

Clause X and Schedule X: Pensions – offshore transfers

Summary

1. This clause and schedule introduce a new tax on transfers of pension savings to qualifying recognised overseas pension schemes (QROPS). The tax applies to transfers requested on or after 9 March 2017. Scheme administrators of registered pension schemes and scheme managers of QROPS or former QROPS will be jointly and severally liable to the tax with the individual making the transfer.

Details of the clause and Schedule

Schedule X: Part 1: Charges where payments made in respect of overseas pensions

2. Part 1 amends Schedule 34 to the Finance Act (FA) 2004 to extend from five to ten tax years the period of an individual's non-UK residence during which UK tax charges can apply to payments out of pension savings in overseas pension schemes that have had UK tax relief.
3. Paragraph 2 amends paragraph 1 of Schedule 34.
4. Paragraph 2(2) introduces the term 'benefited scheme' in sub-paragraph 1(6) of Schedule 34, which is the pension scheme that receives a relevant transfer.
5. Paragraph 2(3) inserts new sub-paragraphs (6A) to (6F).
6. New sub-paragraph (6A) provides that there are three types of relevant transfer:
 - a. an original relevant transfer which is defined in new sub-paragraph (6B)
 - b. a subsequent relevant transfer, which is a defined in new sub-paragraph (6D)
 - c. any other relevant transfer, which includes relevant transfers made before 6 April 2017
7. New sub-paragraph (6B) defines an original relevant transfer as one that is received from either a registered pension scheme or a transfer from another overseas pension scheme where the pension funds or rights under that scheme had benefitted from UK tax relief (a relevant non-UK scheme) on or after 6 April 2017.

8. New sub-paragraph (6C) introduces the concept of a 'ring-fenced transfer fund'. The ring-fenced transfer fund is the sums or assets transferred in as an original relevant transfer.
9. New sub-paragraph (6D) defines a subsequent relevant transfer as one that is made out of an original relevant transfer that formed the whole or part of a ring-fenced fund.
10. New sub-paragraph (6E) ensures that even where there are a number of transfers of the same funds, the rules in sub-paragraph (6D) will apply so that those later transfers will also be 'subsequent relevant transfers'.
11. New sub-paragraph (6F) provides the power for Her Majesty's Revenue & Customs (HMRC) to make regulations to set out what does not constitute a ring-fenced transfer fund.
12. Paragraph 3 amends paragraph 2 of Schedule 34.
13. Paragraphs 3(2) and 3(3) provides that payments to or in respect of a member of a relevant non-UK scheme that has pension funds or rights built up under that scheme that have benefited from UK tax relief (a relieved member) or who has transferred into that scheme from a registered pension scheme or another relevant non-UK scheme where the transfer is not taxable as an unauthorised payment (a transfer member) will continue to be subject to UK tax charges. Such members will continue to be subject to UK tax charges if the individual is UK resident or has been resident in any one of the previous five tax years to the extent that the contributions were made or transfers received before 6 April 2017. These funds are called '5-year rule funds' and are defined in new sub-paragraph (3).
14. Paragraph 3(4) inserts new sub-paragraphs (2) to (4).
15. New sub-paragraph (2) and (3) extends to 10 years the period in which UK tax charging provisions can apply to payments out of funds for which individuals have benefited from UK tax relief on pension funds or rights under an overseas pension scheme or which individuals have transferred to a qualifying recognised overseas pension scheme (QROPS). This extension will apply to funds or rights that accrue or are transferred on or after 6 April 2017 only.
16. New sub-paragraph (4) defines the terms 5-year rule funds and 10-year rule funds in relation to pension funds or rights that have benefitted from UK tax relief and transfers. The extended UK tax charging provisions will apply to 10-year rule funds only.
17. New sub-paragraph (5) sets out that the definitions for the terms used in paragraph 2 are provided in paragraphs 1, 3 and 4.
18. Paragraph 4 amends paragraph 3 of Schedule 34 which relates to payments to or in

respect of relieved members of relevant non-UK schemes that from pension funds or rights built up under that scheme that have benefited from UK tax relief (a UK tax-relieved fund).

