States of Guernsey
Revenue Service

Guernsey Practice Notes

Requirements for Approved Occupational Pension Schemes

January 2020

The Revenue Service is grateful for the assistance of the BWCI Group in preparing these Practice Notes

Contents

Readers are reminded that nothing stated in these notes should be treated as an authoritative statement of the **Law** on any particular aspect or in any specific case and action should not be taken as a result of these notes alone. Any further enquiries may be addressed to the Pension Schemes Supervisor, States of Guernsey Revenue Service, PO Box 37, St Peter Port, GY1 3AZ.

1. General Information

1.1 Introduction

These Practice Notes set out the contributions which may normally be paid to and the benefits which may normally be provided by pension schemes and **Death in Service Schemes** seeking approval under section 150 of the Income Tax (Guernsey) Law, 1975. The Director of the Revenue Service may be prepared to allow other benefits in special circumstances. These notes do not cover offshore pension schemes seeking exemption under section 40(o) of the **Law** or approval under section 154A of the **Law**.

1.1.1 Application of Tax Regime

Rather than adopting the benefit regime set out in these Practice Notes, schemes may instead operate within the benefit limits of the tax regime in force on 31 December 2010. These are summarised in the March 2003 edition of these Practice Notes. However, all schemes must follow the limits and tax charges set out in paragraph 5.1 of this edition of the Practice Notes for trivial commutations.

Schemes must operate within the benefit limits of the regime they choose for all members of the scheme. It is not permissible to adopt parts of the new regime and parts of the old regime (other than for trivial commutation where the new regime must be adopted). Nor is it permissible to apply different regimes to different members of the same scheme.

Any changes in scheme documentation to implement the new regime should be advised to the **Director** as described in Appendix 1. It is not necessary to inform the **Director** if a scheme has chosen to operate within the benefit limits in the March 2003 Practice Notes. However, the **Director** retains the right to ask the trustees for this information.

1.1.2 Applications for Approval

The notes produced by the **Director** regarding the procedure for applications for approval, together with a summary of the consequences of approval under section 150, are set out in Appendix 1.

1.1.3 GFSC Pension Rules

Where trustees or administrators are regulated as pension providers by the GFSC they should ensure that the scheme also complies with the requirements of the **GFSC Pension Rules**

1.2 Definitions

The terms which appear in bold type in these notes are defined in Appendix 2.

1.3 Membership

Membership of an **Approved Scheme** must be restricted to employees of the employers participating in the scheme.

Membership need not be made available to all of the employees in an employer's service, but membership of the scheme should be made available to all employees within a particular category.

Membership need not be a condition of employment.

1. General Information (continued)

Every member of a scheme and every employee who has a right to be a member of the scheme must be made aware of the terms of the scheme.

Proprietary Directors and **Proprietary Employees** may be admitted to membership but additional conditions will apply. It is necessary to apply to the **Director** in order to confirm the additional conditions which have to be met by a particular scheme. Further details are set out in Appendix 3.

As an alternative to a single **Approved Scheme**, it is possible to seek approval for up to 12 individual pension arrangements for any one employer.

Seconded employees may continue to accrue benefits within an **Approved Scheme** but all pensions payable from an **Approved Scheme** are liable to Guernsey tax unless exempted under a Double Taxation Agreement.

2. Contributions

2.1 Contributions by Employers

The employer is required to contribute to the scheme. If the contribution is an **Ordinary Contribution** it will be allowable as a deduction for tax purposes in the accounting period in which it is paid. Anti-avoidance legislation prevents employers making disproportionately large **Ordinary Contributions** for individual members. To be eligible for tax relief on contributions in respect of seconded employees, the employer would need to be able to demonstrate that the contributions are wholly and exclusively deductible for Guernsey income tax purposes.

Where a contribution is not an **Ordinary Contribution,** the **Director** may allow it as a deduction for the accounting period in which it was paid. Alternatively, the **Director** may direct that the contribution be apportioned over a longer period.

Where contributions are used for any purpose, other than for providing benefits, or surpluses are refunded to the employer, they will be treated as income arising to the employer in that year of charge and subject to income tax. The **Director** should therefore be notified of any such payments or refunds.

Employers' contributions are exempt from taxation as a benefit in kind for the employee. However, if a member subject to, or potentially subject to, the withdrawal of personal tax allowances requests that their employer makes additional contributions in lieu of salary then the employer contributions may be considered part of the member's employment income and taxed accordingly.

2.2 Contributions by Members

A member is not required to contribute to a scheme. Where a member does contribute, **member contributions** in any year of up 100% of **Taxable Income**, subject to a monetary cap of between £1,000 and £35,000, will be allowable as a deduction for tax purposes. For married couples, in relation to contributions to **Approved Occupational Pension** Schemes, this limit applies separately to each spouse's **member contributions** and individual taxable income.

The standard monetary cap on tax relieved **member contributions** is £35,000 for the 2020 tax year. However, individuals with **Taxable Income** which exceeds £100,000 have various tax allowances and deductions withdrawn gradually at a rate of £1 for every £5 that the individual's **Taxable Income** exceeds £100,000. An individual's Personal Allowance and Mortgage Interest Relief are the first to be reduced and once these have been fully withdrawn, the individual's available tax relief on **member contributions** is then gradually withdrawn to a minimum of tax relief on **member contributions** of £1,000. Please see https://gov.gg/taxationfaq for an illustrative example.

