

SCHEDULES

SCHEDULE 16

REQUIREMENTS AS TO PRESERVATION OF BENEFIT UNDER OCCUPATIONAL PENSION SCHEMES

PART I

Forfeiture, etc.

- 16 (1) Except so far as permitted by this paragraph, and subject to paragraph 17 below, a scheme must not contain any provision for forfeiture of short service benefit.
- (2) Provision may be made for forfeiture of the whole or part of any short service benefit by reference to an event occurring after the benefit becomes payable, but only an event by reference to which long service benefit would be forfeited; and such a provision must not be in terms which in the opinion of the Occupational Pensions Board appear to discriminate against members entitled to short service benefit.
- (3) Provision may be made for forfeiture by reference to—
- (a) the assignment or attempted assignment or, in Scotland, the assignation or attempted assignation of the benefit contrary to the provisions of the scheme;
 - (b) the member's bankruptcy or, in the case of benefit for a widow or dependant of the member, the beneficiary's bankruptcy ;
- and in this case forfeiture may be by reference to an event occurring either before or after the benefit would otherwise be payable, so long as the like provision is made in relation to long service benefit.
- (4) Provision for forfeiture may be made—
- (a) in a public service pension scheme, by reference to the member being convicted of an offence—
 - (i) committed by him before the benefit becomes payable and in connection with relevant employment, and
 - (ii) certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service;
 - (b) in any case, by reference to the member having been convicted of any offence committed before the benefit becomes payable, being—
 - (i) an offence of treason, or
 - (ii) one or more offences under the Official Secrets Acts 1911 to 1939 for which the member has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.
- 17 (1) No rule must operate so as to deprive a person of short service benefit (whether a member himself, or his widow or a dependant) by reference to—

- (a) failure by him or any other person to make a claim for the benefit or for any payment due as benefit; or
 - (b) failure by him or any other person, at any time after termination of relevant employment, to give any notice, or comply with any formality, required by the scheme as a condition of entitlement.
 - (2) Sub-paragraph (1)(a) above is not to prevent reliance on any enactment relating to the limitation of actions ; and in cases of failure to claim, the scheme may provide for the right to receive any payment to be forfeited in the event of its not being claimed within 6 years of the date on which it became due.
- 18 (1) A scheme must contain no rule enabling a member's employer to exercise any description of charge or lien on, or set-off against, short service benefit, to the extent that it includes transfer credits ; but a charge or lien on, or set-off against, a member's short service benefit is permissible (insofar as it does not include transfer credits) for the purpose of enabling the employer to obtain the discharge by the member of some monetary obligation due to the employer and arising out of a criminal, negligent or fraudulent act or omission by the member.
- (2) No rule is to permit the employer to recover from, or retain out of, the resources of the scheme any sum in respect of a monetary or other obligation due to him from any member, except an obligation arising as mentioned in sub-paragraph (1) ; and rules permitting such recovery or retainer must so provide that—
- (a) in respect of any such obligation, recovery or retainer is limited to the actuarial value of the member's actual or prospective benefits at that time, or the amount of the obligation, whichever is the less (subject to any different agreement in writing between the employer and the member) ; and
 - (b) the member is entitled to a certificate showing the amount retained or recovered and its effect on his benefits or prospective benefits ; and
 - (c) in the event of any dispute as to the amount to be retained or recovered, the employer is not entitled to enforce the charge, lien or set-off except after the obligation has become enforceable under an order of a competent court or the award of an arbitrator or in Scotland an arbiter to be appointed (failing agreement between the parties) by the sheriff.
- 19 In respect of any of the benefits or rights alternative to short service benefit provided in accordance with paragraph 9(2) above, paragraphs 16 to 18 shall apply with such modifications as may be prescribed.