19. Paragraph 4(2) inserts new sub-paragraph (5A).
20. New sub-paragraph (5A) provides the power for HMRC to make regulations to determine that a member's UK tax-relieved fund is reduced by a payment, event or anything else. For example, this will allow HMRC to make regulations to provide that the amount calculated as being subject to UK tax charges is reduced, even in cases where a payment is not made to the member, such as (but not limited to) when funds are designated into flexi-access drawdown.
21. Paragraph 4(3) amends sub-paragraph 6 to provide HMRC with the power to make regulations to determine that something other than a payment can reduce a member's UK tax-relieved.
22. Paragraph 4(4) inserts new sub-paragraph (8).
23. New sub-paragraph (8) provides that where HMRC makes regulations under sub-paragraph (6), HMRC can also make regulations under that sub-paragraph to reduce a particular part of the UK tax-relieved fund.
24. Paragraph 5(1) amends paragraph 4 of Schedule 34 which relates to payments to or in respect of transfer members of relevant non-UK schemes that have received transfers.
25. Paragraph 5(2) contains consequential amendments to include reference to the new ring-fenced transfer fund.
26. Paragraph 5(3) contains consequential amendments to include reference to the new sub-paragraph (3A).
27. Paragraph 5(4) inserts new sub-paragraph (3A).
28. New sub-paragraph (3A) provides that the sums or assets in a member's relevant transfer fund are distinct from those in a member's ring-fenced transfer fund.
29. Paragraph 5(5) inserts new sub-paragraphs (5) to (7).
30. New sub-paragraph (5) makes the same provision as in paragraph 3(5A) of Schedule 34 (inserted by paragraph 4(2) of this Schedule) but in relation to a transfer member of a relevant non-UK scheme.
31. New sub-paragraph 6 makes the same provision as in paragraph 3(6) of Schedule 34 (amended by paragraph 4(3) of this Schedule) but in relation to a transfer member of a relevant non-UK scheme.
32. New sub-paragraph (7) makes the same provision as in paragraph 3(8) of Schedule 34 (inserted by paragraph 4(4) of this Schedule) but in relation to a transfer member of a

relevant non-UK scheme.

33. Paragraphs 6 and 7 contain consequential amendments to the powers to make regulations in relation to relieved members and transfer members and the annual allowance provisions in Schedule 34 to include reference to the new 'ring-fenced transfer fund'.
34. Paragraph 8 provides that the changes for this Part of the Schedule take effect on or after 6 April 2017.
35. Part 2 sets out amendments to the temporary non-residents provisions in the Income Tax (Earnings and Pensions) Act (ITEPA) 2003 as a result of the changes made in Part 1 of this Schedule.
36. Paragraph 9 contains consequential amendments to section 576A of ITEPA 2003 to include reference to the new 'ring-fenced transfer fund'.
37. Paragraph 10 contains the same amendments as in paragraph 9 of this Schedule but made to the version of section 576A of ITEPA 2003 that applies where the year of departure from the UK is the tax year 2012-13 or earlier.

Part 2: Income tax on pension transfers “the overseas transfer charge”

38. Part 2 sets out how the overseas transfer charge will operate with the exclusions from the charge, liability to the charge, the amount of the charge and how those liable will account for the charge.
39. Paragraph 11 inserts new sections 244A to 244N into FA 2004.
40. New subsection 244A(1) provides that the overseas transfer charge arises when a recognised transfer is made to a QROPS or an onward transfer from a QROPS or former QROPS, except where the transfer is excluded from the charge.
41. New subsection 244A(2) sets out how the exclusions are limited.
42. New subsection 244A(3) defines an onward transfer as a transfer from a QROPS or former QROPS to another QROPS. The sums or assets transferred that represent the individual's accrued rights must be held under the new scheme to represent that individual's rights in that new scheme.
43. New subsection 244A(4) defines relevant period as any period from the transfer to the next 5 April plus five years.
44. New subsection 244A(5) defines the original transfer in relation to an onward transfer as the most recent transfer from a registered pension scheme or where the transfer was from a currently-relieved scheme rather than a registered pension scheme, the most recent transfer from that scheme.

45. New subsection 244(6) and (7) provides that if a transfer is made that is made up of the different types of onward transfer, they are counted as separate onward transfers for sections 244A to 244N
46. New subsection 244B(1) provides that a transfer is excluded from the overseas transfer charge if in the five tax years beginning with the date of the transfer, the individual who made the transfer is resident in the same country as the QROPS to which the transfer was made and no onward transfer is made that is subject to the overseas transfer charge.
47. New subsection 244B(2) provides that the position at the point of transfer is assumed to remain for five tax years but if, within the five-tax-year period from the date of transfer, the individual is no longer resident in the same country as their transferred pension savings, then the overseas transfer charge will apply to those transferred funds in the QROPS at that point.
48. New subsection 244B(3) provides that an onward transfer to a QROPS is excluded from the overseas transfer charge if, in the remainder of the five tax years from the date of the original transfer, the individual who made the transfer is resident in the same country as the QROPS to which the onward transfer was made, and no subsequent onward transfer is made that is subject to the overseas transfer charge.
49. New subsection 244B(4) provides that the position at the point of the onward transfer is assumed to be the case for the remainder of the five-tax-year period from the date of the original transfer but if, within that time, the individual is no longer resident in the same country as their transferred pension savings, then the overseas transfer charge will apply to those funds at that point.
50. New subsections 244C(1) and (2) provide for a transfer to a QROPS in an European Economic Area (EEA) state to be excluded from the overseas transfer charge if, in the five tax years beginning with the date of the transfer, the individual who made the transfer is resident in a country within the EEA and no onward transfer is made that is subject to the overseas transfer charge.
51. New subsection 244C(3) provides that that the position at the point of transfer is assumed to remain for five tax years but if, within the five-tax-year period from the date of transfer, the individual ceases to be resident in an EEA state then the overseas transfer charge will apply to the transferred funds in the QROPS at that point.
52. New subsection 244C(4) provides for an onward transfer to a QROPS in an EEA state to be excluded from the overseas transfer charge if, in the five tax years beginning with the date of the transfer, the individual who made the transfer is resident in a country within the EEA and no subsequent onward transfer is made that is subject to the overseas transfer charge.
53. New subsection 244C(5) provides that that the position at the point of the onward

