States of Guernsey
Revenue Service

Guernsey Practice Notes

Requirements for Approved Retirement Annuity Trust Schemes and Approved Retirement Annuity Schemes

October 2024

The Revenue Service is grateful for the assistance of the BWCI Group and the Guernsey Association of Pension Providers in preparing and reviewing 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. Trustees should also refer to the **Law**, and the trust deed governing the rules of the scheme. The Revenue Service is not able to provide guidance to trustees and if required appropriate independent advice should be sought. Any enquiries regarding matters which are not detailed in the **Law** or Practice Notes may be addressed to the Senior Inspector (Pensions), States of Guernsey Revenue Service, PO Box 37, St Peter Port, GY1 3AZ or by e-mailing **rspensions@gov.gg**

1. Introduction

1.1 Introduction

These notes set out the contributions which may normally be paid to and the benefits which may normally be provided by retirement annuity schemes and retirement annuity trust schemes seeking approval under section 157A of the **Law**. The Director of the Revenue Service may be prepared to allow other benefits or may require additional conditions of approval in special circumstances.

The notes produced by the **Director** regarding the procedure for applications for approval, together with a summary of the consequences of approval under section 157A, are set out in Appendix 1.

1.2 Application of these Practice Notes

These Practice Notes apply in full to **Retirement Annuity Trust Schemes**.

Sections 2, 5.3, 6.3 and 9 and Appendix 4 of these Practice Notes do not apply to contracts written under **Retirement Annuity Schemes** but the remaining sections apply in full to such schemes and contracts.

If the Scheme is being used as an **Approbated Pension Scheme** as defined in The Secondary Pensions (Guernsey and Alderney) Law, 2022 then further requirements will apply to contributions and benefits to those outlined in these notes. Please refer to **www.gov.gg/Secondary-Pensions** for further information.

There may also be further limitations in the scheme rules which should be considered in conjunction with these notes.

1.3 Definitions

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

2. Trustees and Advisers

2.1 Appointment of Trustee

There should usually be at least two Guernsey resident trustees, although a Guernsey resident corporate trustee which must be regulated as a pension provider by the GFSC, may act alone. Unregulated corporate trustees appointed prior to 1 October 2024 may continue to act alone as trustee to that pension scheme. A corporate trustee should not have the member as sole director or sole shareholder of that corporate trustee.

Members of **Retirement Annuity Trust Schemes** may not be trustees of the scheme, nor may any relative of the member or his or her spouse. For these purposes "relative" means a person related to the member by either blood or marriage. Members appointed as trustees prior to 1 October 2024, may continue to act as trustee to that pension scheme.

Any changes to the trustees must be notified to the **Director** within 30 days of such change.

2.2 Conditions of Approval

The trustees should ensure that they have read the relevant sections of The Trusts (Guernsey) Law, 2007 and appreciate their responsibilities thereunder. For example, they may wish to take independent professional advice as to the implication of their investment strategy on future cash flow for making annuity payments and, indeed, for the continuing security of such annuity payments.

Also, accounts must be prepared and lodged with the Revenue Service annually.

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**.

Adherence to these Practice Notes is a condition of approval and such approval will not be granted until the trustees have confirmed such adherence by completing a Trustee Confirmation Form (see Appendix 4) and returning it to the **Director**.

Any subsequent changes to the trust deed and rules must be notified to the **Director** as detailed in Appendix 1.

3. Membership

3.1 Membership

Membership of an **Approved Scheme** may be made available either to a single individual or group of individuals or may be made available without limitation.

Every member of an **Approved Scheme** must be made aware of the terms of the scheme.

3.2 Approval of Members

Each member to be admitted to the scheme must also be approved and this is usually done by submission of Form RAMC (see Appendix 5) at the time of joining. However, where the scheme is an employer-sponsored arrangement, Form RAMC does not need to be submitted.

4. Contributions

4.1 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 to 100% of **Income,** subject to a monetary cap of between £2,500 and £35,000, will be allowable as a deduction for tax purposes. The application of this tax relief limit to **member contributions** made by a married couple to **Approved Schemes** before 31 December 2022 is explained in Statement of Practice M48.

