STATES OF JERSEY

TAX RULES APPLYING TO PENSIONS AND PENSION SCHEMES: WHITE PAPER – OCTOBER 2013

Presented to the States on 8th October 2013
by the Minister for Treasury and Resources

STATES GREFFE

States of Jersey

Treasury and Resources

White Paper

Tax rules applying to pensions and pension schemes **8 October 2013**

PURPOSE OF CONSULTATION

In the modern world attitudes towards retirement are changing; driven by longer life expectancy, people are, through necessity or choice, working later into life. In many cases this work is part time and hence people want the flexibility to mix employment income with the receipt of pension income in what has become known as a “flexible retirement”.

The tax rules applying to occupational pension schemes in Jersey have not kept pace with these changes. Under the existing tax rules it is broadly necessary for a member of an occupational pension scheme to *retire* before they are able to draw a pension. This means that members of occupational pension schemes in Jersey are ordinarily required to make a choice between working and retiring, barring them from the option of flexible retirement. The Minister for Treasury and Resource proposes that the tax rules applying to occupational pension schemes are modernised, facilitating the option of flexible retirement.

The existing tax rules that apply to pension schemes are lengthy, complex and difficult to understand; therefore rather than add further complexity through the introduction of flexible retirement, the opportunity has been taken to simplify and consolidate the rules so that they are easier to understand. Greater understanding should encourage more people to make sufficient savings for the retirement they want.

To ensure that the new tax rules are fit-for-purpose the decision has been taken to release them for public consultation in advance of them being lodged with the States in spring 2014. This approach should result in the most appropriate legislation being enacted.

In addition the opportunity has been taken to consult on a further four pension related topics. No draft legislation has been released in respect of these topics at this time. The Minister will consider the comments made in relation to these topics and bring forward draft legislation in spring/summer 2014 for consultation if appropriate.

Pension changes matter to a great number of people – employers, workers, savers and pension professionals – and the Minister for Treasury and Resource seeks responses from all of these interested groups.

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HOW TO RESPOND

The deadline for responses is **5pm on Friday 10th January 2014**

All respondents should indicate the capacity in which they are responding (i.e. as an individual, company, representative body).

If you are responding as a company, please indicate the nature of your business and/or your clients' business.

Representative bodies should identify on behalf of who they are responding and the methodology they used to gather responses.

Please send your responses and any additional comments to:

Tax Policy Unit

Telephone: 01534 440532
Fax: 01534 440409
e-mail: tax.policy@gov.je

Director of Tax Policy
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PO Box 353
St Helier
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Questions are posed throughout this consultation document to draw the reader's attention to specific issues and proposed changes. However respondents should not be constrained by these questions and responses which address: (i) the proposed framework of tax rules applying to pensions, and (ii) any issues not specifically covered by the questions, are encouraged.

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Section 1 – Introduction

Over recent years there have been significant changes to the tax rules applying to pensions and pension schemes in the UK, Guernsey and the Isle of Man. Those changes have largely sought to simplify and modernise the applicable tax rules.

It has been recognised that the tax rules applying to pensions in Jersey lag behind the position in those jurisdictions and that changes are needed to ensure that Jersey's rules are fit for the modern world.

In addition it has been recognised that the relevant tax legislation in Jersey is lengthy, complex and difficult to understand. With the Treasury and Resources Minister's commitment to a simple, low and broad taxation system, the opportunity has been taken to condense and simplify the relevant tax legislation rather than introduce new rules and attempt to integrate them with the existing rules.

However it is acknowledged that the interaction of taxation and pensions is inherently complicated and hence there is a limit on the level of simplification that can be realistically achieved. In light of this inherent complexity, the decision has been taken to release the proposed amendment to the Income Tax Law as a consultation draft such that the widest range of interested parties have the opportunity to review the proposed changes before they are lodged with the States. It is hoped that this approach will facilitate the enactment of the most appropriate set of tax rules.

The proposed legislative amendment is contained in Appendix A to this consultation paper and a commentary, to help readers understand the main changes proposed, is contained in Section 4.

Furthermore, a decision has been taken to consult on a further four pension related topics without draft legislation. These topics are outlined in Section 5 of this consultation paper. Following completion of the consultation, the comments received will be analysed and any amendments considered appropriate will be included in next year's Budget.

For the avoidance of doubt, a full "root-and-branch" review of the issues associated with pensions has not been undertaken at this time (e.g. issues such as how to incentivise low income households to save for their retirement, consideration of compulsory minimum pension saving). It is anticipated that such a review should be undertaken within the next 3 years.

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Section 2 – Timetable

Action	Date
1. Proposed legislative amendment released as a consultation draft and consultation on four pension topics issued	8th October 2013
2. Closure of consultation window	10th January 2014
3. Lodgement with the States of the finalised legislative amendment	17th March 2014*
4. States debate on finalised legislative amendment	29th April 2014*
5. Release of proposed legislative amendment in relation to four consultation topics	Spring 2014*
6. Lodgement with the States of finalised legislative amendment in relation to four consultation topics	Summer 2014*

* Target dates

In light of the tight timetable outlined above it is requested that, although the consultation window is open until 10th January 2014, respondents seek to submit their comments at the earliest possible opportunity.

Section 3 – Conditions of approval and scheme rules

For the avoidance of doubt, the benefits that can be taken from a pension scheme are determined by the terms of that particular scheme. The conditions of approval outlined in the tax rules only determine whether a scheme meets the standards required to be an "approved"[1] scheme for tax purposes.

Therefore changing the conditions of approval to allow pension schemes greater flexibility regarding the payments that they make will, in itself, achieve nothing; it will then be the responsibility of each pension scheme to consider the new conditions of approval and determine if and how they may want to change the terms of their particular scheme to introduce the greater flexibility allowed.

[1] The tax benefits of being an "approved" Jersey scheme are: (i) a tax deduction may be available for contributions made to an approved Jersey scheme; and (ii) income derived from investment or deposits arising in the approved Jersey scheme is exempt from Jersey income tax.

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Section 4 – Proposed legislative amendment: summary of main changes proposed

In order to achieve the simplification mentioned above, it is proposed that the tax rules applying to pensions are rewritten. A copy of the proposed legislative amendment is contained in Appendix A; it broadly rewrites Part 19 of the Income Tax (Jersey) Law 1961 ("the Law") and makes other necessary changes.

A summary of the main changes proposed to the existing tax rules is outlined below. For the avoidance of doubt, this Section of the consultation paper does not provide a detailed commentary, describing the proposed legislative amendment provision-by-provision, but rather it identifies the main changes and provides an accompanying narrative.

Section 4.1 – Structural changes to the pension rules

In order to improve the clarity and simplicity of the pension rules, the opportunity has been taken to restructure the relevant legislation such that it follows a more logical ordering. The proposed structure of the new pension rules in Part 19 of the Law is as follows:

- Arts 130-130C – definitions relevant to the pension legislation
- Arts 131-131CA – conditions of approval for pension schemes, broken down into:
  - Art 131 approved Jersey occupational pension schemes;
  - Art 131A approved occupational pension schemes for overseas employees;
  - Art 131B approved Jersey retirement annuity contracts;
  - Art 131C approved retirement annuity contracts for overseas residents; and
  - Art 131CA approved retirement annuity trust schemes
- Art 131CB-131CF – conditions applying to certain payments made by schemes approved under Art 131, 131B and Art 131CA[2]
- Art 131CG – transfers between pension schemes
- Arts 131D-131F – approved drawdown contract and approved trust provisions
- Art 131G – taxation of the approved Jersey schemes, approved drawdown contracts and approved trusts
- Arts 131H-131I – tax treatment of contributions made to approved Jersey schemes
- Arts 131J-131M – taxation of payments made by approved Jersey schemes, approved drawdown contracts and approved trusts
- Arts 131N – taxation of certain pension transfers
- Art 131O – taxation of payments made by schemes approved under Art 131A and Art 131C
- Arts 131P-131R – withdrawal of approval, appeals procedures and Order making powers

Please note, it is proposed that the particular Articles under which pension schemes are approved are not changed as a consequence of this restructuring. Although the resulting numbering of the Articles is unusual, we consider that this will be of benefit to existing schemes by not requiring them to change their documentation (i.e. an occupational pension scheme will still be approved under Art 131 of the Law). In addition this should help to maintain understanding of Jersey's pension rules by individuals, employers, pension practitioners and other jurisdictions which have tax agreements with Jersey.

[2] For the purposes of the legislation and this consultation paper these schemes are collectively called "approved Jersey schemes" – see Section 4.2.(a) of this consultation paper.

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One of the main structural changes proposed is to separate the conditions of approval, including the payments that an approved Jersey scheme may make, from the tax analysis applying to those payments. It is hoped that this structural change will make the pension rules clearer.

In addition, the tax rules relating to occupational pension schemes are currently split between Art 131 of the Law and the Income Tax (Superannuation Funds) (Jersey) Order 1972 ("the 1972 Order"). It is proposed that the key provisions from the 1972 Order are now reflected within the Law, reducing the need to work with two separate pieces of legislation.

It is acknowledged that a separate Order will be required to deal with operational matters (e.g. how a pension scheme should make an application for approval, the annual reporting required to be filed by approved Jersey schemes, etc.). The power to create this Order is contained in the proposed ***Art 131R***. It is anticipated that this Order will be released in draft form for comment before the final legislative amendment is lodged with the States.

Q1. Could the structure of the relevant legislation be improved further?

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Section 4.2 – Definitions: Arts 130-130C

It is proposed that the definitions that are exclusively relevant to the pension rules are brought together within Part 19. A number of new definitions have been added, these include:

Section 4.2.(a) *"approved Jersey scheme"*

To help achieve simplification of the legislation it is proposed that the term "approved Jersey scheme" is used in the new tax rules. This term is defined in ***Art 130(1)*** and refers to a pension scheme that is approved under Art 131, 131B or 131CA.

Section 4.2.(b) *"pension holder"*

To help achieve simplification of the legislation it is proposed that the term "pension holder" is used in the new tax rules. This term is defined in ***Art 130(1)*** and refers to the primary individual in respect of whom the pension saving is being made.

Section 4.2.(c) *"pension income"*

To help achieve simplification of the legislation it is proposed that the term "pension income" is used in the new tax rules. This term is defined in ***Art 130(1)*** and refers to the pension being paid by the pension scheme, whether that is an income for life, an annuity or an annuity equivalent.

Section 4.2.(d) *"scheme manager"*

To help achieve simplification of the legislation it is proposed that the term "scheme manager" is used in the new tax rules. The term is defined in ***Art 130(1)*** and broadly refers to the person having control or management over the particular scheme.

Section 4.2.(e) *"ill health"*

Broadly, under the existing tax rules, an approved Jersey scheme may commence paying pension income before the age of 50 where the pension holder suffers ill health and, as a result, can no longer undertake their occupation. It is proposed that a standard definition of "ill health" should be introduced (see ***Art 130(3)(a)***). This definition will apply to all approved Jersey schemes. It is based on a similar definition utilised in the UK[3].

Section 4.2.(f) *"dependants"*

It is proposed that the class of persons who may be allowed to benefit from an approved Jersey scheme following the death of the pension holder should be consistent under each of the different type of approved Jersey schemes. The class of persons who may be allowed to benefit will be anyone who falls within the definition of "dependants".

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[3] See Paragraph 1, Schedule 28 of Finance Act 2004.

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The proposed definition of the term "dependants" is outlined in ***Art 130A***. It is based on a similar definition utilised in the UK[4] and encompasses a broader class of persons than those identified in the existing tax rules.

Section 4.2.(g) *"fund value"*

To help achieve simplification of the legislation it is proposed that the term "fund value" is used in the new tax rules. This term is defined in ***Art 130B*** and outlines how the "fund value" should be calculated in the context of a defined benefit scheme and a defined contribution scheme.

Q2. Are the definitions in Art 130-130C appropriate?
Q3. Are the definitions in Art 130-130C sufficiently clear and unambiguous?
Q4. Are there any other terms used in the pension rules that should be given a statutory definition?

[4] See Paragraph 15, Schedule 28 of Finance Act 2004.

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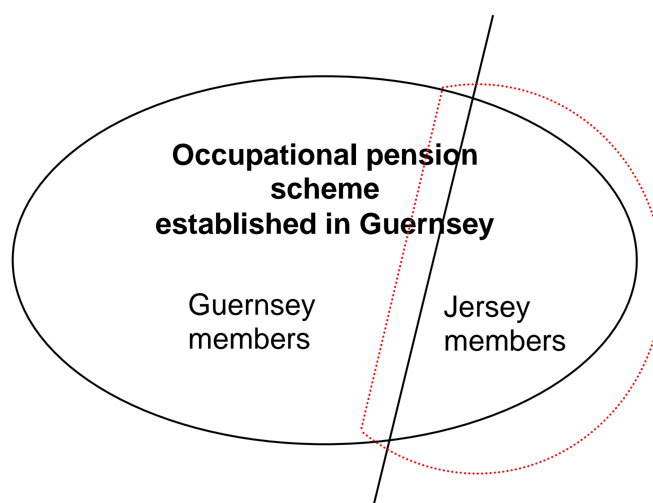
Section 4.3 – Scope of approval (relevant to occupational pension schemes only)

Under the existing tax rules an occupational pension scheme can be approved irrespective of where the scheme is established. In practice, where an occupational pension scheme which is not established in Jersey has sought approval, the Comptroller has granted approval[5] but limited the scope of that approval to the Jersey members[6] in the scheme only. For example:

Example 1

An employer with operations in both Jersey and Guernsey sets up an occupational pension scheme; it is a trust based scheme with Guernsey resident trustees. 75% of the members of the scheme are based in Guernsey and their employment is carried on wholly outside of Jersey, the remaining 25% of the members are based in Jersey and their employment is carried on in Jersey. Under the Comptroller's existing practice only the part of the scheme relating to the Jersey members is approved.