transfer is assumed to be the case for the remainder of the five-tax-year period from the date of original transfer but if, within that period, the individual ceases to be resident in an EEA state then the overseas transfer charge will apply to the transferred funds in the QROPS at that point.

54. New section 244D provides that a transfer is excluded from the overseas transfer charge if the transfer is made to the occupational pension scheme and the individual is an employee of a sponsoring employer of the QROPS.
55. New subsection 244E(1) provides that a transfer is excluded from the overseas transfer charge if the transfer is made to a QROPS established by an international organisation and the individual making the transfer is an employee of that international organisation at that time.
56. New subsection 244E(2) defines international organisation as an organisation to which section 1 of the International Organisations Act 1968 applies, so it is clear that it is not simply a company or group of companies that operates internationally.
57. New subsection 244F(1) provides that a transfer is excluded from the overseas transfer charge if the transfer is made to a QROPS that is an overseas public service pension scheme and the individual making the transfer is an employee of one of the public service employers that participates in the pension scheme at that time.
58. New subsection 244F(2) defines an overseas public service pension scheme as a pension scheme that is established by the law or government of the country in which it is established to provide benefits for or in respect of public service carried out by employees of the participating public service employer.
59. New subsection 244F(3) provides that an employer will be considered to participate in an overseas public service pension scheme that is a QROPS if it is established to provide benefits [solely] to or in respect of its employees.
60. New subsection 244G(1) excludes a transfer from the overseas transfer charge if it is made in respect of a transfer requested before 9 March 2017.
61. New subsection 244G(2) provides that an onwards transfer is excluded from the overseas transfer charge if:
 - the charge was paid on an original transfer (defined in section 244G(5)) and it has not been repaid,
 - the charge was paid on a transfer from another QROPS to the QROPS making the onward transfer, certain conditions are met and it has not been repaid,
 - the original transfer from a registered pension scheme to a QROPS was

made before 9 March 2017, or

- the original transfer from a registered pension scheme to a QROPS was made on or after 9 March 2017 but was requested before that date.
62. New subsections 244G(3) and (4) exclude a transfer from the overseas transfer charge if the transfer is made out of funds other than the individual's relevant transfer fund or ring-fenced transfer fund (transferred funds that have had UK tax relief).
 63. New section 244H provides a power for HMRC to exclude further transfers from the overseas transfer charge if the transfer is specified in the regulations.
 64. New section 244I sets out that a transfer that would be excluded from the overseas transfer charge under sections 244B to 244F will be subject to the charge if the individual doesn't provide all of the necessary information to the scheme administrator of the registered pension scheme or QROPS scheme manager of the schemes concerned.
 65. New subsection 244J(1) sets out that the scheme administrator of the registered pension scheme making a recognised transfer to a QROPS and the individual making the transfer are jointly and severally liable for the overseas transfer charge.
 66. New subsection 244J(2) sets out that where the transfer to a QROPS is an onward transfer, the scheme manager of the QROPS or former QROPS making the transfer and the individual making the transfer are jointly and severally liable to the overseas transfer charge.
 67. New subsections 244I(3) to (5) provide that the scheme manager of the QROPS or former QROPS that holds the transferred funds and the individual who made the transfer will be jointly and severally liable to the overseas transfer charge where a transfer is initially excluded from the charge because the individual and the QROPS to which they had transferred were both in the same country or both in different EEA states, but the charge arises within five tax years of the transfer because one of the conditions of the exclusion is no longer met.
 68. New subsection 244J(5) sets out that the scheme manager of a former QROPS is liable to the overseas transfer charge only if the scheme was a QROPS on or after 9 March 2017, it received a recognised transfer from a registered pension scheme or an onward transfer from another QROPS on or after that date.
 69. New subsection 244J(6) provides that individuals, scheme administrators and scheme managers will be liable to the overseas transfer charge whether or not they are resident or domiciled in the UK.
 70. New subsection 244K(1) provides that the rate of charge for the overseas transfer charge is 25% of the transferred value.

