

SCHEDULE 3

Regulation 14

Administrative matters

PART 1

Accounts and information

Scheme accounts and actuarial valuations

1.—(1) This paragraph applies to—

- (a) the scheme; and
- (b) any statutory pension scheme that is connected with it,

which in this paragraph are together referred to as “the relevant schemes”.

(2) In addition to any obligations on record keeping imposed on the scheme manager by regulations made pursuant to section 16 of the 2013 Act, the scheme manager must keep accounts of all income and expenditure of the relevant schemes in a form approved by the Treasury.

(3) The accounts must be open to examination by the Auditor General for Scotland.

(4) The scheme actuary must prepare a valuation of the relevant schemes in accordance with any Treasury directions given from time to time pursuant to section 11(2) of the 2013 Act.

(5) The scheme actuary must send a copy of the valuation of the relevant schemes to the scheme manager and to the Treasury.

Scheme information

2.—(1) The scheme manager may publish or provide to the Treasury scheme information (as defined in section 15 of the 2013 Act) whether or not required to do so by any Treasury directions given from time to time pursuant to that section.

(2) Nothing in sub-paragraph (1) requires the scheme manager to publish or provide to the Treasury any scheme information—

- (a) which the scheme manager is not required by Treasury directions to publish or provide to the Treasury; or
- (b) which the scheme manager, apart from sub-paragraph (1), is prohibited lawfully from publishing or providing.

Benefit information statements

3.—(1) The scheme manager must provide a benefit information statement to each active member in accordance with—

- (a) section 14 (information about benefits) of the 2013 Act; and
- (b) any Treasury directions given from time to time pursuant to that section.

(2) Sub-paragraph (1) does not provide a right for an active member to request a benefit information statement.

(3) A benefit information statement provided pursuant to sub-paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal

Pension Schemes (Disclosure of Information) Regulations 2013(1) for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.

PART 2

Claims and payments

Claims for benefits

4.—(1) A person claiming to be entitled to benefits under these Regulations (“the claimant”) shall make a claim in writing to the scheme manager.

(2) Pursuant to such a claim, the claimant and, where appropriate, the member’s employing authority (including any previous employing authority of the member) shall provide such—

- (a) evidence of entitlement;
- (b) information required in order to deal with the claim; and
- (c) authority or permission as may be necessary for the release by third parties of information in their possession relating to the claimant or member,

as the scheme manager may from time to time require for the purposes of these Regulations.

(3) A claim referred to in sub-paragraph (1) may be made by a person or persons other than the claimant where the scheme manager so provides.

(4) Any claim for benefit required in writing under these Regulations, and any evidence, information, authority or permission given in connection with that claim, may be made or given by means of an electronic communication where such method of communication is approved by the scheme manager from time to time.

(5) In this regulation, “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(2).

Provision of information: continuing entitlement to benefits

5.—(1) The scheme manager may specify a date by which a person who is in receipt of a benefit under the scheme is to provide the scheme manager with all or any of the following material—

- (a) evidence of the person’s identity;
- (b) the person’s contact details;
- (c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide material in accordance with sub-paragraph (1), the scheme manager may withhold all, or any part of, any benefit payable to that person.

Trivial commutation lump sum

6.—(1) The scheme manager may pay any person entitled to a pension under the scheme a lump sum representing the capital value of the pension and of any benefits that might have become payable under the scheme on the person’s death apart from the payment if the conditions specified in sub-paragraph (2) are met.

(2) The conditions are that the payment complies with the following requirements (so far as they apply)—

(1) S.I. 2013/2734.
(2) 2000 c.7.

- (a) the contracting-out requirements;
 - (b) the preservation requirements (see section 69(2) of the 1993 Act);
 - (c) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(3);
 - (d) Part 2 of the Registered Pension Schemes (Authorised Payment) Regulations 2009(4);
 - (e) the lump sum rule (see in particular, paragraph 7 of Schedule 29 to the 2004 Act: trivial commutation lump sums for the purposes of Part 4 of that Act); and
 - (f) the lump sum death benefit rule (see, in particular, paragraph 20 of that Schedule: trivial commutation lump sum death benefit for the purposes of that Part).
- (3) The lump sum must be calculated by the scheme manager in accordance with advice from the scheme actuary.
- (4) The payment of a lump sum under this regulation discharges all liabilities of the scheme manager in respect of the pension in question and of any other such benefits as mentioned in sub-paragraph (1).

Beneficiaries who are incapable of looking after their affairs

7.—(1) In the case of a beneficiary who, in the opinion of the scheme manager, is by reason of illness, mental disorder, minority or otherwise unable to look after the beneficiary's affairs, the scheme manager may—

- (a) use any amount due to the beneficiary under the scheme for the beneficiary's benefit; or
- (b) pay it to some other person to do so.