Diagram



It is proposed that the Comptroller's practice is reflected in legislation. Under ***Art 131(4)*** it is proposed that where the scheme manager of an occupational pension scheme is not resident in Jersey, the scope of the approval only applies to the Jersey members. Therefore in Example 1 the Guernsey members would not be within the scope of the Jersey approval[7].

For the avoidance of doubt, in order for an occupational pension scheme that has a non-Jersey resident scheme manager to be approved, the terms of the scheme applicable to the

[5] Assuming all the remaining conditions of approval are met.
[6] i.e. the persons who are or have been employed, in Jersey, in the trade or undertaking, and their dependants.
[7] The position in Guernsey will depend on the scheme's compliance with Guernsey's rules regarding occupational pension schemes.

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Jersey members must be consistent with the conditions of approval and the scheme manager will be:

- obliged to deduct Jersey tax at 20% from pension payments made to Jersey members, unless directed to do otherwise by the Comptroller; and
- liable to pay Jersey tax on any lump sum payments made to Jersey members that do not fall within the exemptions outlined below[8]

Payments made to non-Jersey members from an approved Jersey occupational pension scheme with a non-Jersey resident scheme manager will fall outside the scope of Jersey's pension rules entirely.

Q5. Is this the best approach to approving occupational pension schemes with scheme managers who are non-Jersey resident? Are there any alternatives that should be considered?

[8] See Section 4.6 of this consultation paper.

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Section 4.4 – Conditions of approval

Although restructured in Part 19, it is not proposed that the conditions of approval are changed significantly, where changes are proposed these have been indicated below.

> ***Q6. It is believed that no existing approved Jersey scheme will fail to meet the proposed conditions of approval; however if you consider that there is a situation in which an existing approved Jersey scheme may fail the proposed conditions please provide relevant details.***

Section 4.4.(a) *Establishment of a retirement annuity trust scheme*

According to the Comptroller's practice notes relating to retirement annuity trust schemes[9]:

> "The Jersey Retirement Annuity Trust Scheme (RATS) offers an alternative personal pension vehicle to Jersey residents. A RAT is for an individual who is ordinarily resident in Jersey for Income Tax purposes."

However the existing tax rules do not specifically state that the individual must be ordinarily resident in Jersey at the time that the retirement annuity trust scheme is established. It is proposed that this is addressed through the introduction of a condition of approval that requires the individual to be ordinarily resident in Jersey at the time that the retirement annuity trust scheme is established (see ***Art 131CA(4)***).

Section 4.4.(b) *Occupational pension schemes*

Under the existing tax rules an occupational pension scheme must be "recognized by the employer and employed persons in the trade or undertaking"[10] in order for it to be approved. It is proposed that this condition is not reproduced in the new tax rules.

> ***Q7. Are there any consequences of removing this condition?***

Section 4.4.(c) *Contributions to pension schemes*

Under the existing tax rules the amount that an individual can contribute annually to approved Jersey schemes is capped at the lower of £50,000 or net relevant/related[11] earnings. It is proposed that the cap on the pension contributions that individuals can make is removed completely.

For the avoidance of doubt, although it is proposed to remove the cap on the amount that individuals can contribute to approved Jersey schemes, no change to the amount of tax relief that individuals may claim for pension contributions is proposed at this time.

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[9] See: http://www.gov.je/TaxesMoney/IncomeTax/Pension/Pages/RetirementAnnuityTrustScheme.aspx

[10] See Art 131(3)(d) of the Law.

[11] Depending on the type of pension scheme.

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Section 4.4.(d) *Comptroller's power to impose additional conditions*

It is proposed that the Comptroller retains a general power to put further conditions of approval on pension schemes (see ***Arts 131(16), 131A(4) 131B(10). 131C(5)*** and ***131CA(9)***). It is anticipated that these will be used in the context of Small Self-Administered Occupational Pension Schemes and Self-Administered Retirement Annuity Contracts, to prevent the abuse which can occur in these types of schemes. This will also allow the Comptroller to maintain the list of assets considered suitable for investment by an approved Jersey scheme and those assets that approved Jersey schemes are prohibited from investing in.

Section 4.4.(e) *Pension income*

Under the existing pension rules an occupational pension scheme is required to provide "annuities" to the member on his/her retirement or becoming incapacitated, and to dependants of the member following the member's death. It is noted that many occupational pension schemes do not pay "annuities" in the traditional sense of the word. It is proposed that under the new tax rules occupational pension schemes are required to pay an "income for life" rather than an annuity. This should not change the nature of the payment that needs to be made by an occupational pension scheme; it simply seeks to ensure that the term used to describe the payment is less proscriptive.

It is also proposed that occupational pension schemes are aligned with personal pension schemes[12] such that pension income from an approved Jersey occupational pension scheme may commence at any time between the member's 50th and 75th birthday. In particular it is proposed that the existing requirement that the member retires before they start drawing pension income is removed. This change will facilitate "flexible retirement" in the context of occupational pension schemes.

For the avoidance of doubt, once the payment of pension income has commenced, the approved Jersey occupational pension scheme must continue to pay pension income for the remainder of the member's life.

Under the existing tax rules there are a significant number of restrictions regarding the amount of pension income that can be paid by an approved Jersey occupational pension scheme (e.g. restrictions determined by reference to final salary and number of years of service, etc.)[13]. It is proposed that all of the rules restricting the amount of pension income payable are removed. Instead the amount of pension income payable will be determined by the rules of the scheme in the context of a defined benefit scheme and by the size of the fund in the context of a defined contribution scheme; subject to the overriding requirement that the scheme must continue to pay pension income for the remainder of the member's life.

Q8. Should there be any restrictions on the amount of pension income that can be paid by an approved Jersey occupational pension scheme? If so in what context should these restrictions be imposed?

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[12] For the purposes of this consultation paper the term "personal pension schemes" refers to retirement annuity contracts and retirement annuity trust schemes.

[13] See the Comptroller's Practice Notes in relation to occupational superannuation funds and pension schemes: http://www.gov.je/TaxesMoney/IncomeTax/Pension/Pages/Occupational.aspx

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Section 4.4.(f) *Lump sum payments to the pension holder*

As far as possible it is proposed that the lump sum payments that may be paid out by each type of approved Jersey scheme are aligned. The following describes the lump sum payments that may be paid by any approved Jersey scheme to the pension holder:

(i) 30% elected lump sum payment

It is proposed that occupational pension schemes are aligned with personal pension schemes such that between the date that the member attains the age of 50 and the date that the member commences the receipt of pension income, an approved Jersey occupational pension scheme may allow members to elect to receive up to 30% of their fund value as a lump sum payment.

Consistent with the existing tax rules, the member will be permitted to take the 30% elected lump sum payment in three tranches provided that the total amount taken does not exceed 30% of the fund value. It is understood that there is some uncertainty regarding how the fund value is calculated for these purposes. To remove the uncertainty it is proposed that the total amount taken may not exceed 30% of the fund value at the time that the first election is made[14].

Q9. Is this change to the 30% elected lump sum payment provisions appropriate?

(ii) Serious ill health payment

It is proposed that whenever a pension holder is diagnosed with serious ill health an approved Jersey scheme may allow the pension holder to elect to receive a lump sum payment that commutes the pension holder's fund value.

(iii) Trivial pension fund commutation

Consistent with the existing tax rules provided that certain conditions are met, an approved Jersey scheme may allow the pension holder to elect to receive a lump sum payment that commutes a trivial pension fund.

Section 4.4.(g) *Payments following the death of the pension holder*

Following the death of the pension holder the only payments that may be paid by an approved Jersey scheme to dependants or the pension holder's estate are as follows:

(i) Pension income to dependants

An approved Jersey scheme may pay pension income to dependants of the pension holder. Consistent with the proposal to remove the restriction on the amount of pension income that can be paid in the context of occupational pension schemes, it is proposed that the current

[14] See Section 5.3 of this consultation paper which considers reducing the number of tranches in which the 30% elected lump sum payment can be taken.

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restrictions that limit the amount of pension income payable to dependants by reference to the amount of pension income payable to the pension holder are removed.

The restrictions in the existing tax rules are:

- in the context of occupational pension schemes, the amount of pension income paid to any particular dependant may not exceed 2/3rds of the pension income payable to the member and, where more than one pension is payable, the total amount of pension income payable may not exceed the pension income payable to the member; and
- in the context of personal pension schemes, the amount of pension income payable to the dependant may not exceed the amount of pension income payable to the pension holder

Instead it is proposed that the amount of pension income payable to dependants will be determined by the rules of the scheme in the context of a defined benefit scheme and by the size of the fund in the context of a defined contribution scheme.

Q10. Is the removal of the restriction on the amount of pension income that can be paid to dependants appropriate?

(ii) Lump sum payments

Following the death of the pension holder an approved Jersey scheme may pay a lump sum to the dependants or to the pension holder's estate. The amount of the lump sum payment will be determined by the rules of the scheme in the context of a defined benefit scheme and by the size of the fund in the context of a defined contribution scheme.

Section 4.4.(h) Additional lump sum payments in the context of approved Jersey occupational pension schemes

Consistent with the existing tax rules it is proposed that approved Jersey occupational pension schemes may make two additional lump sum payments during the life of the pension holder; these are described below. For the avoidance of doubt, under no circumstances may an approved personal pension scheme make these payments.

(i) Payment of very small pension fund to member

Under the existing tax rules an approved Jersey occupational pension scheme may pay a very small pension fund to the relevant member provided certain conditions are met. This rule exists to stop the proliferation of small occupational pension funds which are unlikely to pay a pension of any real value, whilst placing an administration cost on the scheme.

It is proposed that the conditions are amended slightly so that they are more straightforward to administer. The proposed conditions are outlined in ***Art 131(13)&(14)*** and require the member to make an election in order for the payment to be made. No change has been proposed to the size of pension fund that qualifies as a very small pension fund, the threshold remaining at £5,000; however the Minister is keen to receive representation of whether this amount remains appropriate.

Q11. At what level should the very small pension fund threshold be set?

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(ii) Refund of contributions

Under the existing tax rules, where a member leaves the service of their employer, an approved Jersey occupational pension scheme may allow the member to elect to receive a payment which refunds his/her contributions (only) plus interest on those contributions. This rule primarily exists to prevent an individual building up a series of small pension funds in numerous occupational pension schemes because they move employer on a regular basis (particularly where contributing to the employer's pension scheme is a condition of their employment).

However under the existing tax rules there is no cap on the number of years for which contributions can be refunded. Therefore, if the terms of the particular pension scheme allowed it, a member who has been working for an employer for 20 years and then leaves the service of the employer (other than because of death or retirement) could elect to receive a refund of the contributions he/she had made over the last 20 years (plus interest).

On the basis that tax relief for pension contributions is offered to encourage people to save for their retirement, the availability to elect for a refund of contributions on leaving service, irrespective of the period of service, appears inappropriate. Consideration is therefore being given to placing a limit on when the election to receive a refund of contributions may be made.

Q12. What, if any, time limit should be placed on the election to receive a refund of contributions from an approved Jersey occupational pension scheme where the member leaves the service of the employer?

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Section 4.5 – Self-certification approval system

It is hoped that the changes proposed to the conditions of approval will facilitate the introduction of a self-certification approval system. Under a self-certification approval system it will be the responsibility of the scheme manger to certify that the scheme meets the conditions of approval. Self-certification will be undertaken by way of a standardised form. Provided it is completely correctly the Taxes Office will acknowledge receipt of the form and from the point that the form is acknowledged by the Taxes Office the scheme will be approved.

The Taxes Office will then review a number of approved schemes on an annual basis to determine whether they are operating in accordance with the conditions of approval. If a scheme is not operating in accordance with the conditions of approval the Comptroller may withdraw approval from the scheme with the negative tax consequences outlined in ***Art 131P***.

> ***Q13. Is the move to a self-certification approval system the correct approach for Jersey?***
> ***Q14. Are there any particular issues that need to be addressed before such an approval system can be introduced?***

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Section 4.6 – Taxation of payments made by approved Jersey schemes

As highlighted above, one of the main structural changes proposed to the tax rules is the separation of: (i) details of the payments that an approved Jersey scheme may make; from (ii) the tax treatment applicable to those payments.

The proposed tax treatment applicable to payments from approved Jersey schemes is outlined below:

Section 4.6.(a) Pension income

Any pension income paid by an approved Jersey scheme is treated as taxable, earned income in the hands of the recipient. *Prima facie* the scheme manager is obliged to deduct Jersey tax from the pension income at 20% unless directed otherwise by the Comptroller. In practice the Comptroller currently agrees that the majority of pensions may be paid without deduction of tax. It is proposed that the obligation to deduct tax is covered by a specific Article (***Art 131K***).