71. New subsections 244K(2) and (3) provide that the transferred value of the transfer from a registered pension scheme established in the UK is the amount of the sums and the value of the assets transferred. If the registered pension scheme is established outside the UK then the transferred value subject to the overseas transfer charge is limited to the amount of UK-relieved funds (defined in section 244K(12)) in the scheme.
72. New subsection 244K(4) provides that the transferred value subject to the overseas transfer charge on a transfer from a QROPS or former QROPS is the amount of the sums and the value of the assets that can be attributed to the individual's ring-fenced transfer fund (defined in section 244K(12)) subject to subsections (5) to (9).
73. New subsections 244K(5) and (10) provide that if a lifetime allowance charge arises on a transfer then the transferred value subject to the overseas transfer charge is the amount after the deduction of the lifetime allowance charge and that the lifetime allowance charge is to be calculated without reference to the overseas transfer charge.
74. New subsection 244K(6) provides that where the transfer was initially excluded from the overseas transfer charge because the individual and the QROPS to which they had transferred were both in the same country or both in different EEA states, but the charge later arises because the exclusion is no longer met within five tax years beginning with the date of transfer, the overseas transfer charge applies to the funds representing the individual's ring-fenced transfer fund held in the QROPS or former QROPS.
75. New subsection 244K(7) provides that if the scheme administrator or scheme manager pays the overseas transfer charge but does not deduct the amount of the charge from the value of the funds to be transferred, the amount of the charge is grossed up as defined in section 998 of the Income Tax Act 2007, in effect added to the value to be transferred and itself subject to the overseas transfer charge.
76. New section 244K(8) sets out that if the scheme administrator or scheme manager deducts the amount of the overseas transfer charge from the value to be transferred then the transferred value is the amount given by subsections (2) to (6) before any deduction of the overseas transfer charge.
77. New section 244K(9) sets out that if the individual pays the overseas transfer charge then the transferred value is the amount given by subsections (2) to (6) without any deduction for the charge.
78. New subsection 244K(10) provides that if a lifetime allowance charge arises on a transfer that is subject to the overseas transfer charge, the lifetime allowance charge is calculated as if the overseas transfer charge did not arise.
79. New subsection 244K(11) defines terms used in this section.
80. New subsection 244L(1) confirms that the charge referred to in this section is the

overseas transfer charge for which the scheme manager of a QROPS or former QROPS is liable.

81. New subsection 244L(2) provides a power for HMRC to set out how scheme managers of QROPS and former QROPS account for the overseas transfer charge. HMRC can make provision for or in connection with the payment dates when the charge is due, when interest arises on the charge paid after the due date, how the scheme manager notifies HMRC of errors in the information provided and the making of assessments, repayments and adjustments.
82. New subsection 244L(3) sets out that the operation of any provision of the Tax Acts can be modified and the application of any provision of the Tax Acts can be provided for in the legislation made under section 244L(2). Regulations 3AG to 3AJ of the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) are made under this power.
83. New section 244M sets out the circumstances in which a repayment of the overseas transfer charge will arise.
84. New subsection 244M(1) provides that there can be a repayment of the overseas transfer charge only if the overseas transfer charge arose on a transfer when it was made and in the relevant period (defined in section 244A) beginning with the original transfer, circumstances arise that would have led to the transfer being excluded from the overseas transfer charge.
85. New subsection M244(2) and (3) provides that the overseas transfer charge can be repaid only to the extent that it has not been repaid already but any penalties or interest that were payable in relation to the overseas transfer charge are not repayable.
86. New subsection M244(4) provides that a repayment of the overseas transfer charge depends on the scheme administrator or scheme manager claiming the repayment meeting all of the requirements to provide information to HMRC about the repayment.
87. New subsection M244(5) provides that a repayment of the overseas transfer charge is not a relievable pension contribution so the scheme administrator (or the scheme manager) cannot claim UK tax relief on it.
88. New subsection M244(6) provides that if the amount repaid is then transferred to a QROPS, that amount should not be tested against the lifetime allowance on the basis of a transfer to a QROPS (BCE 8).
89. New subsection M244(7) provides that in the circumstances where an individual can make a claim (on the basis that they paid the tax out of funds that did not come directly from the pension scheme), they must do so within a year of the end of the

relevant period as defined in section 244A.