The **Law** does not prohibit the payment of **member contributions** in excess of the tax relieved limit but no tax relief will be granted for **member contributions** in any year in excess of the lower of 100% of **Taxable Income** and the monetary cap of between £1,000 and £35,000. This tax relieved limit applies to the overall **member contributions** to all **Approved Occupational Pension Schemes, Retirement Annuity Schemes** and **Retirement Annuity Trust Schemes.**

The monetary cap of between £1,000 and £35,000 is current as at 2020 but may be reviewed for subsequent years. The table below summarises the monetary cap for prior years:

Year	Monetary cap on tax relief
2011 to 2017	£50,000
2018	£35,000 with allowances withdrawn at £1 for every £3 that **Taxable Income** exceeded £142,896
2019	£35,000 with allowances withdrawn at £1 for every £5 that **Taxable Income** exceeded £100,000

2.3 Carry Forward Provisions

2.3.1 Provisions for individuals not subject to the tapering of pensions tax relief

If an individual has made a **member contribution** to an **Approved Occupational Pension Scheme** but cannot take advantage of the full tax relief available to him in any year, he may carry forward the unused tax relief to a later year, for a maximum period of 6 years following the end of the relevant year of charge. Within that six year period, however, any **member contribution** made which exceeded the maximum relief available for that year alone, would absorb all, or part, of any brought forward relief, irrespective of whether or not it was required to reduce any tax payable.

The unused tax relief as a result of **member contributions** to an **Approved Occupational Pension Scheme** which are below the tax relief limit cannot be utilised by **member contributions** to a **Retirement Annuity Trust Scheme** or a **Retirement Annuity Scheme** unless the individual is also entitled to carry forward provisions in those schemes as a result of **member contributions** to those schemes which, when aggregated with the

Approved Occupational Pension Scheme member contributions, are less than the tax relief limit.

The tax relief limit for the purposes of the carry forward provisions is the limit that applied in the relevant past tax year.

The following example demonstrates the carry forward provisions.

An individual had a **Taxable Income** of £40,000 in 2017 and made **member contributions** to an **Approved Occupational Pension Scheme** of £2,000 in 2017. In 2017 the tax relief limit was 100% of Taxable Income subject to a monetary limit of £50,000. He therefore has £38,000 of potential tax relief available to carry forward to later years, to be utilised by **Approved Occupational Pension Scheme member contributions** by the end of 2023.

In 2018 he receives a (non-taxable) inheritance of £60,000 and invests it in his **Approved Occupational Pension Scheme**. His **Taxable Income** is again £40,000 but his tax relief limit on **member contributions** is now £35,000.

The calculation of his unused tax relief to carry forward to 2019 and later years is:

Brought forward	from 2017		£38,000
Year of Charge 2018 allowance			£35,000
		£73,000	
Member contributions made in 2018			(£60,000)
Available to carry forward		£13,000	

As the 2017 carry-forward has been fully utilised, £13,000 may be carried forward until the end of 2024. Note that the full amount of the **member contribution** must be taken into account for determining the amount carried forward even though the individual only required £40,000 (less any allowances) of tax relief to eliminate his tax liability for 2018.

In 2019 the individual's **Taxable Income** is again £40,000 and he makes an **Approved Occupational Pension Scheme member contribution** of £2,000. The previous £13,000 unused carry-forward remains available until 2024 and in addition, £33,000 of unused tax relief may be carried forward until 2025.

2.3.2 Provisions for individuals subject to the tapering of pensions tax relief

Where an individual is subject to tapering of pensions tax relief, the carry forward provisions set out above still apply but:

2. Contributions (continued)

- it is the contribution paid that is subject to the tapering. Therefore carry forward cannot be used to offset a reduction in the tax relief available in a given tax year due to tapering.
- from 2019 onwards, the tapering of allowances can mean that an individual loses their carry forward regardless of whether or not they make a pension contribution.

Please see **https://gov.gg/taxationfaq** for illustrative examples.

3. Retirement Benefits

3.1 Retirement Date

A member may retire at any time from age 50 with an immediate pension, or at an earlier age if due to **Incapacity**.

Where the **Director** has approved a scheme with a **Normal Retirement Age** below age 50, benefits may be taken from this agreed **Normal Retirement Age**. However, earlier retirement will not be permitted unless this is due to **Incapacity**.

A member may defer commencement of benefits beyond **Normal Retirement Date**. However, commencement of benefits may not be deferred beyond age 75.

3.2 Pension

On retirement:

- a **Defined Benefit** member may receive a pension calculated in accordance with the scheme rules
- a **Defined Contribution** member may receive a pension derived from the member's **Fund Value**.

Subject to these requirements, there are no limits on the amount of pension that can be provided.

If desired, the pension may be guaranteed for a period of up to 5 years.

3.3 Separate Lump Sum

A **Defined Benefit** scheme may provide a separate lump sum benefit up to the maximum set out in paragraph 5.2 in place of the option set out in that paragraph.

3.4 Continuing in Employment

A member may receive retirement benefits from his employer's scheme whilst continuing in employment with his employer and accruing further benefits in the scheme. The examples in Appendix 6 illustrate this flexibility.

