

*Status: Point in time view as at 23/05/2018.*

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## F<sup>1</sup> SCHEDULES

### SCHEDULE 14

#### THE ELECTRICITY SUPPLY PENSION SCHEME

##### *Protection for certain persons*

- 2 (1) The Secretary of State may make regulations for the purpose of securing that—
- (a) no person to whom paragraph 3(1) or (2) below applies is placed in any worse position by reason of—
    - (i) any winding up, in whole or in part, of a relevant scheme, that is to say, the scheme or any other scheme which is provided or amended in pursuance of the regulations; or
    - (ii) any amendment of a relevant scheme which results in benefits under that scheme being reduced, or contributions by employees being increased, and is made otherwise than in such circumstances as may be prescribed;
  - (b) no person to whom paragraph 3(1) below applies is prevented from continuing to participate in or acquire pension rights under the scheme by reason of any change of employer—
    - (i) which does not affect his continuity of employment and is made otherwise than in such circumstances as may be prescribed; and
    - (ii) in the case of which his new employer either is a participant in the scheme or is wholly owned by one or more companies which or each of which is such a participant; and
  - (c) no person to whom paragraph 3(1) below applies is placed in any worse position by reason of any change of employer which does not affect his continuity of employment but prevents him from continuing to participate in or acquire pension rights under a relevant scheme;
- and the references in paragraphs (a) and (c) above to any worse position shall be construed, in relation to a person to whom paragraph 3(1) below applies who, after the transfer date, ceases to participate in or acquire pension rights under the scheme, as references to a position which is any worse than his position immediately before he so ceases.
- (2) Regulations under this paragraph may impose duties (whether as to the amendment of the scheme, the provision or amendment of other schemes, the purchase of annuities, the making of payments or otherwise) on persons who are or have been employers of persons to whom paragraph 3(1) or (2) below applies; and duties so imposed on any person may include duties owed to persons of whom he is not and has not been an employer.
- (3) Regulations under this paragraph may also provide for any dispute arising under them to be referred to arbitration.

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- (4) Sub-paragraphs (2) and (4) of paragraph 1 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- 3 (1) Subject to sub-paragraph (3) below, this sub-paragraph applies to—
- (a) any existing employee who, immediately before the transfer date, is a participant in the scheme;
  - (b) any existing employee who, after that date, participates in the scheme within three months of his attaining the minimum age for such participation;
  - (c) any former participant who, after that date, participates in or acquires pension rights under the scheme in such circumstances as may be prescribed by regulations under paragraph 2 above; and
  - (d) any person who participates in the scheme in pursuance of regulations made under paragraph 1(1)(a)(i) or (ii) above.
- (2) Subject to sub-paragraph (3) below, this sub-paragraph applies to—
- (a) any person not falling within sub-paragraph (1)(c) above who, immediately before the transfer date, is not a participant in the scheme but has pension rights under the scheme; and
  - (b) any person who, after that date, acquires pension rights under a relevant scheme by reason of the death of a person falling within sub-paragraph (1) or paragraph (a) above,
- but only as respects the pension rights by virtue of which he falls within paragraph (a) or (b) above.
- (3) Any person to whom sub-paragraph (1) or (2) above applies may elect in such manner as may be prescribed by regulations under paragraph 2 above that that sub-paragraph shall cease to apply to him; and if any person to whom sub-paragraph (1) above applies—
- (a) ceases to be in continuous employment; or
  - (b) voluntarily withdraws from a relevant scheme,
- otherwise than in such circumstances as may be so prescribed, that sub-paragraph shall cease to apply to him except as respects pension rights which have accrued to him before that time.
- 4 (1) [F1Chapter I of Part XIV of the Employment Rights Act 1996] shall apply for the purposes of paragraphs 2 and 3 as if—
- (a) those paragraphs were contained in that Act; and
  - (b) in that Schedule “associated employer”, in relation to a company participating in a relevant scheme, included any other company participating in such a scheme and any other company of which a company so participating has control, or two or more companies so participating together have control;
- but regulations under paragraph 2 above may provide that no account shall be taken for those purposes of any person ceasing to be in continuous employment for such periods and in such circumstances as may be prescribed by the regulations.
- (2) For the purposes of sub-paragraph (1) above, a company has control, or two or more companies together have control, of another company (“the other company”) if—
- (a) that company, or each of those companies, is a member of the other company and that company controls, or those companies together control, the composition of the other company’s board of directors;

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- (b) that company holds, or those companies together hold, more than half in nominal value of the other company's equity share capital;
- (c) a company of which the company has control, or those companies together have control, has control of the other company; or
- (d) two or more companies of which that company has control, or those companies together have control, together have control of the other company;

and subsections (2) to (4) of section 736 of the <sup>M1</sup>Companies Act 1985 (as originally enacted) shall, with any necessary modifications, apply for the purposes of this subparagraph as they apply for purposes of subsection (1) of that section.

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**Textual Amendments**

**F1** Words in Sch. 14 para. 4(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 43(3)(a)** (with ss. 191-195, 202)

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**Marginal Citations**

**M1** 1985 c. 6.

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