90. New subsection M244(8) provides a power for HMRC to set out further detail about repayment claims and to provide additional circumstances in which claims may be made in regulations.
91. New section 244N sets out the circumstances in which a scheme administrator or a scheme manager that is liable to the overseas transfer charge may seek to be discharged from that liability.
92. New subsection 244N(1) and (2) provide that the scheme administrator of a registered pension scheme or the scheme manager of a QROPS liable to the overseas transfer charge may apply to HMRC for the discharge of their liability to the charge on the ground in subsection 3.
93. New subsection 244N(3) sets out the ground as the scheme administrator or scheme manager reasonably believed that there was no liability to the overseas transfer charge on a transfer and it would not be just and reasonable for that scheme administrator or scheme manager to be liable to the charge on the transfer.
94. New subsections 244N(4) and (5) provide that HMRC must decide whether to discharge the liability and tell the scheme administrator or scheme manager the decision.
95. New subsection 244N(6) provides that a discharge under this section does not affect the liability of anyone else who is liable to the overseas transfer charge on the transfer concerned.
96. New subsection 244N(7) provides a power for HMRC to provide further detail on the discharge of the liability of the scheme administrator or scheme manager.
97. Paragraph 12 provides for the recognised transfer provisions in Part 4 (Pension Schemes etc) of FA 2004 to be amended and provides a new power to make provision for assessments in that Act.
98. Paragraph 13 amends section 169 of FA 2004.
99. Paragraph 13(2) inserts new subsection 2(ba).
100. New subsection (2)(ba) provides a new declaration and undertaking that scheme managers must make for their scheme to be a QROPS. It requires scheme managers of recognised overseas pension schemes to confirm that they understand their potential liability to the overseas transfer charge and is willing to operate the charge, including paying the tax.
101. Paragraph 13(3) inserts new subsection 2A.
102. New subsection (2A) provides a power for HMRC to make regulations to require information or evidence in a particular form in relation to the notification of

recognised overseas pension schemes.

103. Paragraph 13(4) inserts new subsection 4ZA.

104. New subsection (4ZA) provides a power for HMRC to make regulations to require members or former members of QROPS or former QROPS to provide information to the scheme manager of a QROPS or former QROPS.

105. Paragraph 13(5) makes a consequential amendment.

106. Paragraph 13(6) inserts new subsection 4C.

107. New subsection (4C) provides that the existing power to make regulations in relation to recognised overseas pension schemes can require information in a particular form.

108. Paragraph 13(7) inserts new subsections 7A to 7D and 8.

109. New subsection (7A) provides HMRC with the power to make Regulations to ensure that where a relevant overseas transfer (defined in subsection 7B) of a pension in payment is made the pension in the new pension scheme will be treated as the pension in the scheme under which it was formerly held.

110. New subsection (7B) defines a relevant overseas transfer as one where accrued rights under a relevant overseas scheme (defined in subsection 7C) are transferred so as to become held under another relevant overseas scheme or a registered pension scheme in connection with an individual member of the scheme.

111. New subsection (7C) defines relevant overseas scheme as a QROPS that has not received a transfer or a relevant non-UK scheme which includes a QROPS that has received a relevant transfer.

112. New subsection (7D) sets out that the regulation under subsection 7A may apply in different ways for different cases.

113. Paragraph 13(8) amends the definition of relevant requirement to include a requirement to pay the overseas transfer charge.

114. Paragraph 14 inserts new Chapter 5A to FA 2004.

Chapter 5A

115. Chapter 5A contains sections 242A and 242B which provide definitions in relation to registered pension schemes established outside the UK.

116. Section 242A defines non-UK registered scheme as a registered pension scheme established in a country or territory outside the UK.

117. Section 242B defines UK-relieved funds as funds that have had UK tax relief that are held in a non-UK registered scheme.

118. Subsection 242B(1) sets out that UK-relieved funds are sums or assets that represent accrued rights that at any time were held under a registered pension scheme established in the UK, at any time formed the UK tax-relieved fund under a relevant non-UK scheme or represent accrued rights when the individual member accrued rights under the scheme and is taken to have benefitted from UK tax relief.
119. Subsections 242B(2) to (4) use definitions set out in the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567).
120. Paragraph 15 inserts new subsection 1(da) in section 255 of FA 2004.
121. New subsection (1)(da) provides the power for HMRC to make regulations in connection with the liability of scheme administrators of registered pension schemes and scheme managers of QROPS or former QROPS to assessments to the overseas transfer charge.
122. Paragraph 17 makes consequential amendments on the appeal against a decision on the discharge of the liability to the overseas transfer charge.
123. Paragraph 18 inserts new subsection 1A(aa) in section 9 of the Taxes Management Act 1970.
124. New subsection (1A)(aa) removes the scheme manager of a QROPS or former QROPS from the scope of self-assessment [which they would otherwise be within as a result of their liability to the overseas transfer charge].
125. Paragraph 19 inserts a new entry in the Table in paragraph 1 of Schedule 56 to FA 2009.
126. New entry in Table sets out the date on which the overseas transfer charge becomes due.
127. Paragraph 20(1) inserts a new entry in Table 1 in regulation 3(1) of the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005.3454).
128. New entry in Table 1 sets out that when a scheme administrator accounts for an overseas transfer charge they must provide details of the individual making the taxable transfer, details of the transfer, details of the QROPS to which the transfer is made and the amount of tax due.
129. Paragraph 20(2) confirms that the amendment in paragraph 6(1) of this Schedule is treated as made under the relevant powers in section 254 of FA 2004.
130. Paragraph 21 amends S.I. 2006/208.
131. Paragraph 21(2) includes the definition of onward transfer in the Regulations.
132. Paragraph 21(3) amends regulation 3(2).