4. Death Benefits

4.1 Death in Service Benefits (including Death in Deferment)

The following benefits may be provided:-

- For a **Defined Contribution** member:
    - a lump sum (tax free) of up to four times **Final Remuneration** at the date of death*; and
    - a refund (tax free) of the member's **Fund Value**; and
    - a pension payable to the member's **Dependants.** This pension will be taxable according to the recipient's personal circumstances.
- For a **Defined Benefit** member:
    - a lump sum (tax free) of up to four times **Final Remuneration** at the date of death*; and
    - a refund (tax free) of the member's contributions to the pension scheme accumulated with interest; and
    - a pension payable to the member's **Dependants** calculated in accordance with the scheme rules. This pension will be taxable according to the recipient's personal circumstances.

The four times **Final Remuneration** lump sum limit applies to the aggregate salary related lump sum provided by an employer through both their **Approved Occupational Pension Scheme** and any **Death in Service Scheme**.

***** On death in deferment, **Final Remuneration** may be increased from the member's date of leaving the scheme to the date of death in line with inflation (as measured by reference to any recognised cost of living index in Guernsey or the UK or in any other **Crown Dependency**).

4.2 Death after Retirement Benefits

The following benefits may be provided:-

- a pension payable to the member's **Dependants** with the aggregate of such pensions not exceeding 100% of the pension which would have been provided for the member had he not commuted any pension for a lump sum. This pension will be taxable according to the recipient's personal circumstances; plus
- where less than five years' pension has become payable to the member, a lump sum (tax free) equal to the value of the pension for the balance of the five year period or

continuation of the pension for the balance of the five year period (taxable according to the recipient’s personal circumstances).

4.3 Partial Retirements

Subject to the requirement to aggregate benefits in an Approved Occupational Pension Scheme and a Death in Service Scheme set out in section 4.1, the above limits apply to the benefits that may be provided by each **Approved Scheme**.

Where an individual has commenced benefits but continues to work for their employer and accrue further benefits in the same **Approved Scheme**, their fund from that scheme should be segregated into a "retired part" and an "un-retired part". On death the retired part should be used to provide benefits no greater than those permitted by section 4.2 and the un-retired part should be used to provide benefits no greater than those permitted by section 4.1.

5. Benefit Options

The following options may be offered to members:-

5.1 Full commutation

Where the **Fund Value** is trivial or the **Fund Value** in respect of a **Dependant**'s pension is trivial or retirement is due to **Serious Ill Health** the entire **Fund Value** may be paid as a lump sum.

5.1.1 Triviality before retirement benefits have commenced

The table below summarises when a fund value is trivial and the taxation of trivial lump sums before retirement benefits have commenced. The **Fund Value** should be assessed against the triviality limits on an individual Scheme basis. There is no longer a requirement to aggregate across all approved arrangements or to seek prior approval from the **Director** before making a trivial commutation payment under this section 5.1.1. However, tax should be remitted to the **Director** within 30 days of the commutation being paid.

Member's age	Fund Value ≤ £15,000	£15,000 < Fund Value ≤ £50,000
Below age 50	Taxed at the standard rate (currently 20%)	Trivial payment not permitted
Age 50 or more	Taxed at half the standard rate (currently 10%)	30% taxed as a retirement lump sum (ie tax free up to the aggregate monetary limit in section 5.2) and the balance taxable at the standard rate (currently 20%).
Notes	• It is the current **Fund Value** (ie no allowance made for a notional 30% retirement lump sum) that is tested against the £15,000 limit.	• It is the **Fund Value** after payment of a notional 30% retirement lump sum that is tested against the £50,000 triviality limit. • It is the current **Fund Value** (ie no allowance made for a notional 30% retirement lump sum) that is tested

		against the lower £15,000 limit.

5.1.2 Triviality after pension payments have commenced

Trivial commutation after pension payments have commenced and the trivial commutation of a **Dependant**’s pension on the death of a member are taxable at 20% and tax should be remitted to the **Director** within 30 days of the commutation being paid.

Pensions in payment can be trivially commuted if:

- the **Fund Value** is no more than £50,000; or
- the **Fund Value** exceeds £50,000 but is no more than £100,000 and the beneficiary has **Guaranteed Minimum Aggregate Retirement Income** for the remainder of his life of at least £20,000 pa.

The **Fund Value** should be assessed against the triviality limits on an individual Scheme basis. There is no requirement to aggregate across all approved arrangements.

There is no requirement to seek prior **Director** approval for a trivial commutation where the **Fund Value** is no more than £50,000. However, where the **Fund Value** exceeds £50,000 prior **Director** approval may be required, depending on the form of **Guaranteed Minimum Aggregate Retirement Income**. See the definition of **Guaranteed Minimum Aggregate Retirement Income** for further details.

5.2 Retirement lump sum

In circumstances other than those set out in paragraph 5.1 above, a member who has attained age 50 may commute up to 30% of his **Fund Value** for a lump sum.

Retirement lump sums in excess of a specific limit are subject to income tax. In assessing the taxable element of a lump sum, the retirement lump sum benefits (excluding **Serious Ill Health** lump sums, death in service lump sums, trivial commutation lump sums and lump sums paid in respect of overseas transfers in) paid since 1 January 1998 from all **Approved Occupational Pension Schemes**, **Retirement Annuity Schemes** (personal pensions) and **Retirement Annuity Trust Schemes,** must be aggregated. The maximum tax-free lump sum limit is reviewed annually. Details of the limits for recent years are provided below.