(2) Payment of an amount to a person other than the beneficiary under sub-paragraph (1) discharges the scheme manager from any obligation under the scheme in respect of the amount.

Power to extend time limits

8.—(1) The appropriate authority may extend a time limit mentioned in these Regulations as it applies in a particular case.

(2) The appropriate authority is—

- (a) the Scottish Ministers in relation to a function of the Scottish Ministers;
- (b) the scheme manager in relation to a function of the scheme manager.

PART 3

Interest

Interest on late payment of benefits and refunds of member contributions

9.—(1) This paragraph applies if the whole or part of an amount to which this paragraph applies is not paid by the end of the period of one month beginning with the due date.

(2) This paragraph applies to any amount payable by way of a pension, lump sum, refund of contributions under the scheme (other than any amount due under regulations 32 to 34) or interim award.

(3) [S.I. 1997/785](#).

(4) [S.I. 2009/1171](#).

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(3) The scheme manager must pay interest on the unpaid amount to the person to whom it should have been paid unless the scheme manager is satisfied that the unpaid amount was not paid on the due date because of some act or omission on the part of the member or other person to whom it should have been paid.

(4) The interest on the unpaid amount is calculated at the base rate on a day to day basis from the due date for the amount to the date of its payment and compounded with three-monthly rests.

(5) For the purposes of this regulation, except where sub-paragraph (6) applies, “due date”, in relation to an unpaid amount, means—

- (a) in the case of an amount in respect of a pension or lump sum payable to a member under Part 5, the day immediately following that of the member’s retirement from pensionable employment;
- (b) in the case of an amount in respect of a pension payable on a member’s death, the day after the date of death;
- (c) in the case of an amount in respect of a lump sum under regulation 111 that is payable to the member’s executors, the earlier of—
 - (i) the date on which confirmation was produced to the scheme manager; and
 - (ii) the date on which the scheme manager was satisfied that the lump sum may be paid as provided in regulation 111,
- (d) in the case of an amount in respect of any other lump sum under Part 6 the day after the date of the member’s death; and
- (e) in the case of an amount in respect of a refund of contributions, the day after that on which the scheme manager received from Her Majesty’s Commissioners of Revenue and Customs the information required for the purposes of calculating the amount to be subtracted under regulation 40(2).

(6) If, on the date which, in accordance with sub-paragraph (5), would have been the due date for an unpaid amount in respect of a pension, lump sum or refund of contributions, the scheme manager was not in possession of all the information necessary for the calculation of the amount payable in respect of the pension, lump sum or refund, the due date for the unpaid amount is the first day on which the scheme manager was in possession of that information.

(7) In this paragraph, “interim award” means—

- (a) any amount paid by way of an interim payment calculated by reference to an expected benefit under this scheme pending final calculation of the full value of that benefit; and
- (b) any amount paid that increases the amount of an earlier payment due to a backdated or subsequent increase in pensionable pay.

PART 4

Assignment, offset and forfeiture, etc.

Prohibition on assignment or charging of benefits

10. Any assignment of, or charge on, or any agreement to assign or charge, any right to a benefit under the scheme is void.

Offset of benefits

11.—(1) If, as a result of a member’s criminal, negligent or fraudulent act or omission, a loss to public funds occurs that arises out of or is connected with the member’s employment relationship with the member’s employer, the Scottish Ministers—

- (a) may reduce any pension or other benefit payable to, or in respect of, the member under these Regulations by an amount less than or equal to the loss; or
- (b) in a case where the loss equals or exceeds the value of the pension or other benefit, may reduce them to nil or by any amount less than that value.

(2) Sub-paragraph (1) does not apply so far as the pension or other benefit—

- (a) is a guaranteed minimum pension; or
- (b) arises out of a transfer payment.

(3) If the Scottish Ministers propose to exercise the power under sub-paragraph (1), they must give the member a certificate specifying the amount of the loss to public funds and of the reduction in benefits.

(4) If the amount of the loss is disputed, no reduction may be made under sub-paragraph (1) until the member’s obligation to make good the loss has become enforceable—

- (a) under the order of a competent court; or
- (b) in consequence of an award of an arbiter to be appointed (failing agreement between the parties) by the sheriff.

(5) If the loss is suffered by an employing authority, the amount of any reduction under sub-paragraph (1) must be paid to that authority.

Forfeiture of rights to benefits

12.—(1) The Scottish Ministers may direct that all or part of any rights to benefits or other amounts payable to or in respect of a member under these Regulations be forfeited if—

- (a) the member is convicted of any of the offences specified in sub-paragraph (2); and
- (b) the offence was committed before the benefit or other amount becomes payable.