The standard monetary cap on tax relieved **member contributions** is £35,000 for the 2024 tax year. However, individuals with **Income** which exceeds £80,000 have various tax allowances and deductions withdrawn gradually at a rate of £1 for every £5 that the individual's **Income** exceeds £80,000. 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 £2,500. Please see **https://gov.gg/wopa** for an illustrative example.

The **Law** does not prohibit the payment of **member contributions** in excess of the tax relieved cap but no tax relief will be granted for **member contributions** in any year in excess of the lower of 100% of **Income** and the monetary limit of between £2,500 and £35,000. This tax relieved limit applies to the overall **member contributions** to all **Approved Schemes** and **Approved Occupational Pension Schemes**.

The monetary cap of between £2,500 and £35,000 is current as at 2024 but may be reviewed for subsequent years. The table below summarises the monetary cap/minimum of tax relief for prior years:

Year	Monetary cap on tax relief	Minimum tax relief
2011 to 2017	£50,000	N/A
2018	£35,000 with allowances withdrawn at £1 for every £3 that **Income** exceeded £142,896	£1,000
2019 to 2022	£35,000 with allowances withdrawn at £1 for every £5 that **Income** exceeded £100,000	£1,000
2023	£35,000 with allowances withdrawn at £1 for every £5 that **Income** exceeded £90,000	£1,000
2024	£35,000 with allowances withdrawn at £1 for every £5 that **Income** exceeded £80,000	£2,500

4.2 Carry Forward Provisions

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

If an individual has made a **member contribution** to a **Retirement Annuity Scheme** or a **Retirement Annuity Trust 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 a **Retirement Annuity Scheme** or a **Retirement Annuity Trust Scheme** which are below the tax relief limit cannot be utilised by **member contributions** to an **Approved Occupational Pension Scheme** unless the individual is also entitled to carry forward provisions in that scheme as a result of **member contributions** to that scheme which, when aggregated with the **Retirement Annuity Scheme** and **Retirement Annuity Trust 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 an **Income** of £40,000 in 2017 and made **member contributions** to a **Retirement Annuity Trust Scheme** of £2,000 in 2017. In 2017 the tax relief limit was 100% of 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 **Retirement Annuity Trust Scheme** or **Retirement Annuity Scheme member contributions** by the end of 2023.

In 2018 he receives a (non-taxable) inheritance of £60,000 and invests it in his **Retirement Annuity Trust Scheme**. His **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 **Income** is again £40,000 and he makes a **Retirement Annuity Trust 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.

4.2.2 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:

- 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/wopa** for illustrative examples.

4.3 Contributions by Employers

An employer of a member is permitted to contribute to the scheme if it wishes to do so. 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.

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.

Employers' contributions are normally exempt from taxation as a benefit in kind for the member and do not count towards the member's tax relief limit described in section 4.1. However:

- in the case of a **Proprietary Director** or a **Proprietary Employee** any employer contributions in excess of 25% of **Relevant Earnings** would be taxable as a benefit in kind
- the **Proprietary Director** or **Proprietary Employee** is unable to claim the amount of benefit in kind on which they have been taxed as contributions to their pension scheme as these are not contributions paid by the individual themselves.
- 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

Where the employer contributes to the scheme it may (but is not required to) operate net pay arrangements through the ETI scheme in the same way as for an occupational pension scheme.

4.4 Flexible Retirement

Contributions can continue to be made to a scheme until the whole fund has been "retired" ie until either:

- the maximum permitted lump sum has been received; or
- the whole fund (less any lump sum) has been assigned to provide retirement income

5. Benefits

5.1 Commencement of Benefits

A member may elect to commence benefits at any time from age 50, or at an earlier age if due to **Incapacity** or where the **Director** has agreed an earlier age due to the individual's occupation.

However, commencement of benefits may not be deferred beyond age 75. As there is flexibility over the terms and conditions of pension payments, in practice this means that the first pension payment must be made before the individual reaches age 76, otherwise, at the point the first pension payment is made, it may be considered an **Unauthorised Payment**.

Section 8.2 provides further flexibility in respect of certain transferred-in funds.

5.2 Benefits

Subject to the options available under sections 7 and 8.2, benefits must be taken in pension form. It is not, however, necessary to purchase an annuity from an insurance company and the annuity may be paid out of the fund itself. If desired, the annuity may be guaranteed for a period of up to 10 years.