Year	Maximum tax-free lump sum £
2011	167,000
2012	173,000
2013	179,000
2014	183,000
2015	184,000
2016	188,000
2017	188,000
2018	194,000
2019	198,000
2020	203,000

Details of the current limit in force may be found at **www.gov.gg/taxationonpensions**

A retirement lump sum can be paid at the same time or before or after a member commences pension payments and a member may elect to receive his lump sum in any number of tranches, payable on, before or after the date the member's pension payments commence. However, retirement lump sums cannot be paid before age 50 unless the **Director** has approved a scheme with a **Normal Retirement Age** below age 50.

Where an individual is a member of both a **Defined Benefit** scheme and a **Defined Contribution** scheme sponsored by the same employer it is permissible, on the advice of an **Actuary**, to aggregate the benefits for the purpose of determining the maximum lump sum. This aggregate lump sum, or as much of it as is available, may be taken from the **Defined Contribution** scheme, if the scheme documentation permits this.

The examples in Appendix 6 illustrate this flexibility.

5.3 Variable Pensions

A member retiring before **States Pension Age** may choose to have his pension adjusted so that it is greater before **States Pension Age** and reduced thereafter.

6. Benefits on Withdrawal

6.1 Withdrawal from the Scheme

The benefit options which must be made available are dependent upon the period of a member's **Qualifying Service** are set out in sections 6.1.1 to 6.1.3. Members are not permitted to receive a refund of their employer's contributions other than as part of a triviality payment in accordance with section 5.1.1.

6.1.1 More than 5 years of Qualifying Service

If a member leaves a scheme with more than 5 years of **Qualifying Service** he has the right to choose one of the following options:-

- **Deferred Benefits**
- a refund of his own contributions (if any)
- a **Transfer Payment** into another **Approved Occupational Pension Scheme**
- a **Transfer Payment** into a **Retirement Annuity Scheme** or a **Retirement Annuity Trust Scheme**.

6.1.2 More than 2 years but less than 5 years of Qualifying Service

If a member leaves a scheme with more than 2 years but less than 5 years of **Qualifying Service** he has the right to choose one of the following options:-

- a refund of his own contributions (if any)
- a **Transfer Payment** into another **Approved Occupational Pension Scheme**
- a **Transfer Payment** into a **Retirement Annuity Scheme** or a **Retirement Annuity Trust Scheme**

A scheme may provide **Deferred Benefits** but there is no requirement to do so.

6.1.3 2 or less years of Qualifying Service

Any member leaving a scheme with 2 or less years of **Qualifying Service** must be entitled to a refund of his own contributions (if any). If the scheme permits **Transfer Payments** to other **Approved Occupational Pension Schemes** for members with 2 or less years of **Qualifying Service** it must allow transfers on similar terms to **Retirement Annuity Schemes** and **Retirement Annuity Trust Schemes**.

A scheme may provide **Deferred Benefits** but there is no requirement to do so.

6.2 Taxation of Refunds and Transfer Payments

Refunds of members' contributions are subject to a tax charge at half the basic rate (currently a tax charge of 10%) on the amount refunded to the member. For a **Defined Benefit** scheme, the refund may include reasonable interest on the member's contributions. For a **Defined Contribution** scheme, the refund may allow for the actual investment return earned on the member's contributions.

Transfer Payments may also be made to:

- pension schemes approved in the United Kingdom, Jersey, the Isle of Man and the Republic of Ireland and **Statutory Schemes**
- other pension schemes outside Guernsey which provide similar benefits (ie schemes which have the same early retirement and retirement lump sum restrictions as an **Approved Occupational Pension Scheme**)
- Guernsey schemes which are neither **Approved Occupational Pension Schemes** nor **Retirement Annuity Schemes** nor **Retirement Annuity Trust Schemes**.

Appendix 1 covers the tax implications of such transfers.

6.3 Time Limit

The legislation does not provide for any time limit within which a member should exercise their options on leaving the scheme. However the **Director** is prepared to allow a scheme to impose a "reasonable time limit" in its rules.

The **Director** has indicated that a time limit for a transfer application of 12 months from the date of leaving the scheme would be acceptable provided that the trustees of a scheme have some discretion to extend the time limit if necessary.

6.4 Transfer of pension benefits

A member may transfer his **Deferred Benefits** into another pension scheme (the "receiving scheme"). The receiving scheme may provide either **Defined Benefit** or **Defined Contribution** benefits in respect of the **Transfer Payment**.

It is also permissible for a pension in payment to be transferred. However, where a member transfers a pension from which he has already received a lump sum, the receiving scheme may not pay a further lump sum.

7. Pension Increases

Deferred pensions and pensions in payment may be increased by the greater of:-

- 5% per annum and
- the increase in inflation over the appropriate period as measured by reference to any recognised cost of living index in Guernsey or the UK or in any other **Crown Dependency**.

8. Additional Voluntary Contributions

8.1 Additional Voluntary Contributions (AVCs)

A member may pay additional voluntary contributions (AVCs) in order to provide additional benefits. The requirements relating to the payment of members' contributions are set out in paragraph 2.2.

8.2 Deferment of AVC Benefits

The **Director** will allow benefits arising from AVCs to be deferred beyond the date that main scheme benefits are taken, provided that the benefits are not deferred beyond age 75. Subject to scheme rules, it is permissible for benefits arising from AVCs to be paid before the main scheme benefits.