Section 4.6.(b) Lump sum payments

(i) 30% elected lump sum payments

Under the existing tax rules all 30% elected lump sum payments are tax free. It is proposed that this is changed and a cap of £540,000 is placed on the amount that can be paid tax free by way of a 30% elected lump sum payment. Any 30% elected lump sum payment in excess of £540,000 will be subject to tax at 10%:

Example 2

A pension holder elects to receive a £1.0m 30% elected lump sum payment from an approved Jersey scheme. £540,000 of the 30% elected lump sum payment will be exempt from tax and the remaining £460,000 will be subject to tax at 10%.

The existence of a cap on the amount that can be paid tax free should help to discourage the over funding of pensions; whilst the level at which the cap is proposed should mean it only impacts on a minority of individuals with significant pension savings.

It is proposed that where a 30% elected lump sum payment is made in more than one tranche, the cumulative payments up to £540,000 will be tax free, with anything in excess subject to tax at 10%:

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Example 3

A pension holder elects to receive a total £1.2m 30% elected lump sum payment from an approved Jersey scheme. The payment is made in three tranches as follows:

- First tranche: £500,000
- Second tranche: £400,000
- Third tranche: £300,000

The first tranche of £500,000 will be exempt from tax as the payment is less than £540,000. £40,000 (£540,000 - £500,000) of the cap remains for offset against later tranches.

Therefore £40,000 of the second tranche is exempt from tax and the remaining £360,000 (£400,000 - £40,000) will be subject to tax at 10%.

The entire third tranche will be subject to tax at 10%.

Where the pension holder has multiple pension savings (i.e. a number of approved Jersey schemes) the £540,000 cap will apply once across all approved Jersey schemes:

Example 4

A pension holder elects to receive a £400,000 30% elected lump sum payment from an approved Jersey occupational pension scheme and then elects to receive a 30% elected lump sum payment of £300,000 from an approved Jersey retirement annuity contract. £160,000 of the payment from the approved Jersey retirement annuity contract will be subject to tax at 10%.

For the avoidance of doubt, the proposed introduction of a cap on the amount that can be paid tax free does not place a cap on the amount that can be paid by way of a 30% elected lump sum payment.

(ii) Payments following the death of the pension holder or on the diagnosis of serious ill health

It is proposed that where a lump sum payment is made by an approved Jersey scheme following the death of the pension holder or on the diagnosis of serious ill health, the key to determining the tax treatment will be whether the pension holder has commenced benefits from that scheme. Based on the definition in ***Art 130(2)***, the commencement of benefits occurs at the earlier of:

- the first receipt by the pension holder of pension income from the scheme; or
- the first receipt by the pension holder of a 30% elected lump sum payment from the scheme

Where a lump sum payment is made following the death of the pension holder or on the diagnosis of serious ill health but <u>before</u> the pension holder has commenced benefits the proposed tax treatment is as follows:

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- Any lump sum payment will be tax free up to £1.8m. Any lump sum payment in excess of £1.8m will be subject to tax at 10% (e.g. if a lump sum payment of £2.0m is made following the death of the pension holder, £1.8m will be tax free and the remaining £200,000 will be subject to tax at 10%).
- Where the pension holder has multiple pension savings (i.e. a number of approved Jersey schemes) the £1.8m cap will apply once across all approved Jersey schemes (i.e. if a lump sum payment of £1.0m is made from an approved Jersey occupational pension scheme following the death of the member and a lump sum payment of £1.5m is also made from an approved Jersey retirement annuity contract, £700,000 of one of the payments will be subject to tax at 10%).

Where a lump sum payment is made following the death of the pension holder or on the diagnosis of serious ill health and after the pension holder has commenced benefits it is proposed that the entire payment will be subject to tax at 10%.

The existence of a cap on the amount that can be paid tax free should help to discourage the over funding of pensions; whilst the level at which the cap is proposed should mean it only impacts on a minority of individuals which significant pension savings. For the avoidance of doubt, the proposed introduction of a cap on the amount that can be paid tax free does not place a cap on the amount that can be paid from a pension scheme.

(iii) Trivial pension fund commutation

In practice the Taxes Office currently permits 30% of a trivial pension fund commutation lump sum payment to be paid tax free, effectively treating that element as a 30% elected lump sum payment that can benefit from the tax exemption outlined above. It is proposed that the Taxes Office's practice in this area should be reflected in the Law, with 30% of the amount commuted being tax free and the remainder of the lump sum payment being taxed at 10% (see ***Art 131L(4)(b)***).

(iv) Payment of very small pension funds and refund of contributions

For simplicity it is proposed that the tax rate applying to the payment of very small pension funds and the refund of contributions made by approved Jersey occupational pension schemes is 10%. This will ensure that the tax rate applicable to all lump sum payments from approved Jersey schemes is 10%.

Q15. Is the proposed taxation of payments from approved Jersey schemes appropriate?
Q16. Should Concession P22[15] be updated so that a similar tax treatment is applied to lump sum payments made by non-Jersey pension schemes to Jersey residents? How could the Jersey tax on lump sum payments be collected in this context?

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[15] Current wording of Concession P22 reads: "Where an individual who is resident in Jersey receives a lump sum payment (by way of commutation) of his pension from an overseas scheme that payment will not be subject to Jersey income tax."
(http://www.gov.je/TaxesMoney/IncomeTax/Technical/ConcessionPractice/Pages/ConcessionPracticePersonal21To28.aspx)

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Section 4.7 – Multiple pension schemes and the application of the £1.8m cap

It is proposed that no more than £1.8m can be paid tax free from approved Jersey schemes to a pension holder, his/her dependants and his/her estate. This rule will apply irrespective of the number of approved Jersey schemes in which the pension holder saves. For example:

Example 5

Mr X saves for his retirement in two separate approved retirement annuity trust schemes ("Scheme 1" and "Scheme 2"). At the age of 58 Mr X elects to take 30% of the fund value from Scheme 1 as a 30% elected lump sum payment. The amount of the payment is £360,000 (representing 30% of the fund value of £1.2m) and is paid tax free.

Mr X dies shortly after. At the time of his death Mr X has not commenced benefits from Scheme 2 and has not started to receive pension income from Scheme 1.

Following his death Scheme 1 pays a lump sum of £840,000 (representing the remainder of the fund value) to Mr X's estate. Mr X had commenced benefits in respect of this scheme and hence the entire payment is subject to tax at 10%.

Scheme 2 pays a lump sum of £1.6m to Mr X's estate, representing the entire fund value of that scheme. Mr X had not commenced benefits in respect of this scheme and hence *prima facie* the whole amount is tax free as it is less than the £1.8m cap. However the £360,000 that Mr X received tax free from Scheme 1 must be deducted from the £1.8m cap, reducing it to £1,440,000.

Therefore £1,440,000 of the payment from Scheme 2 is tax free and the remaining £160,000 is subject to tax at 10%.

However it is acknowledged that this approach to the application of the £1.8m cap may encourage pension holders to save for their retirement in multiple approved Jersey schemes purely for tax purposes. For example:

Example 6

Building on the Example 5 above, if Mr X only had one approved retirement annuity trust scheme with a fund value of £ 2.8m (£1.2m + £1.6m (i.e. the same total amount as in Example 5)) and he elected to take 30% of the fund value as a 30% elected lump sum payment (i.e. £840,000) he would receive £540,000 tax free and the remaining £300,000 would be subject to tax at 10%.

Following Mr X's death, the lump sum payment of £1,960,000 (£2.8m - £840,000) would be subject to tax at 10%, as Mr X had commenced benefits in respect of this scheme.

Therefore by splitting his pension saving between two retirement annuity trust schemes, a tax saving of £126,000 has been achieved (tax paid in Example 5 = £100,000, tax paid in Example 6 = £226,000).

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Consideration is being given to ways in which this incentive to save in multiple approved Jersey schemes could be addressed.

One solution being considered ("potential solution 1") is the introduction of a rule that states that once a 30% elected lump sum payment has been paid from an approved Jersey scheme, any lump sum payments made from an approved Jersey scheme (other than other 30% elected lump sum payments up to the cap of £540,000[16]) will be taxable at 10%.

However it is acknowledged that many people save in multiple approved Jersey schemes for non-tax related reasons (e.g. they have change employers a number of times through their working life and as a result have savings in multiple pension schemes). Adoption of this solution appears unduly harsh in this situation and it may discourage people from accessing their pension savings.

Another solution being considered ("potential solution 2") is the introduction of a rule that states that when determining how much of the £1.8m cap remains to shelter future lump sum payments (other than 30% elected lump sum payments) from tax, any 30% elected lump sum payment made to the pension holder must be grossed up by 30% and deducted from the £1.8m cap. This is best explained through an example:

Example 7

Building on Example 5 above, following his death Scheme 1 pays a lump sum of £840,000 to Mr X's estate. Mr X had commenced benefits in respect of this scheme and hence the entire payment is subject to tax at 10%.

Scheme 2 pays a lump sum of £1.6m to Mr X's estate, representing the entire fund value. Mr X had not commenced benefits in respect of this scheme and hence *prima facie* the whole amount is tax free as it is less than the £1.8m cap.

However the £360,000 that Mr X received tax free from Scheme 1 is grossed up by 30% (i.e. £1.2m) and deducted from the £1.8m cap, reducing it to £600,000. Therefore £600,000 of the lump sum payment from Scheme 2 will be tax free and the remaining £1,000,000 will be subject to tax at 10%.

It is acknowledged that in Example 7 Mr X has still achieved a tax saving by splitting his pension saving between two approved retirement annuity trust schemes (he achieves a tax saving of £42,000 over Example 6 – tax paid in Example 7 = £184,000, tax paid in Example 6 = £226,000) but the saving has been significantly reduced. However it is noted that potential solution 2 would add some complexity to the new pension rules.

Q17. Which approach is most appropriate to discourage tax driven saving in multiple approved Jersey schemes?

[16] See Section 4.6(b)(i) of this consultation document.

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Section 4.8 – Payment of tax on lump sum payments

It is proposed that any tax due in respect of lump sum payments will be payable by the scheme manager and must be deducted and paid across to the Taxes Office before the lump sum payment is paid to the pension holder, dependant or estate.

The proposed legislative amendment in ***Art 131L(6)*** also makes it clear that lump sum payments are not treated as income for any other purposes of the Law and hence:

- no additional Jersey tax will be due from the recipient of the lump sum payment; and
- the recipient of the lump sum will be unable to claim back any of the Jersey tax paid by the scheme manager

Q18. Will this approach to the collection of tax on lump sum payments cause any administrative difficulties?
Q19. How could these administrative difficulties be overcome?

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Section 4.9 – Payments from approved Jersey occupational pension schemes to non-resident members

Where an approved Jersey occupational pension scheme with a Jersey resident scheme manager pays pension income to a non-resident member that income is *prima facie* taxable in Jersey. However under the existing tax rules this income is exempt from tax where it is paid to "…a person resident outside Jersey whose employment was carried on outside Jersey, or who is the widow, child or dependant of an employed person whose employment was carried on outside Jersey."[17] A similar exemption is available where lump sums are paid to such a person[18].

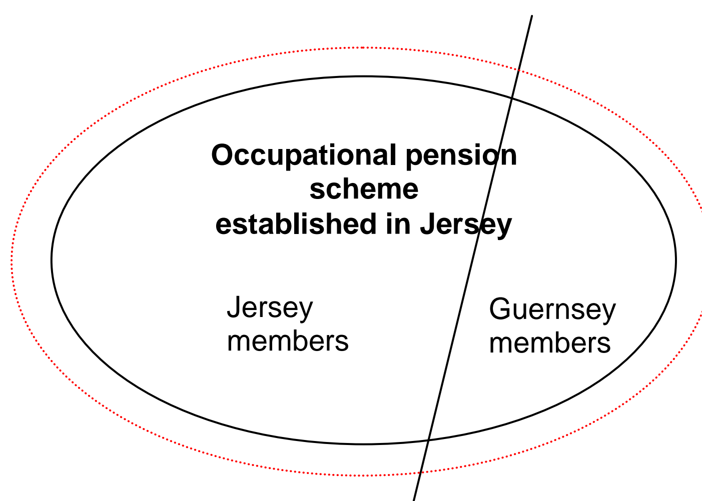
This exemption has a sound rationale, namely under the existing tax rules and the proposed tax rules Jersey approves the entirety of an occupational scheme with a Jersey resident scheme manger. For example:

Example 8

An employer with operations in both Jersey and Guernsey sets up an occupational pension scheme; it is a trust based scheme with Jersey resident trustees. 25% of the members are based in Guernsey and their employment is carried on wholly outside of Jersey, the remaining 75% of the members are based in Jersey and their employment is carried on in Jersey. Under the existing tax rules and the proposed tax rules the entire pension scheme is approved in Jersey.

Diagram

Approved in Jersey



Hence without the exemption all the payments made by the scheme, irrespective of who they are paid to, are *prima facie* taxable in Jersey; the Guernsey members suffering Jersey tax even though they have never worked here, never obtained tax relief here and are not resident here.

[17] See Art 6 of the 1972 Order.
[18] See Art 5(2) of the 1972 Order.

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However on the basis that the exemption is not offered to Jersey members there is a risk that the test in Reg 3(6) of the UK's Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 has not been met.

It is proposed that this is addressed by removing the exemption from tax offered to "…a person resident outside Jersey whose employment was carried on outside Jersey, or who is the widow, child or dependant of an employed person whose employment was carried on outside Jersey".