133. Paragraph 21(3)(a) amends sub-paragraph (c) of regulation 3(2) to provide a reference to ring-fenced transfer funds in addition to a relevant transfer fund.

134. Paragraph 21(3)(b) inserts new sub-paragraph 2(da).

135. New regulation 3(2)(da) sets out that a scheme manager of a QROPS or former QROPS, when making a transfer to another QROPS, must provide to HMRC information on:

- whether the transfer is subject to the overseas transfer charge and
 - if so, details of the transferred value and the amount of the charge deducted from the payment by the scheme manager and
 - if not, the reason why not
- the remaining value of the individual's relevant transfer funds and ring-fenced transfer funds immediately after the payment.

136. Paragraph 21(4) inserts new paragraphs 2A to 2C into regulation 3 of S.I. 2006/208.

137. New paragraph (2A) provides that paragraphs 2B and 2C apply if a scheme manager of a QROPS or former QROPS makes an onward transfer to another QROPS out of funds that have been initially excluded from the overseas transfer charge because the individual and the QROPS to which they had transferred were both in the same country or both in different EEA states.

138. New paragraph (2B) provides that if, within five tax years beginning with the date of the original transfer of the funds from a registered pension to a QROPS, the scheme manager of the QROPS or former QROPS is notified that there is a change in circumstances such that the exclusion no longer applies, that scheme manager must tell HMRC within [90 days] of being notified of the change:

- details of the change,
- [the transferred value of the transfer]
- the amount of overseas transfer charge that now arises and confirmation of whether the scheme manager intends to account for the charge
- details of the funds remaining in the individual's ring-fenced transfer fund or relevant transfer fund immediately after the change.

139. New paragraph (2C) provides that the scheme manager of a QROPS or former QROPS must notify HMRC where, within five tax years beginning with the date of the original transfer of the funds from a registered pension to a QROPS, they become aware that an individual member's principal residential address has changed such

that the exclusion the individual and the QROPS to which they had transferred were both in the same country or both in different EEA states no longer applies.

140. Paragraph 21(5) inserts new paragraph 3A in regulation 3 of S.I. 2006/208.
141. New paragraph (3A) provides that no obligation to provide information arises under paragraph (2B) if 10 years have elapsed since the key date ring-fenced fund.
142. Paragraphs 21(6) to (8) amend regulations 3(6), 3AB(4) and 3AC of S.I. 2006/208 to refer to a ring-fenced transfer fund.
143. Paragraph 21(9) makes consequential amendments to regulation 3AD of S.I. 2006/208 when information is given by a QROPS or former QROPS to another QROPS.
144. Paragraphs 21(9)(a) to (d) and (g) amend paragraphs 1(a), 2, 2(b) and 2(c)(i) of regulation 3AD to refer to a ring-fenced transfer fund.
145. Paragraph 21(9)(e) ensures that the scheme manager making the transfer provides the date that the original transfer that formed these funds was requested (if known).
146. Paragraph 21(9)(f) ensures that the scheme manager making the transfer provides the information in connection with the overseas transfer charge or its exclusion.
147. Paragraph 21(10) inserts new regulations 3AE to 3AI into S.I. 2006/208.
148. New regulation 3AE sets out the information that an individual member must provide to a QROPS scheme manager when they want to transfer their funds to another QROPS. This is similar information to that which the individual is required to provide to the scheme administrator of a registered pension scheme when they want to transfer from that scheme to a QROPS.
149. New regulation 3AE(1) and (2) set out that the provisions of paragraph 4 of regulation 3AD do not apply when an individual member of a QROPS or former QROPS makes a request to transfer their rights to another QROPS if the transfer was made or formally requested before 9 March 2017 or if five tax years have passed since the date of original transfer from a registered pension scheme.
150. New regulation 3AE(3) provides that the definition of original transfer is the same as in section 244G(5).
151. New regulation 3AE(4) sets out that the individual must provide the scheme manager of the QROPS or former QROPS with
- their details,
 - details of the QROPS to which they want to transfer,
 - information on whether the individual knows for certain that the transfer will be excluded from the overseas transfer charge because the

QROPS to which they are transferring is an occupational pension scheme, an overseas public service pension scheme or the pension scheme of an international organisation and if so, details of their employment with a participating employer of the scheme, and

- the individual's written acknowledgement that they are aware that the transfer could mean that they are liable to the overseas transfer charge and the circumstances in which a transfer that was initially excluded from the overseas transfer charge may become liable to the charge.