Appendix 1 Applications for and Consequences of Approval

Applications for Approval

Applications for approval should be made using form 681 and addressed to the Pension Schemes Supervisor (see Appendix 5). Scheme documentation does not need to be submitted with the application form but the **Director** may subsequently request additional information. Where a new employer adheres to a multi-employer scheme, the Trustees should inform the **Director** in writing.

Once an application for approval has been received it will be allocated a reference number which will be prefixed by the letter "R". This reference number should then be quoted on all further correspondence in connection with the scheme.

Any changes to the scheme documentation which affect or may affect continued approval must be advised to the **Director** within 30 days of implementation. The deed of amendment does not need to be submitted but a letter summarising the changes should be sent to the **Director**.

Any changes to the trustees or the correspondence address for the scheme must be notified to the **Director** within 30 days.

Under Section 155 of the Law the **Director** may revoke a scheme's approval under section 150 or vary any conditions attached to a scheme's approval.

Schemes Approved outside of Guernsey

Where a scheme has been established and approved by some other jurisdiction, for example in the United Kingdom or Jersey, it may still be possible to approve that scheme under section 150 of the Income Tax (Guernsey) Law, 1975 insofar as it relates to Guernsey members. It will, however, be necessary for it to comply with the conditions of section 150 and this may be done in two ways:

- by deed of amendment, introducing supplementary rules in respect of Guernsey members;
- by the trustees signing an undertaking, agreeing to comply with the conditions of section 150 and, in particular, to those relating to early leavers. See section 6.

It will be a condition of approval that the trustees agree to operate the Employees Tax Instalment Scheme and to remit the tax so deducted to the States of Guernsey when a pension in respect of Guernsey service comes into payment, unless covered by the provisions of a Double Taxation Agreement.

Tax consequences of schemes approved under section 150

Income derived from investments and deposits forming a part of the scheme will be exempt from Guernsey income tax.

Both employers' and employees' contributions will generally qualify for income tax relief. See paragraphs 2.1 and 2.2.

A refund of contributions to an employee will be subject to income tax at one half of the standard rate.

A refund of contributions or any other payment from the pension fund to an employer will be subject to income tax at the standard rate.

Lump sum payments which fall within the limits laid down by the States of Guernsey Revenue Service, excluding trivial commutations but including a lump sum of up to 4 times **Final Remuneration** and a refund of contributions plus interest following the death of a member, may be made free of tax. Retirement lump sums in excess of the tax-free limit taken in commutation of pension (see paragraph 5.2) are taxable at the standard rate.

Commutations of **Fund Values** which are trivial are taxed as set out in section 5.1.

Transfer Payments to other **Approved Occupational Pension Schemes** or to **Retirement Annuity Schemes** or **Retirement Annuity Trust Schemes** may be made without deduction of tax.

Transfer Payments made to:

- schemes outside of Guernsey, with the exception of certain schemes approved in the United Kingdom and **Statutory Schemes** (in both cases provided that the individual is resident in the UK), Jersey, the Isle of Man and the Republic of Ireland; or
- Guernsey schemes which are neither **Approved Occupational Pension Schemes** nor **Retirement Annuity Schemes** nor **Retirement Annuity Trust Schemes**

will be treated as a refund of contributions and subject to income tax at one half of the standard rate.

All pensions paid from an **Approved Scheme** are subject to Guernsey income tax unless payable gross under the terms of a Double Taxation Agreement with the pensioner's country of residence. The payer will normally be required to operate the Employees Tax Instalment Scheme

Pension scheme accounts

Pension scheme accounts do not need to be submitted to the **Director** but the **Director** retains the right to request a copy of the accounts. Unless trustees have been informed otherwise by the **Director,** there is no Revenue Service requirement for the accounts to be audited except where the provisions of Appendix 3 apply.

This appendix sets out the definitions of the terms which appear in bold type in these notes.

Actuary	A Fellow of the Institute and Faculty of Actuaries
Approved Occupational Pension Scheme	A pension scheme or part of a pension scheme approved by the **Director** in accordance with section 150 of the **Law** and any scheme authorised by Resolution of the States of Guernsey
Approved Scheme	A pension scheme or part of a pension scheme approved by the **Director** under section 150 of the **Law**.
Crown Dependency	Guernsey, Jersey or the Isle of Man
Death in Service Scheme	A scheme providing benefits in accordance with paragraph 4.1 of these Practice Notes.
Dependant	The following are all dependants of a member: 1) An individual who was married to or a civil partner of the member at the date of the member's death or, if the scheme rules so provide, on the date when the member first became entitled to a pension under the scheme. 2) An individual who, in the opinion of the trustees, was at the date of the member's death: • financially dependent on the member; or • dependent on the member because of a physical or mental impairment; or • in a mutually dependent financial relationship with the member. 3) A child of the member (including a legally adopted child) is a dependant provided that the child: • has not reached age 23; or • has reached age 23 and, in the opinion of the trustees, was at the date of the member's death dependent on the member because of physical or mental impairment; or • has reached age 23 but has not reached age 26 and remains in full time education or vocational training

Deferred Benefits

Benefits payable at a later date which are of the same type as the benefits payable under the scheme in respect of a member who retires at his **Normal Retirement Age**, and which are no less in value than whichever is greater of:-

- the benefits which would be payable under the scheme to the person concerned if he retired at his **Normal Retirement Age** having been a member of the scheme for the length of time, and in all the circumstances, that he has in fact been a member of the scheme; or
- the benefits which could be provided by investment of his contributions (if any) between the date when he ceases to be a member of the scheme and the date when he reaches his **Normal Retirement Age**.