It is acknowledged that this may bring a number of individuals who are currently exempt under this provision into the charge to Jersey tax. For those individuals resident in the UK, Guernsey, the Isle of Man, Poland, Australia, New Zealand, Germany, Malta, Estonia, Hong Kong, Singapore and Qatar at the time that the payment is made this charge to Jersey tax may be removed under the terms of the appropriate double tax agreement[19]. However individuals resident in other jurisdictions will currently be subject to Jersey tax.

In line with the comments above it is also proposed that Concession P25[20], which provides an exemption from Jersey tax where a pension is paid by an occupational pension scheme established in Jersey to a Guernsey resident taxpayer, is removed entirely.

> ***Q20. Would this proposed change create a significant issue for occupational pension schemes with Jersey resident scheme managers?***
> ***Q21. Are there any alternative solutions that should be considered?***

[19] Individuals should always make reference to the terms of the appropriate double tax agreement to determine the tax analysis applying to them.
[20] Current wording of Concession P25 is: "Where an annuity is paid from a Jersey pension scheme or superannuation fund to a person resident outside the Island, tax must be deducted in accordance with the provisions of Article 87. However, occupational pensions paid to Guernsey residents may be paid without deduction of tax if permission is sought from the Comptroller and evidence is produced that the pension will suffer Guernsey tax."

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Section 4.10 – Taxation of pension schemes

To improve the structure of the new pension rules it is proposed that the provisions that exempt pension schemes from tax in Jersey are brought together in Part 19 of the Law (see ***Art 131G*** and ***Art 131O***). Under the existing tax rules the provisions which grant exemption are split between Art 115 (fa)-(fb), Art 131(1) and Art 131A(1).

The current wording of Art 115(fa) provides an exemption from income tax on the "income derived from the investments or deposits of the annuity fund of a company resident in Jersey and carrying on in Jersey the business of granting annuities on human life…" In addition where the company enters into contracts with or for the benefit of persons connected with the company, those contracts must be approved under the Law.

Under the new pension rules, companies resident in Jersey and carrying on in Jersey the business of granting annuities on human life will seek exemption under ***Art 131G(b)*** or ***Art 131O(3)***, as appropriate. Both of these exemptions only apply to the income derived from the investments and deposits of an annuity fund created by an *approved* retirement annuity.

> ***Q22. Would this change create any issues for companies that currently seek exemption under Art 115(fa)?***

In addition, consideration is being given to whether the exemption from tax offered in Art 115(f) will be required following the proposed changes. The current wording of the exemption offered in Art 115(f) is:

> "Exemption from income tax shall be granted in respect of…any income derived by an assurance company from investments and deposits of so much of the company's annuity fund as is referable to pension annuity business, where exemption from United Kingdom income tax is allowed in respect of such income under section 24 of the Finance Act 1956 of the United Kingdom."

> ***Q23. Is the exemption provided for in Art 115(f) still required?***

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Section 4.11 – Pension transfers

Section 4.11.(a) *Transfers between approved Jersey schemes*

For simplicity it is proposed that all the provisions relating to the transfer of pension funds are brought together in a single Article (see ***Art 131CG***). Consistent with the existing tax rules it is proposed that pension holders and dependants should be allowed to move their pension fund to any other approved Jersey scheme or into the approved drawdown contract mechanism.

Due to the opportunities for planning it is currently proposed that partial transfers of pension funds are not permitted; either the entire pension fund is transferred or nothing is transferred.

Section 4.11.(b) *Transfers to non-Jersey pension schemes*

In addition it is proposed that the following transfers are permitted:

- from approved Jersey schemes to non-Jersey pension schemes; and
- to approved Jersey schemes from non-Jersey pension schemes

Such transfers are subject to certain conditions that must be fulfilled. Essentially the non-Jersey pension scheme will need to be equivalent to an approved Jersey scheme (e.g. the provision of an income for at least the remainder of the pension holder's life; a limited availability of a lump sum payment, etc.).

In terms of process, it is anticipated that where a transfer involves a non-Jersey pension scheme it will be the pension holder's/dependant's responsibility to obtain professional advice which indicates the similarities and the differences between approved Jersey schemes and the particular non-Jersey pension scheme involved and the accompanying legislative framework. Only when this exercise has been completed will the Comptroller give written approval to allow the transfer.

Section 4.11.(c) *Taxation of transfers to non-Jersey pension schemes*

It is proposed that where a pension holder/dependant transfers their pension fund from an approved Jersey scheme to an equivalent non-Jersey scheme under ***Art 131CG(3)***, the fund value transferred will be subject to tax at 10%. The tax will be paid by the scheme manager and must be paid before the transfer takes place.

By agreement with the Isle of Man, where an individual leaves Jersey and establishes residence in the Isle of Man because of a change in job, a transfer from an approved Jersey scheme to one of the following Isle of Man pension schemes will be exempt from this tax charge:

- a Statutory Scheme as defined in Section 14(1) of the Income Tax (Retirement Benefits Schemes) Act 1978, or
- a scheme accepted by the Assessor of Income Tax as an Exempt Approved Scheme for the purposes of the Income Tax (Retirement Benefit Schemes) Act 1978, or
- a personal pension scheme approved under Part 1 of the Income Tax Act 1989

By concession, a similar exemption from this tax charge will be offered where an individual leaves Jersey and establishes residence in the UK or Guernsey because of a change in job,

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and the pension fund is transferred from an approved Jersey scheme to certain specified pension schemes in those jurisdictions.

Q24. Should partial pension fund transfers be allowed?
Q25. Should international transfers be allowed on such a wide basis? If not, how should they be restricted?
Q26. Should a transfer from an approved Jersey scheme to a non-Jersey scheme only be allowed where the non-Jersey scheme is established in the jurisdiction in which the individual is tax resident?
Q27. Is the 10% tax charge on pension transfers to equivalent non-Jersey schemes appropriate?

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Section 4.11 – Benefit in kind tax charge

The proposed changes, taken as a whole, give much greater flexibility to pension schemes regarding the payments that they can make; this creates a greater risk of pension schemes being overfunded for tax planning purposes. This risk is particularly acute in the context of owner/managers who have the ability to control the amount of pension contributions that they receive from the companies that employ them. It is proposed that this risk is addressed through a change in the benefit in kind ("BIK") rules.

Under the existing BIK rules, pension contributions made to an approved Jersey scheme by an employer on behalf of a pension holder are specifically excluded from being a BIK.[21]
It is proposed that this exclusion is amended such that where:

- an employer, that is structured as a company, makes pension contributions in respect of a pension holder who owns, or is deemed to own, more than 20% of the ordinary shares in the company making the contribution; and
- the pension contributions made in respect of that pension holder exceed 25% of the pension holder's relevant earnings as received from that company for the year of assessment

The amount in excess of 25% of the pension holder's relevant earnings as received from that company will be treated as a taxable BIK in the year that the contribution is made.

It is proposed that this provision is also extended to pension contributions made in respect of any individual connected with a person who owns, or is deemed to own, more than 20% of the ordinary shares in the company making the contribution.

Q28. Is this an appropriate control to discourage owner/managers from overfunding pension schemes for tax planning purposes?
Q29. Are there any alternative forms of control that should be considered?

[21] See Para 1 of Schedule 2 to the Law.

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Section 5 – Consultation topics

Section 5.1 – Increase minimum age at which people can ordinarily obtain pension benefits to 55

Under the existing tax rules and following the proposed changes the minimum age at which a pension holder can ordinarily[22] obtain benefits from an approved Jersey scheme is 50. It is questionable whether allowing an individual to obtain pension benefits at the age of 50 remains appropriate in light of the significant increases in life expectancy experienced over the last 30 years and expected to be experienced in the next 20 years[23].

It is and will become increasingly difficult for people to fund decent pensions for such lengthy retirements; hence consideration is being given to amending the conditions of approval applying to each type of approved Jersey scheme such that the minimum age at which an individual can ordinarily obtain benefits is increased to 55.

In addition, consideration is also being given to the removal of the rule which allows the payment of pension income before the age of 50 where the pension holder's occupation is one in which persons customarily retire before the age of 50. Many people in these occupations often embark on a second career after stopping working in their first occupation, and only retire altogether appreciably later.

> ***CQ1. Do you support an increase in the minimum age at which people can ordinarily obtain pension benefit to 55? Please explain the reason(s) for your view.***
>
> ***CQ2. If a decision was taken to increase the minimum age at which people can ordinarily obtain pension benefit to 55, should pension holders who have an expectation of obtaining benefits at 50 be protected from the change? If yes, how should they be protected? Are there any special groups who should be protected from any increase in the minimum age at which people can ordinarily obtain pension benefits?***
>
> ***CQ3. Do you support the removal of the rule that allows the payment of pension income before the age of 50 where the pension holder's occupation is one in which persons customarily retire before the age of 50? Please explain the reason(s) for your view.***

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[22] Excluding situations in which the individual suffers from ill health or serious ill health.
[23] See the information provided on life expectancy in Appendix B.

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Section 5.2 – Remove upper age limit

Under the existing tax rules and following the proposed changes a pension holder is obliged to commence drawing pension income from an approved Jersey scheme before they reach the age of 75. This requirement is intended to ensure that pension savings accumulated with the help of tax relief are used to provide an income in retirement.

With the increased life expectancy noted above and individuals choosing to work later in life, over time this rule is likely to become restrictive for an increasing number of individuals, making pension saving less attractive. As a consequence initial consideration is being given to removing the rule that a pension holder must commence drawing pension income before they reach the age of 75.

As noted above, pension tax relief is offered in order to encourage individuals to save for their retirement, not to facilitate tax efficient estate planning. Therefore appropriate measures should be introduced to discourage such planning and initial consideration is being given to measures such as:

- any lump sum payment made to the pension holder, the pension holder's estate or a dependant of the pension holder after the pension holder attains the age of 75 will be subject to tax at 10% irrespective of whether the pension holder has commenced benefits; and
- any contributions made to an approved Jersey scheme by a pension holder who has attained the age of 75 will not receive tax relief

CQ4. Do you support the removal of the 75 year upper age limit? Please explain the reason(s) for your view.

CQ5. If you consider that the 75 year upper age limit should be removed, what measures should be considered to prevent pensions being used for estate planning purposes?

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

Section 5.3 – Ability to take the 30% elected lump sum payment in more than one tranche

Under the existing tax rules and following the proposed changes pension holders can elect to receive up to 30% of their fund value by way of a 30% elected lump sum payment. Since 1 January 2009 it has been possible to take the 30% elected lump sum payment in up to three tranches, the proviso being that the combined total of the three tranches cannot exceed 30% of the remaining part of the fund value.

It is understood the ability to take the 30% elected lump sum payment in up to three tranches has caused some administrative difficulties for pension scheme administrators as well as for the Taxes Office. In addition it is understood that the vast majority of people who elect to receive a 30% elected lump sum payment take the maximum amount possible in a single tranche.

Therefore consideration is being given to only allowing the 30% elected lump sum payment to paid in one tranche (i.e. the pension holder will still be permitted to elect to receive up to 30% of their fund value as a lump sum payment however this will become a one-off election; therefore if a pension holder elects to receive just 20% of the fund value, he/she will not be able to take the remaining 10% of the fund value at a later date).

It is considered that such an approach would simplify the legislation, ease administration and only impact a minority of individuals who choose to take the elected lump sum payment in more than one tranche.

CQ6. Do you support the restriction of the number of tranches in which the 30% elected lump sum payment can be taken? Please explain the reason(s) for your view.

CQ7. If you consider that the flexibility currently offered through the availability of three tranches should be retained, how could this be structured in the future?

CQ8. Should the restriction that the 30% elected lump sum payment must be paid before the scheme commences the payment of pension income be retained?

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

Section 5.4 – Introduction of a sanction regime

Under the existing tax rules and following the proposed changes the only sanction available to the Taxes Office in respect of approved Jersey schemes is the withdrawal of approval from the pension scheme under ***Art 131P***. This is a "nuclear option" where a tax of 50% can be applied on the fund value. The withdrawal of approval is appropriate in certain situations (e.g. fraud or blatant abuse of the rules); however it is not appropriate where more minor breaches of the rules have occurred (e.g. non-compliance with annual reporting requirements). However it is considered that minor breaches should be subject to some form of sanction.

Initial thoughts indicate that:

- where a payment is made to a pension holder or dependant which is not permitted under the tax rules, that payment should be subject to a penal tax charge in order to discourage the making of such payments;
- where an approved Jersey scheme fails to operate in accordance with its conditions of approval the scheme manager should be subject to some form of penalty; and
- if an approved Jersey scheme fails to discharge its reporting requirements within the specified timeframe the scheme manager should be subject to late filing penalties

For the avoidance of doubt it is proposed that the ultimate sanction of withdrawing approval will remain available to the Taxes Office in appropriate cases.

CQ9. What considerations should be taken into account when designing a sanction regime?

CQ10. Where the scheme manager, rather than the pension holder, is at fault how should the sanction regime address this situation?

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

Appendix A
Proposed amendment to the Income Tax (Jersey) Law 1961

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

INCOME TAX (AMENDMENT No. 44) (JERSEY) LAW 201-

Arrangement

Article

1	Interpretation	37
2	Article 3 amended	37
3	Article 41A amended	38
4	Article 77AA inserted	38
5	Article 81 amended	38
6	Article 87 amended	38
7	Article 115 amended	39
8	Article 123G inserted	39
9	Articles 130 to 131G substituted	39
10	Schedule 2 amended	63
11	Citation and commencement	64

Consultation Draft

INCOME TAX (AMENDMENT No. 44) (JERSEY) LAW 201-

A LAW to amend further the Income Tax (Jersey) Law 1961

Adopted by the States	*[date to be inserted]*
Sanctioned by Order of Her Majesty in Council	*[date to be inserted]*
Registered by the Royal Court	*[date to be inserted]*

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

Consultation Draft

1 Interpretation

In this Law “principal Law” means the Income Tax (Jersey) Law 1961.