(2) The offences are—

- (a) an offence in connection with employment that qualifies the member to belong to the scheme, in respect of which the Scottish Ministers have issued a forfeiture certificate;
- (b) one or more offences under the Official Secrets Acts 1911 to 1989 for which the member has been sentenced on the same occasion to—
 - (i) a term of imprisonment of at least 10 years; or
 - (ii) two or more consecutive terms amounting in the aggregate to at least 10 years.

(3) In sub-paragraph (2)(a), “forfeiture certificate” means a certificate stating that the Scottish Ministers are satisfied that the offence—

- (a) has been gravely injurious to the State; or
- (b) is liable to lead to serious loss of confidence in the public service.

(4) The Scottish Ministers may direct that all or part of any rights to benefits or other amounts payable in respect of a member under these Regulations be forfeited where the benefits or amounts are payable to a person to whom sub-paragraph (5) applies who has been convicted of the murder or culpable homicide of that member or of any other offence of which unlawful killing of that member is an element.

(5) This paragraph applies to a person who is—

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- (a) the member's surviving spouse, nominated partner or surviving civil partner;
 - (b) a dependant of the member;
 - (c) a person not falling within sub-paragraph (a) or (b) who is specified in a notice given under paragraph 9(3) of Schedule 12; or
 - (d) a person to whom such benefits or amounts are payable under the member's will or on the member's intestacy.
- (6) A guaranteed minimum pension may be forfeited only if sub-paragraph (1) applies in the case of an offence within sub-paragraph (2)(b).

PART 5

Insolvency

Bankruptcy of person entitled to benefits

13.—(1) On the bankruptcy or sequestration of any person entitled to a benefit under the scheme, no part of the benefit may be paid to the person's trustee in bankruptcy or other person acting on behalf of the creditors, except as provided for in sub-paragraph (2).

(2) Where, following the bankruptcy or sequestration of any person entitled to a benefit under the scheme—

- (a) a debtor contribution order is made under section 32A of the Bankruptcy (Scotland) Act 1985⁽⁵⁾; or
- (b) the court makes an income payments order under section 310 of the Insolvency Act 1986, that requires the scheme manager to pay all or part of the benefit to the person's trustee in bankruptcy, the scheme manager is to comply with that order.

PART 6

Determinations

Determination of questions

14.—(1) Except as otherwise provided by these Regulations, any question arising under this scheme is to be determined by the scheme manager.

(2) Any such disagreement as is referred to in section 50 of the 1995 Act (resolution of disputes) must be resolved by the scheme manager in accordance with any arrangements applicable under that section.

Determinations - advice by medical practitioners

15.—(1) This paragraph applies to a decision as to a person's health or degree of physical or mental infirmity that is required for the purposes of this scheme and, in particular, a decision required for the purposes of—

- (a) regulation 52(5)(b) (procedure for allocation election under regulation 50);
- (b) regulation 75(9)(pension credit member);

(5) 1985 c.66; section 32A is inserted by section 4 of the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11), section 4.

- (c) regulation 89(2)(c) or (3)(b) (early retirement on ill health: active members);
- (d) regulation 92(1) or (5) (re-assessment of ill health pension);
- (e) regulation 93(1)(c) or (2)(c) (early retirement on ill health: deferred members);
- (f) regulation 108(1) (option to exchange pension for lump sum: serious ill health);
- (g) regulation 121(3)(b)(i) (dependency because of physical or mental impairment);
- (h) paragraph 7(1) of this Schedule (beneficiary incapable of looking after own affairs);
- (i) section 229(3)(a) of the 2004 Act (determining whether an individual satisfies the severe ill health condition).

(2) Where this paragraph applies to a decision, the scheme manager may require a person entitled or claiming to be entitled to benefit under this scheme to submit to a medical examination by a medical practitioner selected by the scheme manager.

(3) The scheme manager must also offer the person an opportunity to submit a report from the person's own medical adviser following an examination of the person by the medical adviser.

(4) In taking a decision mentioned in sub-paragraph (1), the scheme manager must take into consideration both—

- (a) the report mentioned in sub-paragraph (3); and
- (b) the report of the registered medical practitioner who carries out the medical examination mentioned in sub-paragraph (2).

PART 7

Taxation

Deduction of tax

16.—(1) The scheme manager must deduct from any payment under the scheme any tax which is required to be paid in respect of it.

(2) Subject to sub-paragraph (3), if a person's entitlement to a benefit or transfer payment under these Regulations—

- (a) constitutes a benefit crystallisation event in accordance with section 216 of the 2004 Act; and
- (b) a lifetime allowance charge under that Act is payable in respect of that event,

that charge must be paid by the scheme manager.

(3) The member's present or future benefits or transfer payment in respect of which any charge under sub-paragraph (2) arises must be reduced by an amount that fully reflects the amount of the charge paid by the scheme manager and is to be calculated by reference to advice provided by the scheme actuary for that purpose.

