

SCHEDULES

SCHEDULE 6

PENSION COMPENSATION PROVISIONS

Compensation cap

26.—(1) Where—

- (a) a person becomes entitled to relevant compensation in respect of a benefit (“benefit A”) under the scheme, and
- (b) sub-paragraph (2)(a) or (b) applies,

the amount of the compensation must be restricted in accordance with sub-paragraph (3).

(2) For the purposes of sub-paragraph (1)—

- (a) this paragraph applies if—
 - (i) the annual value of benefit A exceeds the compensation cap, and
 - (ii) paragraph (b)(i) does not apply, and
- (b) this paragraph applies if—
 - (i) at the same time as the person becomes entitled to relevant compensation in respect of benefit A he also becomes entitled to relevant compensation in respect of one or more other benefits under the scheme or a connected occupational pension scheme (“benefit or benefits B”), and
 - (ii) the aggregate of the annual values of benefit A and benefit or benefits B exceeds the compensation cap.

(3) Where the relevant compensation in respect of benefit A is required to be restricted in accordance with this sub-paragraph—

- (a) if that compensation is within sub-paragraph (4)(a), the protected pension rate for the purposes of paragraph 3(3)(a) is the cap fraction of the rate determined in accordance with paragraph 3(5);
- (b) if that compensation is within sub-paragraph (4)(b), the protected notional pension for the purposes of paragraph 11(3)(a) is the cap fraction of the rate determined in accordance with paragraph 11(4);
- (c) if that compensation is within sub-paragraph (4)(c), the protected amount for the purposes of paragraph 14(3) is the cap fraction of the amount determined in accordance with paragraph 14(4);
- (d) if that compensation is within sub-paragraph (4)(d), the protected pension rate for the purposes of paragraph 15(3)(a) is the cap fraction of the rate determined in accordance with paragraph 15(4);
- (e) if that compensation is within sub-paragraph (4)(e), the protected amount for the purposes of paragraph 19(3) is the cap fraction of the amount determined in accordance with paragraph 19(4).

(4) For the purposes of this paragraph “relevant compensation” means—

- (a) periodic compensation under paragraph 3 (in a case to which sub-paragraph (7) of that paragraph applies),
- (b) periodic compensation under paragraph 11,
- (c) compensation under paragraph 14,
- (d) periodic compensation under paragraph 15, or
- (e) compensation under paragraph 19.

(5) For the purposes of this paragraph, “the cap fraction” means—

CV

where—

C is the compensation cap, and

V is the annual value of benefit A or, in a case to which sub-paragraph (2)(b) applies, the aggregate of the annual values of benefit A and benefit or benefits B.

(6) For the purposes of this paragraph the “annual value” of a benefit in respect of which a person has become entitled to relevant compensation means—

- (a) if the relevant compensation is within sub-paragraph (4)(a) and neither paragraph (b) nor (c) applies, the amount of the protected pension rate for the purposes of paragraph 3(3)(a);
- (b) if the relevant compensation is within sub-paragraph (4)(a) and is in respect of a pension of which a portion has been commuted for a lump sum, the amount which would have been the protected pension rate for those purposes had that portion not been commuted;
- (c) if the relevant compensation is within sub-paragraph (4)(a) and the person became entitled to a relevant lump sum under the scheme at the same time as he became entitled to the pension to which that compensation relates, an amount equal to the aggregate of—
 - (i) the protected pension rate for the purposes of paragraph 3(3)(a), and
 - (ii) the annualised value of the relevant lump sum;
- (d) if the relevant compensation is within sub-paragraph (4)(b), the amount of the protected notional pension for the purposes of paragraph 11(3)(a);
- (e) if the relevant compensation is within sub-paragraph (4)(c), the annualised value of the protected amount for the purposes of paragraph 14(3);
- (f) if the relevant compensation is within sub-paragraph (4)(d), the amount of the protected pension rate for the purposes of paragraph 15(3)(a);
- (g) if the relevant compensation is within sub-paragraph (4)(e), the annualised value of the protected amount for the purposes of paragraph 19(3);

and for the purposes of determining the annual value of a benefit any reduction required to be made by this paragraph is to be disregarded.

(7) In this paragraph—

“annualised value” of a lump sum or amount means the annualised actuarially equivalent amount of that sum or amount determined in accordance with actuarial factors published by the Board;

“the compensation cap”, in relation to the person who becomes entitled to relevant compensation in respect of benefit A, means—

- (a) the amount specified by the Department by order, or
- (b) where the person—
 - (i) has not attained the age of 65, or

(ii) has attained the age of 66,

at the time he first becomes entitled to that compensation, that amount as adjusted by the Board in accordance with actuarial adjustment factors published by it;

and for the purposes of this paragraph, except in prescribed circumstances, the scheme is connected with another occupational pension scheme if the same person is or was an employer in relation to both schemes.

(8) For the purposes of sub-paragraph (6)(c) a lump sum under the scheme is a relevant lump sum if the person's entitlement to the lump sum—

(a) is attributable to his pensionable service, and

(b) did not arise by virtue of any provision of the admissible rules of the scheme making special provision as to early payment of pension on grounds of ill health.

(9) Regulations may provide for this paragraph to apply with prescribed modifications where a person becomes entitled to relevant compensation in respect of a benefit and he has previously—

(a) become entitled to relevant compensation in respect of a benefit or benefits under the scheme or a connected occupational pension scheme, or

(b) become entitled to one or more lump sums under the scheme or a connected occupational pension scheme.

(10) Regulations may prescribe sums which are to be disregarded for the purposes of this paragraph.