Defined Benefit

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

A scheme which determines the individual member's benefits by reference to contributions paid into the scheme in respect of that member, usually increased by an amount based on the investment return on those contributions.

Director

The Director of the Revenue Service referred to in section 205 of the **Law**.

Final Remuneration

The greatest of:-

(i) the highest annual remuneration for any year during the last five years of service with the employer, and

(ii) the highest basic remuneration for any year during the last five years of such service plus the average of any fluctuating emoluments for any two or more years during the said five years, and

(iii) the average of total remuneration for any three or more consecutive years during the last ten years of such service

Whenever final remuneration is that of a year other than the 12 months ending with the relevant date, or is an average of the three or more years' remuneration, each year's remuneration may be increased in line with the increase in the Guernsey Index of Retail Prices from the end of the year to the relevant date.

Full-time working director/employee of a trading company

A director or employee who devotes more than 30 hours each week to his directorship or employment with a company carrying on business of which the income is chargeable under Class 1 of Section 2 of the **Law**.

Fund Value

For a **Defined Contribution** scheme, the member's accumulated fund, including contributions and investment returns.

For a **Defined Benefit** scheme, the value placed on the member's (including any contingent spouse's) benefits (before any commutation option is exercised), as calculated by an **Actuary**.

Guaranteed Minimum Aggregate Retirement Income

Gross retirement income of at least £20,000 pa.

Gross retirement income can include:

(i) Defined Benefit pension scheme pension income in payment;

(ii) Annuity income in payment for life from an insurance company;

(iii) State old age pension income in payment for life from any country; and

(iv) Other income subject to prior Director approval

Where **Guaranteed Minimum Aggregate Retirement Income** is met from a combination of (i) to (iii), prior **Director** approval is not required but trustees should seek sufficient evidence from the member to satisfy themselves of the member's income.

GFSC Pension Rules

The Pension Licensees (Conduct of Business) & Domestic and International Pension Scheme and Gratuity Scheme Rules (No. 2) 2017 made by the Guernsey Financial Services Commission, as amended from time to time.

Incapacity

Physical or mental deterioration which prevents an individual from following his or her normal employment, or which seriously impairs earning capacity.

Law	The Income Tax (Guernsey) Law, 1975, as amended.
Normal Retirement Age	The age at which the rules of the scheme concerned entitle that person to immediate benefits on his retirement, irrespective of his state of health. Normal retirement age may differ between categories of member and may be any age within the range 50 to 75. In certain circumstances the **Director** may allow a lower normal retirement age.
Normal Retirement Date	The date on which a member attains **Normal Retirement Age**.
Member contribution	For the purposes of section 36 of the Law, money placed in to the member's pension, must be of a monetary amount (i.e. cash, cheque, debit/credit card, standing order, direct debit or bank transfer). The payment must actually be paid to the scheme by the member. For the purposes of sections 157(A)(10) and 151(1) of the Law, a transfer of funds from another pension scheme is not treated as a contribution or premium paid by or on behalf of the member and cannot be utilised for the carry forward provisions. If a member pays a contribution into the scheme and all or part of the contribution consists of funds withdrawn from any **Approved Occupational Pension Scheme, Retirement Annuity Scheme** or **Retirement Annuity Trust Scheme**, then tax relief will not apply to the amount of the contribution that has been withdrawn from the **Approved Occupational Pension Scheme, Retirement Annuity Scheme** or **Retirement Annuity Trust Scheme**. In-specie contributions (i.e. transferring the ownership of an asset) are not allowable for the purposes of claiming tax relief or utilising the carry forward provisions.
Ordinary Contribution	A periodic contribution fixed in amount or calculated on some definite basis by reference to the earnings or contributions of the members of the scheme, or to the number of such members, or in the case of a body corporate, a periodic contribution consisting of a share of the profits arising to that body from the business in connection with which the scheme is established and computed according to a formula approved by the **Director**.

	Ordinary contributions should normally be on a consistent basis of calculation for all members of the scheme. However different contribution structures can be applied with the agreement of the trustees on the advice of the **Actuary** where appropriate.
Proprietary Director	A director of a company who is either the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control more than fifteen per cent of the ordinary share capital of the company.
Proprietary Employee	In relation to a company, an employee who is the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control more than fifteen per cent of the ordinary share capital of the company.
Qualifying Service	In relation to a member of an occupational pension scheme, means the aggregate of any period during which the person concerned has in fact been a member of:- • that scheme; or • any other scheme in respect of which a **Transfer Payment** has been received by that scheme in relation to the person concerned.
Relevant Earnings	As defined at section 157A(9)(a) of the **Law**
Retirement Annuity Scheme	means a scheme approved under section 157A(2) of the **Law**
Retirement Annuity Trust Scheme	means a scheme approved under section 157A(4) of the **Law**
Serious Ill Health	A member will be deemed to be in serious ill-health if the scheme's trustees have received evidence from a registered medical practitioner that the life expectancy of the member is less than a year.
States Pension Age	Age 65 for those born before 1 January 1955 gradually increasing to age 70 for those born on or after 1 March 1979, as amended from time to time by States Ordinance.
Statutory Scheme	A scheme as defined in section 612(1) of the UK Income and Corporation Taxes Act 1988

Taxable Income

Income of the member in respect of which tax is chargeable and arising or accruing in the year of computation. No account is taken of deductions or allowances.