152. New regulation 3AE(5) provides that the individual must provide the information within 60 days of making the transfer request,

153. New regulation 3AE(6) provides that the scheme manager of the QROPS or former QROPS must notify the individual of the information they are required to provide within 30 days of the transfer request.

154. New regulation 3AF sets out the information the scheme manager of the QROPS or former QROPS must provide to the individual member where an onward transfer gives rise to the overseas transfer charge.

155. New regulation 3AF(1) provides that if the overseas transfer charge arises on an onward transfer, within 90 days of that transfer the scheme manager of the QROPS or former QROPS must provide the individual member with details of the transfer and any tax that has been paid, or that the scheme manager intends to pay.

156. New regulation 3AF(2) provides that if the onward transfer is excluded from the overseas transfer charge, within [90 days] of that transfer the scheme manager of the QROPS or former QROPS must provide the individual member with

- details of the transfer,
- the reason why the transfer is excluded from the overseas transfer charge, and
- if the transfer is excluded because both the individual and the QROPS to which they have transferred are in the same country or different EEA states, an explanation of how the funds could become taxable.

157. New regulation 3AF(3) provides that a scheme manager of a QROPS or former QROPS who has received a transfer that was excluded from the overseas transfer charge because both the individual and the QROPS to which they had transferred were in the same country or in different EEA states, must take action if notified within five tax years beginning with the date of the original transfer from a registered pension scheme, of an event that would mean the exclusion no longer applied.

158. New regulation 3AF(4) provides that the action the scheme manager must take is that within 90 days of being notified of the change or event, the scheme manager must provide the individual with the following information:

- details of the overseas transfer charge in relation to the transfer
- whether the scheme manager intends to account for the tax charge, and
- confirmation of the date of payment of the tax charge if the scheme manager has already paid the overseas transfer charge.

159. New regulation 3AG sets out how the scheme manager of the QROPS or former QROPS who is liable to an overseas transfer charge, accounts for the tax to HMRC.

160. New regulations 3AG(1) and (2) provide that the scheme manager must pay the overseas transfer charge using the accounting reference provided by HMRC after the scheme manager has notified HMRC of the liability.

161. New regulation 3AG(3) provides that the tax is due at the end of 91 days beginning with the date the accounting reference is issued by HMRC.

162. New regulation 3AH provides that HMRC will raise a tax assessment on the scheme manager for any overseas transfer charge that is not paid by the due date. The charge is payable within 30 days of the issue of the notice of assessment.

163. New regulation 3AI sets out that interest applies to overdue overseas transfer charges in the same way that it applies to other income taxes.

164. New regulation 3AI sets out the action that HMRC may take if the correct overseas transfer charge has not been paid on or before it becomes due, including interest on unpaid or overpaid tax.

165. Paragraphs 21(11) and (12) make consequential amendments.

166. Paragraph 21(13) includes the requirements for a scheme manager of a former QROPS to provide information in relation to the overseas transfer charge in the provisions to which the penalties regime applies.

167. Paragraph 21(14) confirms that the amendments in paragraph 7 of this Schedule are treated as made under the relevant powers in section 169(4ZA), 169(4) and 244L of FA 2004.

168. Paragraph 23 amends the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567).

169. Paragraph 23(2) sets out the additional information in relation to the overseas transfer charge that the scheme administrator of a registered pension scheme must provide to HMRC after making a transfer to a QROPS.

170. Paragraph 23(2)(a) inserts under reportable event 9 (transfers to QROPS) that the scheme administrator must provide

- details of whether or not the transfer gave rise to the overseas transfer charge
- if so, details of the charge
- if not, the reason for exclusion from the charge.

171. Paragraph 23(2)(b) inserts under reportable event 9 (transfers to QROPS) that the scheme administrator must provide the QROPS reference, if known.

172. Paragraph 23(3) amends regulation 3(7) to bring forward the deadline for the scheme administrator to provide information to HMRC in relation to a transfer to a QROPS where the scheme administrator applies for a repayment of the overseas transfer charge before the deadline would have occurred otherwise.

173. Paragraph 23(4) sets out the additional information in relation to the overseas transfer charge that the scheme administrator must obtain from the individual who requests a transfer to a QROPS.

174. Paragraphs 23(4)(a) and (b) amend the order of the information required to be provided about the receiving QROPS and additionally require the individual to provide the scheme administrator with

- information on whether the individual knows for certain that the transfer will be excluded from the overseas transfer charge because the QOPS to which they are transferring is an occupational pension scheme, an overseas public service pension scheme or the pension scheme of an international organisation and if so, details of their employment with a participating employer of the QROPS, and
- the individual's written acknowledgement that they are aware that the transfer could mean that they are liable to the overseas transfer charge and the circumstances in which a transfer that was initially excluded from the overseas transfer charge may become liable to the charge.

