age 60 is entitled to a pension income of, say, £12,000 a year, the scheme might make adjustments so that it pays £14,000 for the first five years, then, when the individual becomes entitled to receive the state pension at age 65, it might reduce the pension to £11,000. The idea is that the pensioner’s income remains broadly the same throughout retirement.
25. Although the scheme pension rules in Finance Act 2004 generally prevent the rate of pension payable being reduced from one year to the next, one of the circumstances in which it may reduce is where a member starts to receive state retirement pension.
26. The Finance Bill 2006 measure on bridging pensions reduces the administrative burdens on schemes that provide bridging pensions. The bridging pension rules under the Finance Bill provisions will permit schemes to offer additional pensions, which may then be reduced at some point between the member’s 60th and 65th birthdays. The amount by which the bridging pension may be reduced is linked to the maximum amount of basic state pension that may be paid.
27. Representations were received following publication of the Finance Bill that some schemes had a mix of non-contracted-out and contracted-out employment. Because the Finance Bill measure, as drafted, provides that where the employment is or has been contracted-out then the reduction permitted is 125% of basic state pension, which means that if there has ever been a period of contracted-out employment (even if only for a short period) the reduction permitted will be limited to 125%. For schemes with a

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mix of contracted-out and non-contracted-out employment this effectively limits the bridging pension in all cases to 125% of basic state pension.

28. The regulation-making power inserted by amendment 394 will allow regulations to be made where there is a mix of contracted-out and non-contracted-out employment. Regulations may prescribe a rate of reduction of between 125% and 250% of basic state pension. Different rates may be prescribed for different circumstances. So that, for example, if the employment related to the scheme had been predominantly contracted-out then regulations could provide for a lower rate of reduction in scheme pension than one where the employment had predominantly been non-contracted-out. This is because the latter may want to offer a higher bridging pension, so that their scheme pension can be integrated with both the basic state pension and the higher rate of additional pension element of the state retirement pension.
29. Discussions are planned with the pensions' industry to consider what reduction should be permitted for schemes with a mix of non-contracted-out and contracted out employment and whether regulations need to provide for different amounts where the proportion of contracted-in to contracted-out employment varies. Following these discussions, regulations will be brought forward in the autumn. The regulation-making power will be entirely relieving, because it will widen the circumstances in which schemes offering bridging pensions are subsequently permitted to reduce those pensions. The regulations may, therefore, apply with effect from 6th April 2006.