Transfer Payment

For a **Defined Contribution** scheme, a payment equal to the member's **Fund Value**, at the time when the payment is made. Reasonable administration expenses may be deducted from the **Fund Value**.

For a **Defined Benefit** scheme, a payment equal to the value at the time when the transfer payment is made, as determined by an **Actuary** or a person holding other actuarial qualifications approved by the **Director**, of:

(i) the **Deferred Benefits** which the person concerned is entitled to choose under the scheme concerned, or

(ii) in cases where the person concerned is not entitled, under the scheme concerned, to choose **Deferred Benefits**, the deferred benefits which he could have chosen had he been so entitled

For a pension in payment, a payment equal to the value at the time when the transfer payment is made, as determined by an **Actuary** or a person holding other actuarial qualifications approved by the **Director**, of the benefits payable.

Appendix 3 Proprietary Directors and Proprietary Employees

This appendix sets out the conditions which will normally be imposed on an **Approved Scheme** if **Proprietary Directors** or **Proprietary Employees** are to be admitted to membership. However, an application must be made to the **Director**, before they can be admitted, in order to confirm the additional conditions which have to be met for a particular scheme.

Trustees

- The scheme must have an independent trustee who is acceptable to the **Director**. The independent trustee cannot be removed from office without the permission of the **Director**.
- Trustees cannot undertake transactions in relation to the scheme with related parties except on an "arm's length" basis.
- The assets of the scheme must not be used for the personal benefit or enjoyment of the trustees or scheme members.

Membership

- Only a **full time working director/employee of a trading company** may be included. A director or employee who devoted at least 30 hours per week to the company would be considered full time.

Funding and Accounts

- Annual accounts must be prepared by a qualified accountant and filed within six months of the end of the scheme year.
- Employee contributions may be paid in accordance with paragraphs 2.2 and 2.3 of these Practice Notes.
- Employer contributions may be paid in accordance with paragraph 2.1 of these Practice Notes. Employer contributions in excess of 25% of **Relevant Earnings** will be taxable as a benefit in kind of the employee unless prior approval has been granted by the **Director.**

Insured schemes

The **Director** may allow some of the above requirements to be relaxed if the scheme is to be established using an insurance company.

This appendix summarises the extra statutory concessions relating to pensions which the **Director** may be prepared to allow in certain circumstances.

Divorce

When a husband and wife separate the **Director** may be prepared to allow a transfer of part of the pension rights of one of the parties from an **Approved Scheme** to another **Approved Occupational Pension Scheme**, **Retirement Annuity Scheme or Retirement Annuity Trust Scheme**. Each case would however need to be submitted to the **Director** for individual consideration and subject to agreement with the scheme trustees.

States of Guernsey
Revenue Service

Application for Approval under the Income Tax (Guernsey) Law, 1975, as amended ("the Law")

1. I/we hereby apply for approval under: *(delete as appropriate)*

   (a) section 150(2) of the Law (Occupational Schemes)
   (b) section 157A(2) of the Law (Retirement Annuity Contracts)
   (c) section 157A(4) of the Law (Retirement Annuity Trust Schemes)
   (d) section 154(A) of the Law (a superannuation fund to which section 40(o) applies)
   (e) section 154(A) of the Law (a RAT/RAC to which section 40(ee) applies)
   (f) section 154(A) of the Law (such other fund, contract scheme or trust exempt under section 40)

2. Name of Scheme/Contract ....

3. Names of the Relevant Person (as defined in the Income Tax Law) ....

4. Name of sponsoring employer (if applicable) ....

5. Details of any associated Guernsey approved schemes for employer named at 4. above ....

6. Address for correspondence ....
   ....
   ....

7. Date of establishment of Scheme/Contract/Fund ....

8. Anticipated approximate size of membership ....

9. Is the Scheme/Contract/Fund Licenced and Regulated by the Guernsey Financial Services Commission? Yes ☐ NO ☐

10. I/we confirm that:
    (a) a copy of the Instrument establishing the Scheme/Contract/Fund is available to the Director of the Revenue Service on request (see Note 2 on next page);

    (b) any changes to the Scheme, Deed, Rules or Contract of a material nature will be advised to the Director within 30 days of implementation (see Note 4 below);

(c) any changes to the Trustees or Relevant Person or the correspondence address will be notified to the Director within 30 days;

(d) the Trustees/Administrators/Relevant Person:
- (i) are satisfied that the Scheme, Deed, Rules or Contract satisfies all of the conditions of the legislation under which approval is sought;
- (ii) are aware of and have read the Practice/Guidance Notes/Codes of Practice published by the Director in respect of such arrangements (see Note 5 below);
- (iii) undertake to ensure that the Scheme, Deed, Rules or Contract is administered so as to adhere to the relevant legislation, notes, guidance or codes, or to advise the Director immediately if this ceases to be the case;
- (iv) undertake to supply the Director with such further information as the Director may reasonably require.