A quotation should be obtained either from an **Actuary** or from a recognised insurance company. In obtaining such a quotation, the annuity may allow for no increases or for annual increases of a fixed rate of up to 5% per annum, or in line with inflation as measured by any recognised index in Guernsey or the UK or in any other **Crown Dependency**. A contingent spouse's annuity not greater than the annuity may be provided for if required by the member. The quotation may take account of any reduced expectation of life for a member in poor health, but it is not compulsory to do so. The level of income drawdown should not normally exceed the quotation obtained. It should not normally be the intention to pay a low rate of annuity so as to leave a substantial fund for a member's beneficiaries on his death (however, see 6.3 below).

Alternatively, it is acceptable to determine the amount of the annuity payment by reference to the drawdown tables published by the UK Government Actuary's Department (GAD). If this approach is adopted, the annuity payable should be within the range 100% to 150% of GAD basis or from 1 January 2024:

Up to age 75 0% to 150% of the GAD basis amount

From age 75 55% to 150% of the GAD basis amount

Prior to the 2024 tax year the annuity payable should be within the range 100-150% of the GAD basis where drawdown has commenced at any age from age 50.

No alternative percentage outside of the ranges shown above are allowable unless prior agreement for an alternative percentage has been obtained from the **Director** due to exceptional circumstances.

The terms and conditions of such annuity payments may be reviewed at appropriate intervals.

The trustees will be required to deduct tax in accordance with the ETI scheme upon any annuity payments made and must notify the **Director**, including the New Employer/Pension Provider Registration form before the first pension payment is made.

A lump sum, part of which may be tax free, may also be taken (see section 7). The annuity does not need to commence when the lump sum is taken but may not be deferred beyond age 75.

5.3 Risk Disclosure

There is a risk that in basing an annuity on a quotation, which in turn utilises an “average expectation of life” assumption, there will be a substantial proportion of annuitants (and contingent annuitants) who outlive the available funds in a retirement annuity trust scheme. Thus the trustees must warn the parties concerned of this danger. Furthermore, if the annuity payment has been determined by reference to the GAD drawdown tables and a percentage greater than 100% of the basis amount has been used then the parties concerned should be made aware that this increases the probability that they will outlive the available funds.

6. Death Benefits

6.1 Death before Commencement of Benefits[1]

The following benefits may be provided from the member's **Fund Value** together with the proceeds of any insurance policies:-

(i) a lump sum (tax free); and

(ii) an annuity payable to the member's **Dependants**. This annuity will be taxable according to the recipient's personal circumstances

6.2 Death after Commencement of Benefits

An annuity payable to the member's **Dependants** with the aggregate of such pensions not exceeding 100% of the pension which could have been provided for the member had he not commuted any annuity for a lump sum may be provided.

Alternatively, it is acceptable to wind up a **Retirement Annuity Trust Scheme,** or the member's share of the **Retirement Annuity Trust Scheme**, in accordance with section 6.3.

6.3 Termination of Scheme

If there is a fund left after all annuitants' entitlements have been met this may be distributed as required by the Deed, or at the discretion of the trustees. However, it should be noted that if distributions are made other than in the form of an annuity under the scheme, an income tax charge will arise at the **Individual Standard Rate** on the remaining funds held within the scheme, unless a Double Taxation Arrangement provides otherwise, please see **www.gov.gg/dta** for details.

Where amounts are paid in the form of an annuity the payments will be taxable according to the personal circumstances of the recipient.

[1] Benefits are deemed to commence when a retirement lump sum is taken or pension income begins. However, funds can be segmented (see Appendix 7).

7. Lump Sums

7.1 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.

7.1.1 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 7.1.1. However, tax must 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 **Individual Standard Rate**	Trivial payment not permitted
Age 50 or more	Taxed at one half the **Individual Standard Rate**	30% taxed as a retirement lump sum (ie tax free up to the aggregate monetary limit in section 7.2) and the balance taxable at the **Individual Standard Rate**.
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** <u>after</u> 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.

7.1.2 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 the **Individual Standard Rate** and tax must 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.

7. Lump Sums (continued)

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.