2 Article 3 amended

In Article 3(1) of the principal Law

(a) in the definition “annuity equivalent” for the words “Article 131CA(1)(a)” there shall be substituted the words “Article 131CA(1)”;

(b) in sub-paragraph (d) of the definition “earned income” for the words “any provision of this Law” there shall be substituted the words “Article 77AA(2)(b), Article 131K(1), Article 131M(2) or any other provision of this Law”;

(c) the following definitions shall be deleted –

(i) “approved drawdown contract”,

(ii) “approved trust”,

(iii) “minimum retirement income”,

(iv) “related earnings”.

3 Article 41A amended

In Article 41A(12) of the principal Law, for sub-paragraph (b) there shall be substituted the following sub-paragraph –

"(b) to a scheme manager of an approved Jersey scheme, an approved drawdown contract or an approved trust, as defined in Part 19, in respect of any tax charged on the scheme manager under Part 19.".

4 Article 77AA inserted

After Article 77 of the principal Law there shall be inserted the following Article –

"77AA Social Security allowances

(1) This Article applies to payments of benefits under the Social Security (Jersey) Law 1974, other than payments of maternity benefit, sickness benefit, accident benefit and death grant.

(2) A payment of benefit to which this Article applies shall –

(a) be charged to income tax under Case II of Schedule D; and

(b) subject to paragraph (3), be deemed for all the purposes of this Law to be earned income.

(3) A payment of benefit to which this Article applies shall only be treated as earned income of a wife for the purposes of Article 92A(4) if it is –

(a) an old age pension payable to the wife by virtue of her own insurance; or

(b) home carer's allowance payable to the wife.".

5 Article 81 amended

In Article 81(1) of the principal Law for the words "Articles 86(2)(e) and 131G(5)," there shall be substituted the words "Articles 86(2)(e), 131J(2)(a), 131L(1), 131N(1) and 131P(6),".

6 Article 87 amended

In Article 87 of the principal Law –

(a) in paragraph (1)(a) the words ", annuity equivalent" shall be deleted;

(b) the word "or" shall be inserted following paragraph (1)(a);

(c) paragraph (1)(c) and the word "or" following sub-paragraph (b) shall be deleted;

(d) in paragraph (1) for the words "in the case of an annuity or annuity equivalent," there shall be substituted the words "in the case of an annuity,";

Consultation Draft

(e) the word "or" shall be inserted following paragraph (4)(a);

(f) paragraph (4)(c) and the word "or" following paragraph (4)(b) shall be deleted;

(g) after paragraph (5) there shall be added the following paragraph –

"(6) This Article does not apply to any annuity paid under a retirement annuity contract approved under Article 131B or 131C.".

7 Article 115 amended

In Article 115 of the principal Law, paragraphs (fa), (faa), (fab) and (fb) shall be deleted.

8 Article123G inserted

After Article 123F of the principal Law there shall be inserted the following Article –

"123G Exception for pension scheme managers, etc.

Articles 123C(2) and 123D(2) are subject to –

(a) any provision of Part 19 that charges income tax on the scheme manager of an approved Jersey scheme, approved drawdown contract or approved trust, as defined in that Part; and

(b) any charge to income tax that arises on any person under Article 131P(6).".

9 Articles 130 to 131G substituted

For Articles 130 to 131G of the principal Law there shall be substituted the following cross headings and Articles –

"Interpretation

130 Interpretation of Part 19

(1) In this Part –

'approved drawdown contract' means a contract approved under Article 131D;

'approved Jersey occupational pension scheme' means a scheme approved under Article 131;

'approved Jersey retirement annuity contract' means a contract approved under Article 131B;

'approved Jersey scheme' means –

(a) an approved Jersey occupational pension scheme;

Consultation Draft

(b) an approved Jersey retirement annuity contract;

(c) an approved retirement annuity trust scheme;

'approved retirement annuity trust scheme' means a trust approved under Article 131CA;

'approved trust' means a trust approved under Article 131E

'dependant' has the meaning given in Article 130A;

'fund value', in relation to a pension holder, has the meaning given in Article 130B;

'ill health' has the meaning given in paragraph (3);

'minimum retirement income' has the meaning given in Article 131F;

'pension holder' means –

(a) in relation to an approved Jersey occupational pension scheme, a member of the scheme, as described in Article 131;

(b) in relation to an approved Jersey retirement annuity contract, the individual by whom the contract was made;

(c) in relation to an approved retirement annuity trust scheme, the primary beneficiary;

'pension income' means –

(a) in relation to an occupational pension scheme, an income paid for the life of the recipient;

(b) in relation to a retirement annuity contract, any annuity payable under the contract;

(c) in relation to a retirement annuity trust scheme, sums payable under the scheme by way of annuity equivalent;

'pensionable age' has the same meaning as in the Social Security (Jersey) Law 1974;

'prescribed' means prescribed by Order of the Minister;

'primary beneficiary' has the meaning given in Article 131CA(1);

'relevant earnings' has the meaning given in Article 130C;

'scheme manager' means –

(a) in the case of an occupational pension scheme, the trustees and any other persons having management of the fund or scheme;

(b) in the case of a retirement annuity contract, the person having control of the fund;

(c) in the case of a retirement annuity trust scheme, the trustees;

(d) in the case of a drawdown contract, the manager;

(e) in the case of a trust, the trustees;

Consultation Draft

‘secondary beneficiary’ has the meaning given in Article 131CA(1);

‘serious ill health’ has the meaning given in paragraph (3).

(2) In this Part, a reference to the commencement of benefits is, in relation to a pension holder, a reference to whichever is the earlier of –

(a) an election by the pension holder to receive a lump sum by way of commutation of part of the fund value;

(b) the commencement of payment of pension income to the pension holder.

(3) For the purposes of this Part –

(a) a pension holder is in ill health if –

(i) a medical practitioner has, in writing, provided evidence to the scheme manager that the pension holder is, and will continue to be, incapable of carrying on his or her occupation because of physical or mental impairment, and

(ii) the pension holder has in fact ceased to carry on his or her occupation;

(b) a pension holder is in serious ill health if a medical practitioner has, in writing, provided evidence to the scheme manager that the pension holder is expected to live for less than one year.

130A Dependants

(1) For the purposes of this Part –

(a) a person who was married to, or a civil partner of, a pension holder at the date of the pension holder’s death is a dependant of the pension holder;

(b) if the rules of an occupational pension scheme, retirement annuity contract or retirement annuity trust scheme so provide, a person who was married to, or a civil partner of, a pension holder when the pension holder first became entitled to a pension under the scheme or contract, is a dependant of the pension holder.

(2) For the purposes of this Part, a child of a pension holder is a dependant of the pension holder if the child –

(a) has not attained the age of 23; or

(b) has attained that age and, in the opinion of the scheme manager, was at the date of the pension holder’s death dependant on the pension holder because of physical or mental impairment.

(3) A person who was not married to, or a civil partner of, a pension holder at the date of the pension holder’s death and is not a child of the pension holder is a dependant of the pension holder if, in the

Consultation Draft

opinion of the scheme manager, at the date of the pension holder's death –

(a) the person was financially dependant on the pension holder;

(b) the person's financial relationship with the pension holder was one of mutual dependance; or

(c) the person was dependant on the pension holder because of physical or mental impairment.

130B Fund value

(1) For the purposes of this Part 'fund value' means, at any time –

(a) in relation to a member of an occupational pension scheme that is a defined contribution scheme, the aggregate, at that time, of the amounts accumulated in the scheme for the member's benefit;

(b) in relation to a member of an occupational pension scheme that is a defined benefit scheme, the capital value of the benefits to which the member is entitled at that time, calculated by an actuary;

(c) in relation to an individual who has made a retirement annuity contract or the primary beneficiary of a retirement annuity trust scheme, the fund accumulated under the contract or trust at that time.

(2) In paragraph (1) –

'actuary' means a person who is or a body of persons each of whom is a Fellow of the Institute and Faculty of Actuaries;

'defined benefit scheme' means a scheme where the scheme rules define the benefit independently of the contributions payable and benefits are not directly related to the investments of the scheme;

'defined contribution scheme' means a scheme where the benefits of a member under the scheme are determined by reference to contributions paid into the scheme in respect of that member, usually increased by an amount based on profits and gains arising from those contributions.

130C Relevant earnings

(1) In this Part, relevant earnings means, in relation to an individual, any of his or her income assessed to tax being –

(a) income arising in respect of emoluments from an office or employment held by the individual; or

(b) income which is charged under Schedule D and is immediately derived by the individual from the carrying on or exercise by the individual of his or her trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting in the partnership.

Consultation Draft

(2) For the purposes of this Part –

(a) a married woman's relevant earnings shall not be treated as her husband's relevant earnings, notwithstanding that her income chargeable to tax is treated as his income;

(b) a civil partner B's relevant earnings shall not be treated as the civil partner A's relevant earnings, notwithstanding that civil partner B's income chargeable to tax is treated as civil partner A's income.

Approvals

131 Approval of Jersey occupational pension schemes

(1) A scheme, or part of a scheme, shall be approved as a Jersey occupational pension scheme if it complies with this Article.

(2) The scheme must be –

(a) a superannuation fund bona fide established under irrevocable trusts; or

(b) a scheme bona fide established,

in connection with some trade or undertaking.

(3) If the scheme manager is resident in Jersey –

(a) the whole of the scheme must comply with paragraphs (5) to (16); and

(b) the approval under this Article shall be of the whole of the scheme.

(4) If the scheme manager is not resident in Jersey –

(a) only that part of the scheme that has the purpose described in paragraph (5) must comply with paragraphs (5) to (16); and

(b) the approval under this Article shall be of that part of the scheme, and references in this Part to the scheme shall be construed as references to so much of the scheme as is approved.

(5) The scheme must have for its sole or main purpose the provision of an income for life for all or any of –

(a) one or more persons who are or have been employed, in Jersey, in the trade or undertaking; and

(b) following the death of such a person, one or more of his or her dependants.

(6) The scheme may only permit a person –

(a) to become a member of the scheme; or

(b) to contribute to the scheme,

whilst he or she is an employee of the trade or undertaking.

Consultation Draft

(7) The person carrying on the trade or undertaking (the 'employer') must contribute to the scheme.

(8) The scheme –

(a) must provide for the payment of an income for life to a member in accordance with Article 131CB;

(b) may only otherwise provide for payments from the scheme as permitted by this Article and Articles 131CC to 131CG.

(9) The scheme may provide for the payment, following the death of a member of –

(a) an income for life to one or more of the member's dependants; or

(b) a lump sum to the member's estate or to one or more of the member's dependants.

(10) Despite paragraph (8)(a) the scheme may provide for –

(a) the income payable to the member to continue for a term certain, not exceeding 10 years, notwithstanding the member's death within that term; and

(b) such income, in the event that the member dies entitled to it, to be capable of assignment to a dependant of the member –

(i) by testamentary disposition made by the member, or

(ii) if the member dies intestate, by the member's personal representatives, in the distribution of the member's estate in accordance with the laws of intestacy.

(11) The scheme may permit a member –

(a) to receive a return of contributions, in accordance with paragraph (12);

(b) to be paid the fund value, in accordance with paragraphs (13) and (14).

(12) The scheme may permit the member to elect to be paid a sum representing the contributions made by the member to the scheme, and any interest accrued on them, where, at the time of the election –

(a) the member has ceased to be employed by the employer; and

(b) the member has not commenced benefits.

(13) The scheme may permit the member to elect to commute the fund value where –

(a) at the time of the election –

(i) either –

(A) before the member has commenced benefits, the member has ceased to be employed by the employer, or

(B) the member no longer accrues rights under the scheme, by reason of its winding up or closure

Consultation Draft

in respect of any class of member in which he or she is included,

(ii) the employer does not make any contributions on the member's behalf to another approved Jersey scheme, and

(iii) the member's fund value does not exceed £5,000; and

(b) following the payment, the member is not entitled to any further payment from the scheme.

(14) The scheme may not permit a commutation under paragraph (13) where the member's fund value includes any amount transferred from another scheme, trust or contract, whether or not in accordance with Article 131CG.

(15) The scheme may only permit all or part of the employer's contributions to be returned to the employer, with or without interest, with the prior written approval of the Comptroller.

(16) The scheme and the scheme managers must comply with –

(a) any prescribed conditions and requirements; and

(b) any additional conditions and requirements imposed in its case by the Comptroller.

131A Approval of occupational pension schemes for overseas employees

(1) A scheme shall be approved as an occupational pension scheme for overseas employees if it complies with this Article.

(2) The scheme must be a superannuation fund bona fide established under irrevocable trusts in connection with some trade or undertaking carried on –

(a) wholly or partly outside Jersey; and

(b) by a person not resident in Jersey.

(3) The scheme must have for its sole purpose the provision of superannuation benefits in respect of persons' employment in the trade or undertaking wholly outside Jersey.