11. **Declaration**

I hereby declare that the information provided in this application is true and correct to the best of my knowledge and belief. I have taken professional advice in completing the application, as appropriate.

I am authorised to make the declaration above on behalf of the Trustees/Scheme Administrator/Relevant Person.

Signed ....

Date ....

Capacity in which you are making the application (if not Trustee/Scheme Administrator/Relevant Person) ....

NOTES ON APPLICATION FOR APPROVAL

1. When completed, the application should be submitted to the Revenue Service at PO Box 37, St Peter Port, Guernsey, GY1 3AZ.
2. Do NOT send Scheme or Contract documentation unless requested. For Retirement Annuity Trust Schemes, the document establishing the Scheme should be submitted if the trustees are not regulated by the GFSC.
3. A letter confirming approval will be sent as soon as possible after receipt of the application, which will contain the approval reference number.
4. A change to a Scheme, Deed, Rules or Contract will be regarded as material if it affects, or may affect, continued approval. There is no specific form for advising such changes.
5. All legislation, notes and codes are available at **www.gov.gg/taxationonpensions**
6. The application should only be signed by a person authorised and able to provide the information and undertakings requested. This will obviously include the Trustees, Administrators or Relevant Person, but may also include a person holding a legal, actuarial or accountancy qualification.

Fair Processing Notice: The information you have provided on this form is required under the Income Tax (Guernsey) Law, 1975 for the purposes of the assessment and collection of income tax. This information will be processed in line with the Data Protection (Bailiwick of Guernsey) Law, 2017. For full details of our Fair Processing Notice and how we look after your data please visit: **https://www.gov.gg/revenueservice**. If you don't have access to the internet please contact us and a paper copy will be provided.

The examples in this appendix illustrate how the lump sum calculation and payment in tranches could work in practice. Alternative methods are also valid provided the benefits paid do not exceed the limits defined in these Practice Notes.

Defined Contribution Scheme

A member aged 50 has a **Fund Value** of £100,000 on 1 January 2018. He would like to receive a lump sum of £10,000 on 1 January 2018 but does not wish to commence pension payments on this date.

On 1 January the administrator calculates the minimum fund that needs to be "retired" to provide the lump sum. This is derived as

$$\frac{£10,000}{30\%} = £33,333$$

After payment of the lump sum the member's fund has two segments:

- A "Retired Segment" of £23,333 [£33,333 - £10,000] which must be used to provide an annuity either immediately or at a future date
- An "Unretired Segment" of £66,667 [£100,000 - £33,333] which can be "retired" (with up to 30% commuted) at a future date

Suppose the member:

- Pays additional contributions over 2018 which total £15,000
- Receives an investment return of 5% over 2018 on the funds invested at 1 January 2018
- Receives an investment return of 3% on the contributions paid over 2018.

The position at 1 January 2019 is that the member will have:

- £24,500 remaining in his Retired Segment [£23,333 x (1+5%)]
- £85,450 in his Unretired Segment [£66,667 x (1+5%) + £15,000 x (1+3%)]

Defined Benefit Scheme

An active member aged 50 has an accrued pension of £11,000 pa payable from age 65. If he wishes to receive a lump sum he would need to "retire" part of his accrued pension and this pension would lose its link to the member's salary.

Scheme Factors:

- Early retirement reduction at age 50 = 40%

- Commutation Factor at age 50 = 19:1
- Actuarial Factor for **Fund Value** = 22:1

If the member opts to retire £5,000 then:

- Pension payable from age 50 = £3,000 pa [£5,000 x (100% - 40%)]
- Maximum lump sum = £19,800 [£3,000 x 22 x 30%]. This could be taken as one lump sum or in a number of tranches (up to a cumulative maximum of £19,800) on, before or after the date that his post-commutation pension payments commence.

The member would be entitled to a post-commutation pension of £1,958 pa [£3,000 - £19,800/19] payable immediately. However, if the member does not wish to receive an immediate pension then this would be actuarially increased until the member chooses to commence payment.

The residual £6,000 pa "unretired" pension would continue to be linked to the member's salary and in addition the member could accrue further service which is also linked to his salary.

Defined Contribution and Defined Benefit Scheme

Where an individual is a member of both a **Defined Benefit** scheme and a **Defined Contribution** scheme sponsored by the same employer it is permissible, on the advice of an **Actuary**, to aggregate the benefits for the purpose of determining the maximum lump sum. This aggregate lump sum, or as much of it as is available, may be taken from the **Defined Contribution** scheme, if the scheme documentation permits this.

Suppose a member has:

- **Defined Contribution Fund Value** = £100,000
- **Defined Benefit** accrued pension = £11,000 pa
- **Defined Benefit** Actuarial Factor for **Fund Value** = 22:1

For the purposes of determining the aggregate maximum lump sum, the limits in this edition of the Practice Notes must be applied, regardless of whether the scheme has adopted this regime.

Aggregate Maximum Lump Sum
= 30% x [**Defined Contribution Fund Value** + **Defined Benefit Fund Value]**
= 30% x [£100,000 + 22 x £11,000]
= £102,600

The entire **Defined Contribution Fund Value** could be commuted, leaving a £2,600 lump sum to be taken from the **Defined Benefit** scheme. Note that the maximum lump sum which could be taken from the **Defined Benefit** scheme will be restricted by the edition of the Practice Notes that the scheme has chosen to adopt (see paragraph 1.1.1).