Any sums drawn from pensions (except the tax-free lump sum) are included in a person's income for determining whether the threshold at which tax allowances and withdrawable deductions will be withdrawn. Therefore one-off payments, such as the commutation of a pension fund for example, may tip individuals into being high earners for that year. More information can be found at **www.gov.gg/wopa**.

7.2 Retirement Lump Sum

In circumstances other than those set out in paragraph 7.1 above, a member who has attained age 50 may commute up to 30% of his **Fund Value** for a lump sum. In addition, section 8.2 permits greater lump sums in respect of certain transferred-in funds. However, tax is payable to the extent that the lump sum exceeds 30% of the **Fund Value** unless the member is in **Serious Ill Health**.

Retirement lump sums in excess of a specific limit are subject to income tax. In assessing the taxable element of a lump sum, the lump sum benefits (excluding **Serious Ill Health** lump sums, trivial commutation lump sums and lump sums paid in respect of overseas transfers in) paid since 1 January 1998 from all **Approved Schemes** and **Approved Occupational Pension 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 onwards	£203,000

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

7. Lump Sums (continued)

A lump sum can be paid at the same time or before or after a member commences annuity payments and a member may elect to receive his lump sum in any number of tranches, payments must be made before the individual reaches age 76, otherwise, at the point the first payment is made, it may be considered an **Unauthorised Payment.**

The example in Appendix 7 illustrates this flexibility.

8. Transfers of Benefits

8.1 Outward Transfers of Benefits

Transfer Payments may be made to:

1) another **Approved Scheme** or an **Approved Occupational Pension Scheme** or a **Statutory Scheme**.
2) a pension scheme approved in the United Kingdom, Jersey, the Isle of Man or the Republic of Ireland.
3) 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 Scheme**).
4) Guernsey schemes which are neither **Approved Schemes** nor **Approved Occupational Pension Schemes**.

Where an **Outward Transfer** is made to a scheme defined in 1 to 4, prior approval is not required from the **Director,** before the transfer payment is made. **Transfer Payments** not defined above are not permitted.

Appendix 1 covers the tax implications of **Outward Transfers** 1 to 4.

In addition, section 8.2 permits further **Outward Transfers** in respect of certain transferred-in funds.

8.2 Inward Transfers of Benefits

Inward Transfers of benefits may be made from the arrangements listed in section 8.1 above. Regard should also be had to the relevant legislation regarding pension transfers in the transferring territory.

Where benefits have directly or indirectly been transferred to the scheme from an overseas pension scheme listed in section 8.1 above, the transferred-in funds (to the extent that they are separately identifiable) may be used, paid, transferred or expended in any manner or for any purpose allowed by the relevant provisions of the laws of the place in which the overseas pension scheme was situated.

Where benefits have directly or indirectly been transferred in from a Guernsey scheme recognised under section 40(o) of the **Law**, the transferred-in funds (to the extent that they are separately identifiable) may be used, paid, transferred or expended in any manner or for any purpose allowed by the rules of the section 40(o) scheme.

9. Accounts and Investment of the Funds

9.1 Accounts

The **Director** will require accounts annually, the filing deadline being 30 November of the year following the end of the accounting period, i.e. accounts for the year ended 31 December 2024 must be submitted by 30 November 2025, or such alternative date the **Director** may specify on the **www.gov.gg/revenue-service** website. Financial penalties may be imposed on the trustees for failure to submit accounts by the due date.

9.2 Investment of the Funds

The investment(s) selected for the **Retirement Annuity Trust Scheme** should have regard to the cashflow requirements needed to make the annuity payments.

The following are suitable investments for **Retirement Annuity Trust Schemes**:

1. Equity investment in any company quoted on a recognised stock exchange.

2. Equity investment in companies not quoted on a recognised stock exchange. Where any member of the scheme holds, together with relatives or any other member, more than 15% of the issued share capital of the company, not more than 10% of the total fund shall be invested in the company.

3. Any other investment marketed by a generally recognised financial institution.

4. Loans to members may be made by the Trustees, provided that:

   (a) The total amount advanced at any time does not exceed 30% of the **Fund Value**.

