

## SCHEDULES

### SCHEDULE 2

#### INTERPRETATION OF REFERNECES TO “BENEFICIAL INTEREST”

#### [<sup>F1</sup>PART I]

#### [<sup>F1</sup>REFERENCES IN ARTICLES 33, 155, 156 AND 158]

**F1** 1990 NI 5

**F1** Order repealed (prosp.) by [Companies Act 2006 \(c. 46\), ss. 1284\(2\), 1295, 1300\(2\), Sch. 16](#) and the repeal being partly in force, as to which see individual Articles (with savings (with adaptations) by Companies Act 2006 (Commencement No. 6, Saving and Commencement Nos. 3 and 5 (Amendment)) Order 2008 (S.I. 2008/674), arts. 2(3), {4}, Sch. 2) and subject to amendments (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\), arts. 2\(2\), 3\(1\)\(b\)\(2\), Sch. 1 paras. 135, 147, 148 {Sch. 2 Note 1}](#) (with arts. 6, 11, 12) and subject to amendments (6.4.2008) by [S.R. 2008/133, {regs. 2, 3}](#)

#### *Residual interests under pension and employees' share schemes*

1.—(1) Where shares in a company are held on trust for the purposes of a pension scheme or an employees' share scheme, there is to be disregarded any residual interest which has not vested in possession, being an interest of the company or,<sup>F2</sup> as this paragraph applies for the purposes of Article 33(2),<sup>F3</sup> . . . of any subsidiary of the company.

(2) In this paragraph, “a residual interest” means a right of the company or subsidiary in question (“the residual beneficiary”) to receive any of the trust property in the event of—

- (a) all the liabilities arising under the scheme having been satisfied or provided for, or
- (b) the residual beneficiary ceasing to participate in the scheme, or
- (c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In sub-paragraph (2), references to a right include a right dependent on the exercise of a discretion vested by the scheme in the trustee or any other person; and references to liabilities arising under a scheme include liabilities that have resulted or may result from the exercise of any such discretion.

(4) For the purposes of this paragraph, a residual interest vests in possession—

- (a) in a case within head (a) of sub-paragraph (2), on the occurrence of the event there mentioned, whether or not the amount of the property receivable pursuant to the right mentioned in that sub-paragraph is then ascertained; and

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Companies (Northern Ireland) Order 1986 (revoked), PART I. (See end of Document for details)

- (b) in a case within head (b) or (c) of that sub-paragraph, when the residual beneficiary becomes entitled to require the trustee to transfer to that beneficiary any of the property receivable pursuant to that right.

*Sub-para. (5) rep. by 1990 NI 5*

**F2** 1990 NI 10  
**F3** 1990 NI 5

2.—(1) This paragraph has effect as regards the operation of Articles<sup>F4</sup> . . . 154, 155, 156 and 158 in cases where a residual interest vests in possession.

*Sub-para. (2) rep. by 1990 NI 5*

(3) Where by virtue of paragraph 1 any shares are exempt from Article 154 or 155 at the time when they are issued or acquired but the residual interest in question vests in possession before they are disposed of or fully paid up, those Articles apply to the shares as if they had been issued or acquired on the date on which that interest vests in possession.

(4) Where by virtue of paragraph 1 any shares are exempt from Articles 156 to 159 at the time when they are acquired but the residual interest in question vests in possession before they are disposed of, those Articles apply to the shares as if they had been acquired on the date on which that interest vests in possession.

(5) Sub-paragraphs (1) to (4) apply irrespective of the date on which the residual interest vests or vested in possession; but where the date on which it vested was before 3rd August 1983 (the date on which the Order of 1983 came into operation), they have effect as if the vesting had occurred on that date.

**F4** 1990 NI 5

#### *Employer's charges and other rights of recovery*

3.—(1) Where shares in a company are held on trust, there are to be disregarded—

- (a) if the trust is for the purposes of a pension scheme, any such rights as are mentioned in sub-paragraph (2), and  
(b) if the trust is for the purposes of an employees' share scheme, any such rights as are mentioned in sub-paragraph (2)(a),

being rights of the company or,<sup>F5</sup> as this paragraph applies for the purposes of Article 33(2)<sup>F6</sup> . . . of any subsidiary of the company.

(2) The rights referred to in sub-paragraph (1) are—

- (a) any charge or lien on, or set-off against any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member, and  
(b) any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, an amount that can be recovered or retained under<sup>F7</sup> section 57 of the Pension Schemes (Northern Ireland) Act 1993 (deduction of contributions equivalent premium from refund of scheme contributions)] or otherwise as reimbursement or partial reimbursement for any<sup>F8</sup> contributions equivalent] premium paid in connection with the scheme under<sup>F7</sup> Chapter III of Part III of that Act].

*Sub-para. (3) rep. by 1990 NI 5*

**F5** 1990 NI 10  
**F6** 1990 NI 5  
**F7** 1993 c. 49  
**F8** 1995 NI 22

*Trustee's right to expenses, remuneration, indemnity, etc.*

4.—(1) Where a company is a trustee<sup>F9</sup>. . . , there are to be disregarded any rights which the company has in its capacity as trustee including, in particular, any right to recover its expenses or be remunerated out of the trust property and any right to be indemnified out of that property for any liability incurred by reason of any act or omission of the company in the performance of its duties as trustee.

(2) [<sup>F10</sup>As this paragraph applies for the purposes of Article 33(2)],<sup>F9</sup>. . . , sub-paragraph (1) has effect as if references to a company included any body corporate which is a subsidiary of a company.

[<sup>F9</sup>(3) As respects Articles 155, 156 and 158, sub-paragraph (1) applies where a company is a personal representative as it applies where a company is a trustee.]

**F9** 1990 NI 5  
**F10** 1990 NI 10

*Supplementary*

5.—(1) This paragraph applies for the interpretation of [<sup>F11</sup> this Part of this Schedule].

(2) “Pension scheme” means any scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees; and “relevant benefits” means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

(3) In sub-paragraph (2) and in paragraph 3(2)(a), “employer” and “employee” are to be read as if a director of a company were employed by it.

**F11** 1990 NI 5

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Companies (Northern Ireland) Order 1986 (revoked), PART I.