(4) The scheme and the scheme managers must comply with –

(a) any prescribed conditions and requirements; and

(b) any additional conditions and requirements imposed in its case by the Comptroller.

(5) For the purposes of this Article, duties performed in Jersey, the performance of which is merely incidental to the performance of other duties outside Jersey, shall be treated as performed outside Jersey.

131B Approval of Jersey retirement annuity contracts

(1) A contract shall be approved as a Jersey retirement annuity contract if it complies with this Article.

Consultation Draft

(2) The contract must be made –

(a) by an individual who is ordinarily resident in Jersey;

(b) with a company to which this Article applies.

(3) This Article applies to a company carrying on in Jersey or in Guernsey the business of granting annuities on human life being –

(a) a company resident in Jersey;

(b) an authorized insurance company; or

(c) a person or institution authorized, in accordance with the laws of the United Kingdom, to carry on the business of granting annuities on human life and carrying on business through a branch or agency in Jersey or in Guernsey.

(4) Any annuity payable under the contract must be paid by an authorized insurance company carrying on in Jersey or in Guernsey the business of granting annuities on human life.

(5) The contract may not provide for contributions to be made by any person apart from –

(a) the individual who made the contract;

(b) a person from whom that individual receives relevant earnings.

(6) The contract –

(a) must provide for the payment of an annuity to the individual, for the life of the individual, in accordance with Article 131CB;

(b) may only otherwise provide for payments as permitted by this Article and Articles 131CC to 131CG.

(7) The contract may provide for the payment, following the death of the individual, of either or both of –

(a) an annuity to one or more of the individual's dependants, for the life of the dependant;

(b) a lump sum commuting the whole of the fund value, to be paid to the individual's estate or to one or more of the individual's dependants.

(8) Despite paragraphs (6)(a) and (7)(a), the contract may provide for –

(a) the annuity payable to the individual under the contract to continue for a term certain, not exceeding 10 years, notwithstanding the individual's death within that term;

(b) such an annuity, in the event that the individual dies entitled to it, to be capable of assignment to a dependant of the individual –

(i) by testamentary disposition made by the individual, or

(ii) if the individual dies intestate, by the individual's personal representatives, in the distribution of the

Consultation Draft

individual's estate in accordance with the laws of intestacy.

(9) The contract may provide for sums which, in the event of no annuity becoming payable to the individual or the individual's dependant, are payable by way of return of contributions, by way of reasonable interest on contributions or by way of bonuses out of profits.

(10) The contract, the company to which this Article applies and the company paying the annuity must comply with –

(a) any prescribed conditions and requirements; and

(b) any additional conditions and requirements imposed in its case by the Comptroller.

131C Approval of retirement annuity contracts for overseas residents

(1) A contract shall be an approved retirement annuity contract for an overseas resident if it complies with this Article.

(2) The contract must be made by an individual –

(a) who is not resident in Jersey; and

(b) whose employment, trade or profession, if any, is exercised outside Jersey.

(3) The contract must be made –

(a) with a company carrying on business through a branch in Jersey and carrying on, in Jersey, the business of granting annuities on human life; or

(b) under an irrevocable trust established under the law of Jersey and administered in Jersey and have for its sole purpose the provision of retirement benefits for the individual.

(4) The contract may provide for the right to receive, by way of commutation, a lump sum representing the fund value.

(5) The contract and the company with which it is made or the trustees of the trust under which it is made must comply with –

(a) any prescribed conditions and requirements; and

(b) any additional conditions and requirements imposed in its case by the Comptroller.

(6) For the purposes of this Article, duties performed in Jersey, the performance of which is merely incidental to the performance of other duties outside Jersey, shall be treated as performed outside Jersey.

131CA Approval of retirement annuity trust schemes for Jersey residents

(1) In this Article, unless the context otherwise requires –

Consultation Draft

‘annuity equivalent’ means a regular payment made to a primary beneficiary or to a secondary beneficiary under a retirement annuity trust scheme;

‘primary beneficiary’ means the individual for whose benefit the trust is primarily established;

‘secondary beneficiary’ means a dependant of the primary beneficiary;

‘trustees’ include a single corporate trustee.

(2) A scheme shall be approved as a retirement annuity trust scheme if it complies with this Article.

(3) The scheme must –

(a) be established under irrevocable trusts under Jersey law and administered in Jersey;

(b) have as its sole purpose making provision for benefits in accordance with this Article; and

(c) have 2 or more trustees or a corporate trustee, who are subject to regulation by the Jersey Financial Services Commission under an enactment in respect of the carrying on of the business of trustee of that trust.

(4) The primary beneficiary must be ordinarily resident in Jersey at the time the scheme is established.

(5) Contributions –

(a) may be paid into the scheme by the primary beneficiary;

(b) may not be paid into the scheme by any other person other than a person from whom the primary beneficiary receives relevant earnings.

(6) The scheme –

(a) must provide for the payment of sums payable by way of annuity equivalent to the primary beneficiary, in accordance with Article 131CB;

(b) may only otherwise provide for payments as permitted by this Article and Articles 131CC to 131CG.

(7) The scheme may provide, following the death of the primary beneficiary –

(a) for the payment of a sum by way of annuity equivalent to one or more second beneficiaries; or

(b) for the payment of a lump sum commuting the whole of the fund value to the primary beneficiary’s estate or to one or more secondary beneficiaries.

(8) The scheme must provide for the payment of the first annuity equivalent to a primary beneficiary and, where applicable, to a second beneficiary, to be made according to a calculation approved by the Comptroller and, after that, according to a calculation made every 3 years, approved by the Comptroller.

Consultation Draft

(9) The scheme and its trustees must comply with –

(a) any prescribed conditions and requirements; and

(b) any additional conditions and requirements imposed in its case by the Comptroller.

131CB Requirement to pay pension income

Except as permitted by or under any provision of this Part, the payment of pension income to a pension holder in an approved Jersey scheme –

(a) must not commence before the pension holder attains the age of 50;

(b) must commence before the pension holder attains the age of 75.

131CC Permitted early payment of pension income

An approved Jersey scheme may provide for the payment of pension income to the pension holder to commence before the pension holder attains the age of 50 –

(a) if the pension holder is in ill health; or

(b) if –

(i) in the case of a member of an approved Jersey occupational pension scheme, the member's employment in the trade or undertaking is one in which persons customarily cease work before attaining that age, or

(ii) in the case of a pension holder in any other approved Jersey scheme, the pension holder's occupation is one in which persons customarily cease work before attaining that age.

131CD Permitted commutation – serious ill health

An approved Jersey scheme may permit the pension holder to elect to commute the whole of the fund value if he or she is in serious ill health, whether or not he or she has attained the age of 50.

131CE Permitted commutation – trivial pension

An approved Jersey scheme may permit the pension holder to elect to commute the whole of the fund value if, at the time the election is made –

(a) the pension holder has attained the age of 60;

(b) the pension holder has not commenced benefits under the scheme; and

(c) the aggregate of the fund value and all lump sums that the pension holder has previously elected to receive, as permitted by this Article, does not exceed £30,000.

Consultation Draft

131CF Permitted commutation - thirty percent of fund value

(1) An approved Jersey scheme may permit the pension holder to elect, on up to 3 occasions, to commute part of the net fund value if, at the time the election is made, the pension holder –

(a) has attained the age of 50; and

(b) has not commenced receiving pension income from the scheme.

(2) The amount or the aggregate of the amounts commuted under this Article must not exceed 30% of the net fund value at the time the first election permitted by paragraph (1) is made.

(3) In this Article, ‘net fund value’ means the fund value less any amounts transferred into the fund from another scheme after part of the fund value of that other scheme has been commuted.

131CG Permitted transfers between approved Jersey schemes and to approved drawdown contracts

(1) An approved Jersey scheme may permit the pension holder or, following the pension holder’s death, his or her dependant, to elect to transfer the whole of the fund value to –

(a) another approved Jersey scheme; or

(b) subject to paragraph (2), an approved drawdown contract.

(2) The pension holder or, following the pension holder’s death, his or her dependant, cannot transfer the fund value from an approved Jersey scheme to an approved drawdown contract –

(a) before the first day on which the payment of pension income could have commenced out of the approved Jersey scheme; and

(b) if he or she has not irrevocably forfeited the right to receive a lump sum by way of commutation from the approved Jersey scheme.

(3) An approved Jersey scheme may, subject to the prior written approval of the Comptroller, permit the pension holder or, following the pension holder’s death, his or her dependant, to elect to transfer the whole of the fund value to an equivalent scheme established outside Jersey.

(4) An approved Jersey scheme may, subject to the prior written approval of the Comptroller, permit the pension holder or, following the pension holder’s death, his or her dependant, to elect to transfer into the approved Jersey scheme the whole of the fund value from an equivalent scheme established outside Jersey.

(5) For the purposes of this Article, a scheme established outside Jersey is an equivalent scheme if, in the opinion of the Comptroller, the scheme has characteristics which are consistent with the characteristics of an approved Jersey scheme.

Consultation Draft

131D Approved drawdown contract

(1) A contract shall be approved as a drawdown contract if it complies with the requirements of paragraphs (2) to (4) and (6).

(2) The manager must certify to the satisfaction of the Comptroller that, on the day the contract is to be made, the individual will be entitled to minimum retirement income.

(3) The manager must show, to the satisfaction of the Comptroller that the contract –

(a) prohibits the transfer to the contract of funds other than the individual's fund value in an approved Jersey scheme and funds to which Article 131E(4)(e) applies;

(b) where, on the day the contract is to be made, the individual will not otherwise be entitled to minimum retirement income, requires the manager to –

(i) purchase from an authorized insurance company which is unconnected with the individual a lifetime annuity payable to the individual which is sufficient to secure that, on that day, the individual is entitled to minimum retirement income, or

(ii) subject to the requirements of Article 131E, transfer sufficient funds to a trustee for the establishment of an approved trust;

(c) requires the manager to invest the remaining funds, after any such purchase or transfer, in –

(i) cash deposits with any bank, building society or other institution carrying on deposit-taking business in the jurisdiction in which it is authorized to carry on such business,

(ii) securities or financial instruments traded on a recognized stock exchange,

(iii) units in collective investment funds within the meaning of the Collective Investment Funds (Jersey) Law 1988, or

(iv) investments falling within paragraph 9 of Schedule 1 to the Financial Services (Jersey) Law 1998 (long term insurance contracts);

(d) prohibits any payments to any person other than the individual or the individual's personal representative, apart from –

(i) sums applied in the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity payable to the individual or, on the individual's death, to a dependant of the individual, or

(ii) fees and commission properly incurred in the administration of the contract and tax accounted for to the Comptroller;

Consultation Draft

(e) requires the manager to pay to the individual such sums from the funds invested and any income accrued thereon as the individual requires;

(f) where, on the death of the individual, there remain any funds invested or income accrued thereon, requires the manager, within the period of 3 months following the date of death, to pay to the individual's personal representative those funds and all such income; and

(g) requires the manager to deliver to the Comptroller, within the period of 3 months following the end of a year of assessment, or within the period of 6 months following the date of death of the individual, a statement showing –

(i) the funds invested at the beginning of that year or, for the year in which the contract commences, the funds invested at the commencement of the contract,

(ii) monies received during that year,

(iii) monies paid out during that year, whether to the individual, in fees and commission, as tax accounted for to the Comptroller or in any other manner, and

(iv) the funds invested at the end of that year or at the date of death of the individual, as the case may be, and the manner of the investment of those funds.

(4) The manager must be –

(a) resident in Jersey;

(b) unconnected with the individual; and

(c) either –

(i) the holder of a permit under the Collective Investment Funds (Jersey) Law 1988,

(ii) registered under the Banking Business (Jersey) Law 1991 or under the Investors (Prevention of Fraud) (Jersey) Law 1967,

(iii) the holder of a permit under the Insurance Business (Jersey) Law 1996, or

(iv) registered under the Financial Services (Jersey) Law 1998.

(5) The contract may, subject to the consent of the individual, the prior written approval of the Comptroller and any conditions the Comptroller thinks proper to impose, be assigned from one manager to another.

(6) The contract and the manager must comply with –

(a) any prescribed conditions and requirements;

(b) any additional conditions and requirements imposed in its case by the Comptroller.

Consultation Draft

131E Approved trust

(1) A trust shall be approved if it complies with this Article.

(2) The trust must be established, and the approved drawdown contract to which it relates made, before the individual attains pensionable age.

(3) The manager of the approved drawdown contract and the trustee of the trust must certify, to the satisfaction of the Comptroller –

(a) that, disregarding the investments to be made pursuant to paragraph (4)(a), the individual will be entitled to minimum retirement income on the relevant day, being a day selected for the purposes of this Article and which is no later than the day on which the individual attains pensionable age; and

(b) that, when the contract is made, the manager shall forthwith transfer to the trustee at least sufficient funds for the purpose described in paragraph (4)(a).