(4) Where—

- (a) the scheme manager's liability to pay a pension under regulation 108 is discharged by the payment of a lump sum in accordance with paragraph (4), (5), (6) or (7) of that regulation; and
- (b) that lump sum payment is made to a member who has reached the age of 75.

the scheme manager must deduct tax at the rate of 55% (or such other amount as applies from time to time) from the lump sum payable in accordance with section 205A of the 2004 Act.

(5) Where—

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- (a) a member has given written notice to the scheme manager in accordance with paragraph 17 that a lump sum payable under regulation 111 is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Schedule 29 to the 2004 Act; and
- (b) has not revoked that notice,

the scheme manager must deduct tax at the rate of 55% (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of the 2004 Act.

(6) Where—

- (a) a lump sum on death is payable in accordance with regulation 111; and
- (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member's death,

the scheme manager must deduct tax at the rate of 55% (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of the 2004 Act.

(7) A person who is entitled to a benefit under these Regulations must (whether or not intending to rely on entitlement to transitional protection, to an enhanced lifetime allowance or to enhanced protection) give to the scheme manager such information as will enable the scheme manager to determine—

- (a) whether any lifetime allowance charge is payable in respect of the benefit; and
- (b) if so, the amount of that charge.

(8) If a person claiming a benefit under these Regulations intends to rely on entitlement to an enhanced lifetime allowance by virtue of any of the provisions listed in section 256(1) of the 2004 Act (enhanced lifetime allowance regulations), that person must give to the scheme manager—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006⁽⁶⁾ in respect of that entitlement; and
- (b) the information referred to in sub-paragraph (7).

(9) If a person claiming a benefit under these Regulations intends to rely on entitlement to transitional protection against a lifetime allowance charge in accordance with paragraph 14 of Schedule 18 to the Finance Act 2011⁽⁷⁾ or paragraph 1 of Schedule 22 to the 2013 Act, that person must give to the scheme manager—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011⁽⁸⁾ or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification Regulations 2013⁽⁹⁾) in respect of that entitlement; and
- (b) the information referred to in sub-paragraph (7).

(10) If a person claiming benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance change in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014⁽¹⁰⁾, the person must give to the scheme manager—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014⁽¹¹⁾ in respect of that entitlement; and

⁽⁶⁾ S.I. 2006/131.

⁽⁷⁾ 2011 c.11.

⁽⁸⁾ S.I. 2011/1752.

⁽⁹⁾ S.I. 2013/1741.

⁽¹⁰⁾ 2014 c.26.

⁽¹¹⁾ S.I. 2014/1842.

(b) the information referred to in sub-paragraph (7).

(11) The information referred to in sub-paragraph (7) and, as the case may be, reference numbers referred to in sub-paragraph (8)(a), (9)(a) or (10)(a), must be given to the scheme manager—

(a) at the time the person makes a claim for a benefit; or

(b) where that information has not been provided at the time of making the claim, within such time as the scheme manager specifies in writing.

(12) Where the person fails to provide all, or part of, the information referred to in sub-paragraph (7) and, as the case may be, reference numbers referred to in sub-paragraph (8)(a), (9)(a) or (10)(a) within the time limits specified by the scheme manager where relevant, the scheme manager may treat the whole of the benefit as a chargeable benefit and pay the charge on that basis.

(13) Practitioners and non-GP providers must provide the information required by regulation 15A of the Registered Pension Scheme (Provision of Information) Regulations 2006⁽¹²⁾ in respect of their benefits under the scheme in a manner prescribed from time to time by the scheme manager.

(14) This sub-paragraph applies to a member who—

(a) is liable to an annual allowance charge in accordance with section 237A of the 2004 Act; and

(b) meets the conditions specified in subsection (1) of section 237B of that Act.

(15) A member to whom sub-paragraph (14) applies may give notice in writing to the scheme manager specifying that the scheme manager and the member are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that member in accordance with section 237B of the 2004 Act.

(16) Unless the scheme manager's liability for an annual allowance charge referred to in sub-paragraph (15) is discharged in accordance with section 237D of the 2004 Act—

(a) that annual allowance charge must be paid by the scheme manager on behalf of the member; and

(b) that member's present or future benefits in respect of which that charge arises must be adjusted in accordance with section 237E of the 2004 Act and must be calculated by reference to advice provided by the scheme actuary for that purpose.

(17) "Enhanced lifetime allowance" and "enhanced protection" are to be construed in accordance with the 2004 Act.

Prohibition on unauthorised payments

17. Nothing in these Regulations requires or authorises the making of any payment which, if made, would be an unauthorised payment for the purposes of Part 4 of the 2004 Act (see section 160(5) of that Act).

(12) S.I. 2006/567.