   If the Fund Value drops after the loan is advanced and the loan exceeds 30% of the Fund Value steps should be taken to ensure it does not exceed the prescribed limit. As a minimum, the loan position should be considered at the time the annual accounts are prepared. If the loan exceeds 30% of the Fund Value, a note should be included with the submission of the accounts to the Revenue Service outlining the steps being taken to rectify the position.

   (b) Interest is charged on a commercial basis. Such interest must actually be paid by the member at least annually and, for these purposes, “commercial basis” means interest should be charged on the loan at a rate no lower than that obtainable on a similar amount deposited with, and no higher than that payable on a similar amount borrowed from, a financial institution.

   (c) The Trustees should ensure that they hold sufficient security for the loan, to enable them to enforce repayment at any time.

   (d) The loan must be repaid before benefits commence to be paid in respect of the member for whom the loan was made.

   Loans may not be advanced to any parties connected to the member. A company would be considered **Connected To** the member, if the member is a director or shareholder of that company.

5. Purchase of freehold property let on a commercial basis. This may include property occupied by a member, their relatives or connected companies, provided that a properly valued commercial rent is paid. Property must be wholly owned by the Trustees; part ownership is not permitted. Long leaseholds of at least 50 years let on a commercial basis may also be considered where the trustees expect the capital value to appreciate. It is expected that trustees will take relevant steps to maintain the capital value, such as extending the lease, etc.

Investment in any asset not listed above is only permitted with the prior consent of the **Director**. Investing in any form of crypto assets is prohibited.

9.3 Gearing

The trustees should not borrow money for the purposes of additional investment (i.e. “gearing”) except in the case of investment into real property. However, borrowings that were entered into before July 2011 may continue.

Appendix 1 Applications for and Consequences of Approval

Applications for Approval of Scheme

Applications for approval should be made using form 681 and addressed to the Senior Inspector (Pensions) (see Appendix 6).

The **Director** is unable to provide a pro-forma trust deed, nor able to offer advice on the wording or composition of this, and it is strongly recommended that professional advice is obtained before executing a trust deed. It would be usual for the trust deed to contain, possibly as an appendix, the Rules of the scheme, confirming that it will conform to the requirements of the **Law**.

Where the Trustees are regulated by the GFSC, scheme documentation does not need to be submitted with the application form, although the **Director** may subsequently request additional information. Where the Trustees are not regulated by the GFSC, the **Director** will expect to see a properly executed trust deed.

Once an application for approval has been received it will be allocated a reference number. 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 must be notified to the **Director** within 30 days.

Basis of Approval

The **Law**, at section 157A(2), allows for the approval of a Retirement Annuity Scheme contract made by an individual with a company, resident in Guernsey (or carrying on business through a permanent establishment situated in Guernsey) and carrying on in Guernsey the business of granting annuities on human life. Approval of such a contract is subject to the conditions contained in sections 157A (2) and (3) of the **Law**. The **Director** may also place other conditions on the Scheme as thinks fit in appropriate cases.

The **Law**, at section 157A(4), allows for the approval of a Retirement Annuity Trust Scheme provided that it is established:

(a) under the laws of the United Kingdom or Guernsey and is administered in either of those territories; and

(b) for the purposes of providing Retirement Annuities for individuals and their families and dependants; and

(c) under irrevocable trusts.

Approval is also subject to the conditions contained in sections 157A(2) and (3) of the **Law**, in other words the same as those for insurance company based retirement annuity contracts with necessary adaptations. The **Director** may also place other conditions on the Scheme as thinks fit in appropriate cases.

The **Director** may revoke approval under section 157A(7) if there is a contravention of or a failure to comply with any condition subject to which the approval was given.

Tax Consequences of Schemes Approved under Section 157A

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

Both members' and employers' contributions will generally qualify for income tax relief. See Section 4.

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 payment following the death of a member before commencement of benefits, may be made free of tax. Lump sums in excess of 30% of the **Fund Value** or in excess of the aggregate tax-free limit taken in commutation of pension (see section 7) or following the death of a member after commencement of benefits are taxable at the standard rate.

Commutations of **Fund Values** which are trivial are taxed as set out in section 7.