175. Paragraph 23(5) inserts new regulation 11BB into S.I. 2006/567.

176. New regulation 11BB provides that following a recognised transfer that is excluded from the overseas transfer charge because the individual and the QROPS to which they transferred are in the same country or in different EEA states, the individual member must, within 60 days of the change, tell the scheme administrator that made the transfer if, within five tax years of that transfer, their country of residence

changes.

177. Paragraph 23(6) inserts new regulation 12A into S.I. 2006/567.

178. New regulation 12A(1) provides that if an overseas transfer charge arises on a transfer from a registered pension scheme to a QROPS, the scheme administrator must, within 90 days, provide the individual with details of the transfer and the overseas transfer charge, the extent to which the scheme administrator has paid the tax or intends to do so and if paid, the date the charge was paid.

179. New regulation 12A(2) provides that if a transfer from a registered pension scheme to a QROPS is excluded from the overseas transfer charge, the scheme administrator must, within 90 days, provide the individual with

- details of the transfer,
- the reason why the transfer was excluded and
- if the transfer is excluded because both the individual and the QROPS to which they have transferred are in the same country or in different EEA states, an explanation of how the funds could become liable to the overseas transfer charge.

180. New regulation 12A(3) provides that where the scheme administrator receives a repayment of an overseas transfer charge they must give the individual, within 3 months of receiving the repayment of overseas transfer charges, details of the repayment and the reason why the overseas transfer charge was repaid.

181. Paragraph 23(7) inserts new regulation 14ZCA into S.I. 2006/567.

182. New regulation 14ZCA sets out the information that a scheme administrator must provide to a scheme manager of a QROPS when making a recognised transfer to that QROPS.

183. New regulations 14ZCA(2) and (3) provide that the scheme administrator must, within 31 days of the transfer, tell the QROPS scheme manager

- whether or not an overseas transfer charge arose on the transfer
- if so, the amount of the charge
- if not, the reason the transfer was excluded from the charge.

184. New regulations 14ZCA(4) and (5) provide that the scheme administrator must, within 31 days of receiving a repayment of the overseas transfer charge, provide the QROPS scheme manager that received the transfer with a copy of the original statement about the transfer, confirmation that it is now inaccurate, details of the

repayment and the reason why the transfer is now excluded from the overseas transfer charge.

185. Paragraph 23(8) confirms that the amendments by paragraph 8 of this Schedule are treated as made under the relevant powers in section 251 of FA 2004.

186. Paragraph 24(1) provides that except as set out in sub-paragraphs 2 and 3, the requirements set out in this Schedule have effect in relation to transfers made on or after 9 March 2017 even though the overseas transfer charge will only apply to transfer requested on or after that date.

187. Paragraph 24(2)(a) provides that the new QROPS undertaking has effect from 9 March 2017 for

- a scheme that is notifying HMRC that it meets the requirements to be a recognised overseas pension scheme on or after that date, or
- a scheme that notified HMRC that it meets the requirements to be a recognised overseas pension scheme before that date but HMRC had not given a reference number to the scheme by that date

188. Paragraph 24(2)(b) provides that the new QROPS undertaking has effect from 14 April 2017 for schemes for which HMRC had issued a reference number before 9 March 2017.

189. Paragraph 24(3) provides that the remaining changes in section 169 of FA 2004 and the amendment in section 255 of FA 2004 come into force on 9 March 2017.

190. Paragraph 24(4) provides that the amendments in regulation 3(2) of S.I. 2006/567 have effect for payments made on or after 9 March 2017 and new regulation 3AE of S.I. 2006/567 has effect in relation to requests made on or after that date.

191. Paragraph 24(5) provides that when accounting for the overseas transfer charge that arises in the period beginning 9 March 2017 and ending 30 June 2017, scheme administrators of registered pension schemes treat the charge as being charged in the three-month period ending with 30 September 2017. This means that payment of the first overseas transfer charge by scheme administrators will not become due until 14 November 2017.

Background note

192. This tax has been introduced to ensure that the generous tax relief on pension savings that the government provides is used as intended. It supports the Government's objective of promoting fairness in the tax system and it continues to allow overseas pension transfers to be made free of UK tax up to the lifetime allowance when people leave the UK and take their pension savings with them to their new country of residence.
193. Overseas transfers can still be made free of UK tax if both the individual and the pension savings are in different countries within the EEA.
194. The overseas transfer charge does not apply to funds that had already been transferred to a QROPS before 9 March 2017. Nor does it apply to transfers requested before 9 March 2017.
195. The provisions to extend from five to 10 years the period in which UK tax charges can apply to payments out of funds in overseas pension schemes that contain pension funds or rights that have benefitted from UK tax relief were published for consultation on 5 December 2017.