

SCHEDULES

SCHEDULE 2

Section 23.

TRANSFER OF ACCRUED BENEFITS

PART I

GENERAL

Interpretation

1 In this Schedule—

“authorised insurance company” means an insurance company authorised under section 3 or 4 of the Insurance Companies Act 1982 (or any similar previous enactment) to carry on ordinary long-term insurance business;

“contracted-out scheme” has the same meaning as it has for the purposes of Part III of the Social Security Pensions Act 1975 and, in relation to Northern Ireland, Part IV of the Social Security Pensions (Northern Ireland) Order 1975;

“disregarded service”, in relation to any member of a scheme, means any period of service in qualifying judicial office during which an election under, or an election having effect as if made under, section 13 of this Act is in force in respect of the qualifying member;

“guaranteed minimum pension” has the same meaning as in the Social Security Pensions Act 1975 and, in relation to Northern Ireland, the Social Security Pensions (Northern Ireland) Order 1975;

“member”, in relation to a scheme, means a person to whom Part I of this Act applies or has applied;

“normal pension age” means the earliest age at which, if his service in qualifying judicial office had continued until retirement at that age, a member of the scheme constituted by Part I of this Act might have been entitled to receive a pension under the scheme at the appropriate annual rate (otherwise than by reason of infirmity of mind or body);

“occupational pension scheme” has the meaning given by section 66(1) of the Social Security Pensions Act 1975 or, in relation to Northern Ireland, Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975;

“personal pension scheme” has the meaning given by section 84(1) of the Social Security Act 1986 or, in relation to Northern Ireland, Article 2(2) of the Social Security (Northern Ireland) Order 1986;

“prescribed” means prescribed by regulations;

“protected rights” has the same meaning as in the Social Security Pensions Act 1975 and, in relation to Northern Ireland, the Social Security Pensions (Northern Ireland) Order 1975;

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“qualifying member” means a person to whom Part II of this Schedule applies;

“qualifying service” means the service by reference to which a qualifying member’s entitlement to benefit under the scheme is calculated; and

“scheme” means the relevant occupational pension scheme constituted by Part I or section 19 of this Act.

Regulations

- 2 Regulations for the purposes of this Schedule may be made, with the concurrence of the Treasury, by the Lord Chancellor or, in relation to Scotland, the Secretary of State.

Other provisions about transfer values

- 3 Part II of Schedule 1A to the Social Security Pensions Act 1975 (transfer values) and Part II of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 (corresponding Northern Ireland provisions) shall not apply in relation to those schemes to which this Schedule applies.

PART II

TRANSFERS OUT

Qualifying members

- 4 (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, this Part of this Schedule applies to any person—
- (a) to or in respect of whom benefits are payable under a scheme; and
 - (b) whose qualifying service ends after this Schedule comes into force.
- (2) The conditions are that—
- (a) his qualifying service ends at least one year before he reaches normal pension age; and
 - (b) on the date on which it ends—
 - (i) he has accrued rights to benefit under the scheme; or
 - (ii) he would have such rights if his service in qualifying judicial office had also ended on that date.

Qualifying member’s right to a transfer payment

- 5 (1) When his qualifying service ends, a qualifying member acquires a right to the cash equivalent at the relevant date of any benefits—
- (a) which have accrued to, or in respect of him, under the scheme; or
 - (b) where service of his in qualifying judicial office is disregarded service, which would have so accrued if his service in qualifying judicial office had ended on the same date as that on which his qualifying service ended.
- (2) In this paragraph “the relevant date” means—
- (a) the date when the qualifying member’s qualifying service ends, or

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(b) the date of any application which he has made under paragraph 6 below and which has not been withdrawn,
whichever is the later.

Method of taking cash benefit

- 6 (1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 above may only take it by exercising the option conferred by this paragraph.
- (2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways the qualifying member chooses—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
 - (i) whose trustees or managers are able and willing to accept him; and
 - (ii) which satisfies prescribed requirements;
 - (b) for acquiring rights allowed under the rules of a personal pension scheme—
 - (i) whose trustees or managers are able and willing to accept him; and
 - (ii) which satisfies prescribed requirements;
 - (c) for purchasing from one or more authorised insurance companies—
 - (i) chosen by the qualifying member, and
 - (ii) willing to accept payment on his account from the Treasury,one or more annuities which satisfy prescribed requirements;
 - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) Without prejudice to the generality of the power to prescribe requirements under sub-paragraph (2) above, such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the Commissioners of Inland Revenue as may be prescribed.
- (4) A qualifying member may exercise his option in different ways in relation to different portions of his cash equivalent.
- (5) A qualifying member who exercises his option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (6) below applies, in relation to the whole of the reduced cash equivalent.
- (6) Where—
- (a) the trustees or managers of—
 - (i) an occupational pension scheme which is not a contracted-out scheme, or
 - (ii) a personal pension scheme which is not an appropriate scheme under section 2 of the Social Security Act 1986, Article 4 of the Social Security (Northern Ireland) Order 1986 or under any prescribed provision, or
 - (iii) a self-employed pension arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985, regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987, regulation 2A of the Personal Pension

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Schemes (Transfer Values) Regulations (Northern Ireland) 1987 or any other prescribed provision,

are able or willing to accept a transfer payment only in respect of a qualifying member's rights other than his accrued rights to a guaranteed minimum pension or his protected rights; and

- (b) the member has not required the Treasury to use the portion of his cash equivalent which represents a guaranteed minimum pension or protected rights in any of the ways specified in sub-paragraph (2) above,

paragraph 5 above, this paragraph and paragraph 7 below are to be read as conferring on the member an option only in respect of the reduced cash equivalent.