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

Transfer payments made to schemes outside of Guernsey or to Guernsey schemes which are neither **Approved Schemes** nor **Approved Occupational Pension Schemes**, with the exception of Statutory Schemes and UK Registered Pension Schemes (in both cases provided that the individual is resident in the UK), will be subject to income tax at one half of the **Individual Standard Rate**.

Any pension paid in respect of Guernsey service or as a result of a **Transfer Payment** being accepted by a Guernsey scheme will normally be subject to Guernsey income tax and the payer will normally be required to operate the Employees Tax Instalments Scheme.

Where **Unauthorised Payments** are made, the enhanced rate of tax is 50%, **Unauthorised Payments** are excluded from the tax cap and standard charge.

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

Approbated Pension Scheme

As defined under the schedule of The Secondary Pensions (Guernsey and Alderney) Law, 2022

Approved Scheme

A **Retirement Annuity Scheme** or a **Retirement Annuity Trust Scheme** approved by the **Director** under section 157A of the **Law**

Connected To

As defined at section 66A(8) of the **Law**

Crown Dependency

Guernsey, Jersey or the Isle of Man

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

Director

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

Fund Value

The member's entire accumulated fund under the Scheme, including contributions and investment returns.

Guaranteed Minimum Aggregate Retirement Income

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

(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 Scheme and Gratuity Scheme Rules and Guidance, 2021 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.

Individual Standard Rate

As defined in the Fifth Schedule of the **Law**

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.

Inward Transfer

As defined at section 157B of the **Law**

Law

The Income Tax (Guernsey) Law, 1975, as amended.

Member Contribution

For the purposes of section 36 of the **Law**, money placed into the member's pension, must be of a fiat 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 Scheme** or **Approved Occupational Pension Scheme**, then tax relief will not apply to the amount of the contribution that has been withdrawn from the **Approved Scheme** or **Approved Occupational Pension 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/insurance company on the advice of an **Actuary** where appropriate.

Outward Transfer

As defined at section 157C of the **Law**

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.

Relevant Earnings

As defined at section 157A(9)(a) of the **Law.**

Retirement Annuity Scheme

A scheme approved under Section 157A(2) of the **Law.**

Retirement Annuity Trust Scheme

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.

Statutory Schemes

A scheme as defined in section 612(1) of the UK Income and Corporation Taxes Act 1988

Transfer Payment

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**.

Unauthorised Payments

As defined under section 157DA of the **Law**.

Appendix 3 Extra Statutory Concessions

This appendix summarises the extra statutory concessions M27, relating to pensions which the **Director** may be prepared to allow in certain circumstances.

Divorce

When a married couple 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 Scheme** or **Approved Occupational Pension Scheme**. Each case would however need to be submitted to the **Director** for individual consideration and subject to agreement with the scheme trustees.

Appendix 4 Trustee Confirmation Form

***Scheme Name**:*

Income Tax Reference:

I/we confirm that I/we have received a copy of the Practice Notes relating to retirement annuity trust schemes and have read and noted its contents and agree to act in accordance therewith.

I/we also confirm that I/we have read the relevant sections of The Trusts (Guernsey) Law, 2007 and appreciate our responsibilities thereunder.

I/we confirm that I/we understand accounts should be prepared and lodged with the Revenue Service annually.

Signed ____

Name ____

Signed ____

Name ____

Signed ____

Name ____

Date ____

Appendix 5 Retirement Annuity Member Certificate

1. Full name of member

2. Full postal address (do not abbreviate)

3. Income Tax reference number of member

4. Reference number under which trust approved by the Director of the Revenue Service:

5. (a) Date of first premium

   (b) Expected frequency and amount of future premiums

DECLARATION

This certificate gives details of a member in a Retirement Annuity Trust Scheme or a Retirement Annuity Scheme which is in a form approved by the Director of the Revenue Service, Guernsey and is submitted to the Director in accordance with Regulations made under section 159 of the Income Tax (Guernsey) Law, 1975.

Signed .... Trustee/Officer of Company

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 154A of the Law (a superannuation fund to which section 40(o) applies)
   (e) section 154A of the Law (a RAT/RAC to which section 40(ee) applies)
   (f) section 154A 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/taxpensions**
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 example in this appendix illustrates how the lump sum calculation and payment in tranches works in practice.

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%)]