(4) The trustee must show, to the satisfaction of the Comptroller, that the trust –

(a) requires the trustee to –

(i) purchase sufficient securities issued by the Government of the United Kingdom yielding an income having an actuarial equivalent, determined in the prescribed manner, as will secure that, on the day the trust is established, the individual is entitled to an income which, taking the actuarial equivalent of the income from those securities into consideration and disregarding the fact that the income from them ceases on or after the relevant day, is minimum retirement income,

(ii) hold the securities so purchased upon trust for the individual until the relevant day, and

(iii) receive the income from the securities and pay it to the individual;

(b) prohibits any payments out of the trust to any person other than the individual or his or her personal representative, apart from tax accounted for to the Comptroller;

(c) prohibits any payment out of the trust to the individual other than income accrued on the funds invested by the trustee;

(d) on the relevant day, requires the trustee to certify, to the satisfaction of the Comptroller, whether or not, on that day, the individual is entitled to minimum retirement income;

(e) where, on the relevant day, the individual is entitled to minimum retirement income, provides that the funds may be withdrawn for the purpose only of –

(i) their transfer to an approved drawdown contract, or

Consultation Draft

(ii) the purchase from an authorized insurance company which is unconnected with the individual of a lifetime annuity payable to the individual;

(f) where, on the relevant day, the individual is not entitled to minimum retirement income, provides that the trust shall continue, upon the same terms, for the life of the individual save that the trustee shall be required –

(i) to purchase from an authorized insurance company which is unconnected with the individual a lifetime annuity payable to the individual or purchase securities issued by the Government of the United Kingdom or convert the securities previously purchased, so as to secure that, on the relevant day, the individual is entitled to minimum retirement income,

(ii) to hold the securities (if any) for the life of the individual, and

(iii) where securities are held, to pay to the individual the income arising from them;

(g) where, on the death of the individual, there remain any funds invested or income accrued thereon, requires the trustee, within the period of 3 months following the date of death to pay to his or her personal representative those funds and all such income; and

(h) requires the trustee to deliver to the Comptroller, within the period of 3 months following the end of a year of assessment, or within the period of 6 months following the date of death of the individual, a statement showing –

(i) the funds invested at the beginning of that year or, for the year in which the trust is established, the funds invested on the establishment of the trust,

(ii) monies received during that year,

(iii) monies paid out during that year, whether to the individual or as tax accounted for to the Comptroller, and

(iv) the funds invested at the end of that year or at the date of death of the individual, as the case may be, and the manner of the investment of those funds.

(5) The trustee must be –

(a) resident in Jersey;

(b) unconnected with the individual; and

(c) registered under the Financial Services (Jersey) Law 1998.

(6) The trust and the trustee must comply with –

(a) any prescribed conditions and requirements;

(b) any additional conditions and requirements imposed in its case by the Comptroller.

Consultation Draft

131F Minimum retirement income

(1) An individual's entitlement to minimum retirement income shall be determined in accordance with this Article.

(2) An individual is entitled to minimum retirement income if, on the day for which the entitlement is to be determined, the individual is in receipt of relevant income which is not less than the amount of the old age pension specified in paragraph 3(1) of Part 1A of Schedule 1 to the Social Security (Jersey) Law 1974.

(3) In this Article –

'relevant income' means any one or more of the following –

(a) the amount of the old age pension payable to the individual in accordance with Article 25 of the Social Security (Jersey) Law 1974.

(b) an old age pension payable by another government, other than a pension for which the income is fixed for the life of the individual;

(c) any income not falling within sub-paragraph (a) or (b) which –

(i) shall be paid for the remainder of the life of the individual, and

(ii) is guaranteed to increase by not less than 3% per annum; and

(d) the actuarial equivalent of any income not falling within sub-paragraphs (a) to (c) which shall be paid for the remainder of the life of the individual.

(4) The actuarial equivalent of any income shall be determined in the prescribed manner.

Taxation relating to pensions, etc.

131G Taxation of approved Jersey schemes, drawdown contracts and trusts

The following income shall be exempt from income tax –

(a) income derived from the investments and deposits of –

(i) an approved Jersey occupational pension scheme,

(ii) an approved retirement annuity trust scheme,

(iii) an approved drawdown contract,

(iv) an approved trust;

(b) income derived from the investments and deposits of an annuity fund created by an approved Jersey retirement annuity contract.

Consultation Draft

131H Allowance for contributions to approved Jersey occupational pension scheme by employer

(1) Ordinary annual contributions paid by an employer into an approved Jersey occupational pension scheme in a year of assessment shall be allowed to be deducted as an expense incurred in that year, when computing profits or gains for that year under –

(a) Schedule A, to the extent that tax is charged under Article 51(1)(b) or (c); or

(b) Case I or Case II of Schedule D.

(2) For the purposes of paragraph (1), ‘ordinary annual contribution’, in relation to a scheme, means an annual contribution of a fixed amount or an annual contribution calculated on some definite basis by reference to the earnings, contributions or numbers of members of the scheme.

(3) Contributions paid by an employer into an approved Jersey occupational pension scheme that are not ordinary annual contributions shall be treated, as the Comptroller may direct –

(a) as an expense incurred in the year in which the sum is paid; or

(b) as an expense to be spread over such period of years as the Comptroller thinks proper.

131I Allowance for contributions paid to approved Jersey schemes by pension holder

(1) Subject to this Article, a pension holder’s approved pension contributions paid in a year of assessment shall be deducted from the pension holder’s relevant earnings as an expense for the year of assessment.

(2) In every case, the amount of a pension holder’s approved pension contributions which is allowed to be deducted by the pension holder as an expense for a year of assessment shall not exceed whichever is the lesser of –

(a) £50,000; and

(b) the pension holder’s relevant earnings in the year of assessment.

(3) In addition, in the case of a pension holder whose income for the year of assessment exceeds £150,000 –

(a) no deduction shall be allowed unless the pension holder’s capped pension contributions for the year of assessment exceed the amount of the pension holder’s excess income; and

(b) subject to paragraph (2), the amount of the deduction shall not exceed the amount by which the pension holder’s capped pension contributions for the year of assessment exceeds the pension holder’s excess income for that year.

Consultation Draft

(4) In this Article –

'approved pension contributions' means a pension holder's contributions –

(a) to approved Jersey occupational pension schemes;

(b) under approved Jersey retirement annuity contracts; and

(c) to approved retirement annuity trust schemes;

'capped pension contributions' means, for a year of assessment, whichever is the lesser of –

(a) £50,000; and

(b) the sum of the pension holder's approved pension contributions in the year;

'excess income' means the amount by which a pension holder's income for a year of assessment exceeds £150,000;

'income' means the pension holder's total income for a year of assessment, disregarding the aggregate of any of the following paid by the pension holder in the year of assessment –

(a) interest in respect of which the pension holder is entitled to a marginal income deduction under Article 90AA; and

(b) the pension holder's total approved pension contributions.

131J Taxation relating to repayment of contributions made to approved Jersey schemes

(1) Where contributions to an approved Jersey occupational pension scheme, including interest on contributions, if any, are repaid to the employer, the amount so repaid shall be treated for the purposes of this Law as a receipt of the trade, profession or vocation carried on by the employer upon whichever is the earlier of –

(a) the repayment falling due; and

(b) the last day on which the trade, profession or vocation is carried on by the employer.

(2) Where contributions to an approved Jersey occupational pension scheme, including interest on contributions, if any, are repaid to the pension holder during his or her lifetime as permitted by Article 131(12) –

(a) income tax shall be charged under Case VI of Schedule D on the scheme manager in respect of the amount so repaid at the rate of 10%; and

(b) the scheme manager shall deduct the income tax charged from the amount repaid to the pension holder.

(3) Where a repayment of contributions, including any interest on contributions, is made to a pension holder –

(a) the amount repaid, after deduction of tax, shall not be treated as income of the pension holder for any other purpose of this Law; and

Consultation Draft

(b) the pension holder shall not be entitled to any deduction, allowance or relief under this Law in respect of the income tax charged on and deducted by the scheme manager from the amount repaid.

131K Taxation of pension income paid from approved Jersey scheme

(1) For the purposes of this Law, the following payments shall be treated as the recipient's earned income –

(a) an income for life paid out of an approved Jersey occupational pension scheme to the member or his or her dependant;

(b) an annuity paid under an approved Jersey retirement annuity contract to the individual who made the contract or his or her dependant;

(c) an annuity equivalent paid under an approved retirement annuity trust scheme to a primary beneficiary or secondary beneficiary.

(2) A scheme manager, when making a payment referred to in paragraph (1), shall –

(a) subject to paragraph (3), deduct income tax at the standard rate; and

(b) deliver to the Comptroller an account of the payment and the tax deducted from it.

(3) The Comptroller may direct that income tax is deducted from a payment referred to in paragraph (1) at a rate that is less than the standard rate.

(4) Paragraph (1)(a) does not affect the generality of sub-paragraph (a) of the definition 'earned income' in Article 3(1).

131L Taxation of lump sum paid from approved Jersey scheme to pension holder or dependant

(1) Income tax shall be charged under Case VI of Schedule D on a scheme manager of an approved Jersey scheme where a lump sum is paid in commutation of or in lieu of pension income under the scheme to –

(a) the pension holder, during his or her lifetime; or

(b) following the death of the pension holder, the pension holder's estate or one or more of the pension holder's dependants.

(2) The scheme manager must deduct the tax before paying the lump sum.

(3) Subject to this Article, income tax shall be charged on the payment at the rate of 10%.

Consultation Draft

(4) The first £1.8 million of the following payments to a pension holder or his or her estate or dependant from the pension holder's approved pensions shall be exempt from income tax –

(a) lump sums commuted by the pension holder, as permitted by Article 131CD, before the commencement of benefits;

(b) 30% of lump sums commuted by the pension holder as permitted by Article 131CE:

(c) the first £540,000 of lump sums commuted by the pension holder as permitted by Article 131CF; and

(d) where the pension holder dies before the commencement of benefits, lump sums commuted by his or her estate or a dependant, as permitted by Articles 131(9)(b), 131B(7)(b) and 131CA(7)(b).

(5) For the purposes of paragraph (4), the pension holder's approved pensions are –

(a) all approved Jersey occupational pension schemes of which the pension holder is a member;

(b) all approved Jersey retirement annuity contracts made by the pension holder; and

(c) all approved retirement annuity trust schemes of which the pension holder is the primary beneficiary.

(6) Where a lump sum is taxed or exempt from tax in accordance with this Article –

(a) the amount paid, after deduction of tax (if any), shall not be treated as income of the recipient for any other purpose of this Law; and

(b) the recipient shall not be entitled to any deduction, allowance or relief under this Law in respect of the income tax charged on and deducted by the scheme manager from the amount paid.

131M Taxation of sums paid from approved drawdown contracts and approved trusts

(1) A scheme manager of an approved drawdown contract or approved trust, when paying any sum that is charged to tax under Case VII of Schedule D to an individual or an individual's personal representative shall –

(a) deduct income tax at the standard rate; and

(b) deliver to the Comptroller an account of the payment and the tax deducted from it.

(2) For the purposes of this Law, any sum referred to in paragraph (1) that is paid to an individual (other than an individual to whom it is paid in his or her capacity as a personal representative) shall be treated as the earned income of the individual.

Consultation Draft

131N Taxation of transfer to equivalent scheme

(1) Income tax shall be charged under Case VI of Schedule D on the scheme manager of an approved Jersey scheme where the fund value of a pension holder in the scheme is transferred to an equivalent scheme established outside Jersey, as permitted by Article 131CG(3).

(2) The scheme manager must deduct the tax before transferring the fund value.

(3) The pension holder shall not be entitled to any deduction, allowance or relief under this Law in respect of the income tax charged on and deducted by the scheme manager from the amount transferred.

(4) In this Article, 'equivalent scheme' has the same meaning as in Article 131CG.

131O Taxation of approved overseas schemes

(1) Pension income or a lump sum paid –

(a) from an occupational pension scheme for overseas employees approved under Article 131A or a retirement annuity contract for an overseas resident approved under Article 131C;

(b) to a person who is not resident in Jersey,

shall be exempt from income tax.

(2) Income derived from the investments and deposits of an occupational pension scheme for overseas employees that is approved under Article 131A shall be exempt from income tax.

(3) Income derived from the investments and deposits of an annuity fund created by a retirement annuity contract for an overseas resident that is approved under Article 131C shall be exempt from income tax.

131P Withdrawal of approval

(1) The Comptroller may withdraw an approval under this Part if it appears to the Comptroller that the facts concerning the approved scheme, contract or trust, or its administration, do not warrant the continuance of approval.

(2) The Comptroller may withdraw an approval under this Part in part if and to the extent that it appears to the Comptroller that the facts concerning the approved scheme, contract or trust, or its administration, do not warrant the continuance of approval.

(3) The Comptroller shall give written notice of the withdrawal of approval, the grounds for withdrawal and the date on which the withdrawal takes effect to –

Consultation Draft

(a) the scheme manager and any person connected with the scheme manager;

(b) any person whose acts or omissions are a reason for the withdrawal;

(c) any person who has benefitted from the acts or omissions which are a reason for the withdrawal; or

(d) any person connected with a person mentioned in sub-paragraph (c).

(4) Where the Comptroller gives a notice under paragraph (3) to a person other than the scheme manager, the Comptroller shall inform the scheme manager that the notice has been given.

(5) A withdrawal of approval may take effect on a day that is earlier than the day the notice is given under paragraph (3), but shall not be earlier than the day on which the grounds for withdrawal appear to the Comptroller to have arisen.

(6) Upon the withdrawal of approval taking effect, a person given notice under paragraph (3) shall be liable to income tax under Schedule D Case VI at the rate of 50% on an amount equal to whichever, on the day on which the withdrawal takes effect, is the greater of –

(a) the market value of the assets held for the purposes of the scheme, contract or trust; or

(b) the aggregate of –

(i) contributions to the scheme, contract or trust, including transfers from other schemes, contracts or trusts, and

(ii) income accrued from investments or deposits of the scheme, contract or trust.

