

## PART 26 Life Assurance Companies

### CHAPTER 1 General provisions

Interpretation and general (Part 26). CTA76 s36A(7) and s50(2) to (4); FA79 s28(5); FA86 s59(d); FA93 s11(f) and (k); FA96 s132(1) and Sch5 Ptl par10(2) and (3) 706.—(1) In this Part, unless the context otherwise requires—

“actuary” has the same meaning as in section 3 of the Insurance Act, 1936 ;

“annuity business” means the business of granting annuities on human life;

“annuity fund” means, where an annuity fund is not kept separately from the life assurance fund of an assurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts, as stated in its periodical returns;

“assurance company” has the same meaning as in section 3 of the Insurance Act, 1936 ;

“excluded annuity business”, in relation to an assurance company, means annuity business which—

(a) is not pension business, or the liability of the company in respect of which is not taken into account in determining the foreign life assurance fund (1)) of the company, and

(b) arises out of a contract for the granting of an annuity on human life, being a contract effected, extended or varied on or after the 6th day of May, 1986, and which fails to satisfy any one or more of the following conditions—

(i) that the annuity shall be payable (whether or not its commencement is deferred for any period) until the end of a human life or for a period ascertainable only by reference to the end of a human life (whether or not continuing after the end of a human life),

(ii) that the amount of the annuity shall be reduced only on the death of a person who is an annuitant under the contract or by reference to a bona fide index of prices or investment values, and

(iii) that the policy document evidencing the contract shall expressly and irrevocably prohibit the company from agreeing to commutation in whole or in part of any annuity arising under the contract;

“general annuity business” means any annuity business which is not—

(a) excluded annuity business, or

(b) pension business,

and “pension business” shall be construed in accordance with subsections (2) and (3);

“life business” includes “life assurance business” and “industrial assurance business”, which have the same meanings respectively as in section 3 of the Insurance Act, 1936 , and where a company carries on both businesses may mean either;

“life assurance fund” and “industrial assurance fund” have the same meanings respectively as in the Insurance Acts, 1909 to 1969, and “life assurance fund”, in relation to industrial assurance business, means the industrial assurance fund;

“market value” shall be construed in accordance with section 548;

“overseas life assurance company” means an assurance company having its head office outside the State but carrying on life assurance business through a branch or agency in the State;

“pension fund” and “general annuity fund” shall be construed in accordance with subsection (2);

“periodical return”, in relation to an assurance company, means a return deposited with the Minister for Enterprise, Trade and Employment under the Assurance Companies Act, 1909 , and the Insurance Act, 1936 ;

“policy” and “premium” have the same meanings respectively as in section 3 of the Insurance Act, 1936 ;

“special investment business”, “special investment fund” and “special investment policy” have the meanings respectively assigned to them by section 723;

“valuation period” means the period in respect of which an actuarial report is made under section 5 of the Assurance Companies Act, 1909 , as extended by section 55 of the Insurance Act, 1936 .

(2) Any division to be made between general annuity business, pension business and other life assurance business shall be made on the principle of—

(a) referring to pension business any premiums within subsection (3), together with the incomings, outgoings and liabilities referable to those premiums, and the policies and contracts under which they are or have been paid, and

(b) allocating to general annuity business all other annuity business except excluded annuity business,

and references to “pension fund” and “general annuity fund” shall be construed accordingly, whether or not such funds are kept separately from the assurance company's life assurance fund.

(3) The premiums to be referred to pension business shall be those payable under contracts which are (at the time when the premium is payable) within one or other of the following descriptions—

(a) any contract with an individual who is, or but for an insufficiency of profits or gains would be, chargeable to income tax in respect of relevant earnings ) from a trade, profession, office or employment

carried on or held by him or her, being a contract approved by the Revenue Commissioners under section 784 or 785 or any contract under which there is payable an annuity in relation to which section 786 (3) applies;

(b) any contract (including a contract of assurance) entered into for the purposes of, and made with the persons having the management of, an exempt approved scheme of Part 30), being a contract so framed that the liabilities undertaken by the assurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;

(c) any contract with the trustees or other persons having the management of a scheme approved under section 784 or 785 or under both of those sections, being a contract which—

(i) was entered into for the purposes only of that scheme, and

(ii) in the case of a contract entered into or varied on or after the 6th day of April, 1958, is so framed that the liabilities undertaken by the assurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;

and, in this subsection and in subsection (2), “premium” includes any consideration for an annuity.

(4) (a) In this subsection, “deduction” means any deduction, relief or set-off which may be treated for the purposes of corporation tax as reducing profits of more than one description.

(b) For the purposes of the Corporation Tax Acts, any deduction from the profits of an assurance company, being profits of more than one class of life assurance business referred to in section 707 (2), shall be treated as reducing the amount of the profits of each such class of business by an amount which bears the same proportion to the amount of the deduction as the amount of the profits of that class of business, before any deduction, bears to the amount of the profits of the company brought into charge to corporation tax.