- (7) In this paragraph "reduced cash equivalent" means a sum equal to the balance of the cash equivalent to which the qualifying member would be entitled if sub-paragraph (6) above did not apply, after deduction of an amount sufficient for the Treasury to meet its liability in respect of the member's guaranteed minimum pension or protected rights or those of his widow, or her widower.

Calculation of cash equivalents

- 7 (1) Cash equivalents are to be calculated and verified in the prescribed manner.
- (2) Regulations made under sub-paragraph (1) above may, in particular, provide—
- (a) that in calculating cash equivalents account shall be taken—
- (i) of any surrender or forfeiture of the whole or part of a qualifying member's pension which occurs before the Treasury does what is needed to comply with the choice made by him in exercising his option;
- (ii) in a case where paragraph 6(6) above applies, of the need to deduct an appropriate amount to provide a guaranteed minimum pension or give effect to protected rights; and
- (b) that in prescribed circumstances a qualifying member's cash equivalent shall be increased or reduced.
- (3) Without prejudice to the generality of sub-paragraph (2) above, the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include the length of time which elapses between the termination of a qualifying member's qualifying service and his exercise of the option conferred by paragraph 6 above.

Time within which option must be exercised

- 8 (1) A qualifying member may only exercise his option on or before the last option date.
- (2) The last option date is—
- (a) the date which falls one year before the date on which the qualifying member reaches normal pension age, or
- (b) the end of the period of six months beginning with the date on which his qualifying service ends,
- whichever is the later.
- (3) A qualifying member loses the right to any cash equivalent under this Schedule if—
- (a) his pension becomes payable before he reaches normal pension age; or
- (b) he fails to exercise his option on or before the last option date.

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Option to be exercised in writing

- 9 (1) A qualifying member may only exercise his option by making an application in writing to the Treasury.
- (2) In any case where—
- (a) a qualifying member has exercised his option, and
 - (b) the Treasury has done what is needed to comply with the choice made by him in exercising his option,
- the Treasury shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such cases as are mentioned in paragraph 6(6) above, to the extent that an obligation to provide guaranteed minimum pensions or give effect to protected rights continues to subsist.
- (3) If the Treasury receives an application under this paragraph, it shall be its duty, subject to the following provisions of this paragraph, to do what is needed to comply with the choice made by the qualifying member in exercising his option—
- (a) within twelve months of the date on which it receives his application, or
 - (b) by the date on which he attains normal pension age,
- whichever is the earlier.

Cancellation of exercise of option

- 10 (1) A qualifying member may cancel the exercise of his option by giving the Treasury notice in writing that he no longer wishes it to be exercised.
- (2) No such notice shall have effect if it is given to the Treasury at a time when, in order to comply with the choice made by the qualifying member in exercising his option, the Treasury has entered into an agreement with a third party to use the whole or part of his cash equivalent in a way specified in paragraph 6(2)(a), (b), (c) or (d) above.
- (3) A qualifying member who withdraws an application may make another.

PART III

TRANSFERS IN

Application to accept payment into scheme

- 11 (1) Where a member of a scheme has asked the appropriate Minister to accept a payment representing the cash equivalent of his accrued rights in any other qualifying scheme, that Minister may—
- (a) to the extent to which it does not exceed the prescribed limit, accept the payment or any part of it; or
 - (b) refuse to accept the payment or any part of it.
- (2) A request under sub-paragraph (1) above must be made—
- (a) in writing;
 - (b) before the person making it has reached normal pension age; and
 - (c) not less than one year before he becomes entitled to a pension on retirement from his qualifying service.

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(3) In this paragraph—

“the prescribed limit” means the limit prescribed by regulations made by virtue of paragraph 13(a) below;

“qualifying scheme” means—

- (a) an occupational pension scheme, a personal pension scheme, or an annuity purchased from an authorised insurance company, which satisfies prescribed requirements; or
- (b) other prescribed pension arrangements.

Cancellation of request

- 12 (1) A member may, by notice in writing given to the appropriate Minister, cancel a request made by him under paragraph 11 above, at any time before it has been accepted.
- (2) A transferring member who withdraws an application may make another.

Regulations

13 Regulations may—

- (a) prescribe limits on the amounts which the appropriate Minister may accept under paragraph 11(1) above;
- (b) make provision as to the manner in which payments are to be accepted into a scheme under this Part of this Schedule;
- (c) make provision as to the benefits which are to be provided to a member to reflect any such payment accepted with respect to him;
- (d) prescribe formulae, based on tables of factors provided by the Government Actuary, to be used when performing any calculation relating to the acceptance of transfer payments or the provision of benefits.