(7) Where the Comptroller is unable to ascertain either or both of the amounts described in paragraph (6)(a) and (b), the Comptroller may, for the purposes of raising an assessment of the liability to tax under that paragraph, estimate the amount that he or she is unable to ascertain.

(8) The Comptroller may decide to abate the liability to tax under paragraph (6) by an amount which is, having regard to the relevant circumstances, just and reasonable.

(9) Where all or any of the tax charged under paragraph (6) remains unpaid –

(a) the Comptroller may give a further notice under paragraph (3) to any of the persons there mentioned who has not previously been given notice; and

(b) the person to whom the further notice is given shall be liable to so much of the tax charged under paragraph (6) as remains unpaid.

Consultation Draft

131Q Appeals against decisions of the Comptroller under this Part

(1) A person aggrieved by any decision of the Comptroller –

(a) to refuse to approve a scheme, contract or trust under this Part;

(b) to impose additional conditions or requirements on the approval of such a scheme, contract or trust;

(c) to withdraw the approval of such a scheme, contract or trust, whether wholly or in part;

(d) to refuse approval under Article 131(15);

(e) to refuse approval under Article 131CG(3) or (4);

(f) to refuse to give a direction under Article 131K(3); or

(g) under Article 131P(8),

may appeal to the Commissioners.

(2) Notice of the appeal must be given, in writing, to the Comptroller and state the grounds of appeal.

(3) Notice of the appeal must be given –

(a) in the case of an appeal on a ground in paragraph (1)(a) or (b) concerning a Jersey occupational scheme, a Jersey retirement annuity contract or a retirement annuity trust scheme, within 21 days of the date of the Comptroller's decision;

(b) in any other case, within 40 days of the date of the Comptroller's decision.

(4) The following provisions of this Law shall apply, with the necessary modifications, to an appeal under paragraph (1) as they apply to an appeal against any assessment –

(a) the proviso to Article 27(1);

(b) Article 27(2);

(c) Article 28(1);

(d) Article 29, with the omission of paragraphs (4) and (5);

(e) Articles 29A, 35 and 36.

131R Order making powers

(1) The Minister may by Order specify –

(a) information and particulars that must be delivered to the Comptroller by an applicant for any approval under this Part;

(b) the manner in which an application for any approval under this Part must be made;

(c) the process for the grant or refusal of any approval under this Part;

Consultation Draft

(d) information and particulars that must be delivered to the Comptroller by any specified person where any claim for relief under this Part is made;

(e) information and particulars that must be delivered to the Comptroller by any specified person regarding the dates and amounts of any contributions and the persons by whom they were made;

(f) the manner in which any claim for relief under this Part is to be made.

(2) The Minister may by Order require scheme managers to notify the Comptroller of the date and amount of any payment from any scheme, contract or trust approved under this Part and the person to whom the payment was made.

(3) The Minister may by Order prescribe any matter that shall or may be prescribed under this Part.".

10 Schedule 2 amended

In paragraph 1 of Schedule 2 to the principal Law –

(a) at the beginning of the paragraph there shall be inserted the sub-paragraph number "(1)";

(b) for clauses (a) and (aa) there shall be substituted the following clause –

"(a) subject to sub-paragraph (2), contributions to an approved Jersey scheme;";

(c) after paragraph (1) there shall be added the following paragraphs –

"(2) Where contributions are made to one or more approved Jersey schemes by a company owned by the pension holder in those schemes, the amount of the contributions made by the company in a year of assessment that shall be left out of account shall not exceed 25% of so much of the pension holder's relevant earnings as are received from the company in that year.

(3) For the purposes of this paragraph –

(a) a person owns a company if he or she –

(i) is a person who owns, or is deemed to own, more than 20% of the ordinary share capital of the company, or

(ii) is a person who is connected with a person described in sub-clause (i);

(b) whether or not a person is deemed to own shares shall be determined in accordance with Article 82A;

(c) expressions that are defined in Part 19 have the same meaning as in that Part.".

Consultation Draft

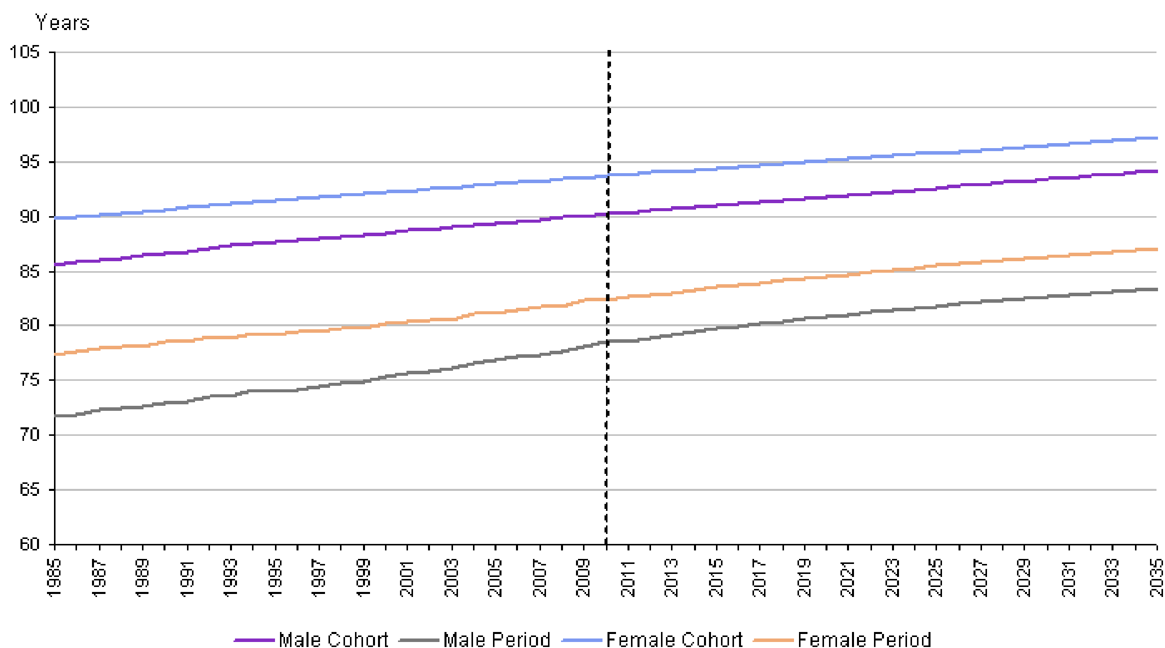
11 Citation and commencement

This Law may be cited as the Income Tax (Amendment No. 44) (Jersey) Law 201- and shall come into force [...].

Consultation Draft

Appendix B
2010-based Period and Cohort Life Expectancy tables

Period and Cohort expectation of life at birth, 1985-2035, UK
(Based on historical rates from 1985 to 2010 and assumed calendar year mortality rates from the 2010-based principal projections)



Source: Office for National Statistics

By 2035 period life expectancy at birth in the United Kingdom is projected to reach 83.4 years for males and 87.0 years for females. Cohort life expectancy at birth is projected to reach 94.2 years for males and 97.2 years for females.

Period life expectancy at birth is the average number of years a person would live, if he or she experienced the age-specific mortality rates at the time of their birth throughout their life. In contrast, cohort life expectancy at birth is calculated using age-specific mortality rates which allow for known or projected changes in mortality throughout a person's life.

The chart shows that both period and cohort expectations of life at birth have increased between 1985 and 2010 and are projected to continue to increase into the future after 2010. Throughout the period 1985-2035 cohort life expectancy is projected to be higher than period life expectancy for both males and females because mortality rates have generally fallen at most ages over the past 25 years and are projected to continue to fall in the future.

Over the last 25 years male period life expectancy at birth rose from 71.7 years in 1985 to 78.5 years in 2010, an increase of 6.8 years. It is projected to increase by a further 4.9 years over the next 25 years to 83.4 years in 2035. Female period life expectancy at birth rose from 77.4 years in 1985 to 82.4 years in 2010, an increase of 5.0 years. It is projected to increase by a further 4.6 years to 87.0 years in 2035. Male period life expectancy has seen the greater increases between 1985 and 2010 due to faster improvements in male mortality rates than female mortality rates in recent years. However, the rates of improvement for males and females at a given age are projected to converge over the period

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

2010 to 2035, leading to increases in life expectancy which are more similar for males and females.

Similar patterns are also exhibited for cohort life expectancy, although the increases are smaller than for period life expectancy. Under the principal (main) projection, cohort life expectancy at birth rose 4.6 years for males and 3.9 years for females between 1985 and 2010. Between 2010 and 2035 cohort life expectancy at birth is projected to increase by 4.0 years for males and 3.5 years for females.

Female period and cohort life expectancies are projected to continue to be higher than the corresponding figures for males. However the gap in period life expectancy at birth is projected to fall from 3.9 years in 2010 to 3.6 years in 2035. The gap between male and female cohort life expectancy at birth is projected to fall from 3.5 years in 2010 to 3.0 years in 2035 under the principal projection.

Projected period expectation of life at age 65 in 2035 is 22.1 years for males and 24.6 years for females. The equivalent figures for cohort expectation of life are 24.0 years for males and 26.6 years for females. At older ages the difference between male and female projected life expectancies is smaller than at younger ages, particularly for period expectations of life.

By 2060 period life expectancy at birth is projected to reach 86.8 years for males and 90.1 years for females. Cohort life expectancy at birth is projected to reach 98.0 years for males and 100.6 years for females. However, it should be noted that projections become increasingly uncertain the further they are carried forward in time. This is particularly so for cohort life expectancy as these incorporate projected improvements in mortality many years into the future. For example, period life expectancy at birth in 2060 is calculated using mortality rates at all ages projected 50 years ahead to 2060; however, cohort life expectancy at birth in 2060 requires mortality rates projected 50 years ahead for the youngest ages but over 140 years ahead for ages 90 and above.

Given the uncertainties in projecting forward period and cohort life expectancies, variant projections are produced using alternative sets of mortality assumptions to allow users to look at alternative scenarios for expectation of life and to assess the sensitivity arising from using different assumptions.

The following table shows period and cohort expectations of life at birth for both males and females for the years 2010 and 2035 for each of the main life expectancy variant projections (high, low and principal). The three projections show the variation in expectation of life figures if different rates of mortality improvements are applied. Period life expectancy in 2010 is the same in each of the variants since this is the base year of the projections and no improvements have been applied. However, cohort life expectancy in 2010 includes improvements in mortality beyond 2010 and these vary between the principal and high and low life expectancy variants from 2011 onwards.

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Period and cohort expectations of life at birth, 2010 and 2035, UK.

	2010			2035		
	High life expectancy variant	Principal projection	Low life expectancy variant	High life expectancy variant	Principal projection	Low life expectancy variant
Males						
Period	78.5	78.5	78.5	85.7	83.4	81.0
Cohort	102.5	90.2	81.0	110.4	94.2	81.1
Females						
Period	82.4	82.4	82.4	88.5	87.0	85.5
Cohort	104.7	93.7	85.4	111.8	97.2	85.5

Source: Office of National Statistics

The table illustrates a number of points:

- The difference between the period life expectancy figures for 2010 and 2035 under each of the variants gives a measure of the projected overall improvement in mortality between 2010 and 2035.
- The difference between the cohort life expectancy figures for 2010 and 2035 under each of the variants gives a measure of the differences in projected overall improvement in mortality over a lifetime for those born in 2010 and those born in 2035.
- For the principal and low life expectancy variant the increase in period life expectancy at birth is higher than for cohort life expectancy at birth because the overall annual increases in mortality after 2035 are lower than the projected annualised improvements in mortality over the period 2010-2035. The opposite is true for the high life expectancy variant.

Current annual improvements in mortality rates vary considerably by age and sex. The life expectancy projections assume that for most ages these improvements will gradually converge to common 'target rates' of improvement, at each age and for both sexes, by the year 2035, and continue to improve at that constant rate thereafter. However, the projections also assume that those born in the years 1925 to 1938 (cohorts which have consistently experienced relatively high rates of mortality improvement over the last 25 years) will continue to experience higher rates of mortality improvement than the rest of the population.

The target rate assumptions for the 2010-based projections are as follows:

The target rate assumption in the principal projection is 1.2 per cent annual improvement in mortality at 2035 for most ages, and thereafter annual improvements remaining at 1.2 per cent. This rises to 2.4 per cent in 2035 for the high life expectancy variant and falls to 0 per cent in 2035 for the low life expectancy variant. For those born between 1925 and 1938 rates of annual improvement in and after 2035 have higher target rates: rising to peaks of 2.5 per cent in the principal projection, 3.7 per cent in the high life expectancy variant and 1.3 per cent in the low life expectancy variant for those born in 1931 and 1932. They then decline back to the target rates for each variant for those born in 1939 and later. In all cases, lower target rates of improvement in 2035 are assumed for those born before 1924.

Public submissions - Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, such as where the response may concern an individual's private life, or matters of commercial confidentiality, please indicate this clearly when submitting a response.

More information on the mortality assumptions used in the 2010-based national population projections is available in the report: Mortality Assumptions.

Source: Office of National Statistics
http://www.ons.gov.uk/ons/rel/lifetables/period-and-cohort-life-expectancy-tables/2010-based/p-and-c-le.html

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