

## SCHEDULES

### SCHEDULE 1

#### TRANSFER AND REVALUATION

#### PART II

##### NEW SCHEDULE

3 The following Schedule shall be inserted after Schedule 1 to that Act—

“SCHEDULE  
1A

REVALUATION OF PENSIONS AND TRANSFER VALUES

#### PART I

##### REVALUATION OF PENSIONS

- 1 (1) This Part of this Schedule applies to any member of an occupational pension scheme whose pensionable service terminates after the commencement of this Schedule if—
- (a) it terminates before normal pension age ; and
  - (b) on the date when it terminates—
    - (i) he has accrued rights to benefit under the scheme; or
    - (ii) he would have accrued rights to benefit under it if his relevant employment had also terminated on that date.
- (2) In this Part of this Schedule " the revaluation condition " means—
- (a) in relation to benefit payable to the member, that, subject to sub-paragraph (3) below, there are 365 days or more in the period of which the first day is the day after the date when his pensionable service terminates and the last is the day on which he attains normal pension age;
  - (b) in relation to benefit payable to any other person in respect of the member, that, subject to sub-paragraph (3) below, there are 365 days or more in the period mentioned in paragraph (a) above and the member dies after attaining normal pension age.
- (3) For the purpose of calculating the number of days in the period mentioned in sub-paragraph (2) above, any day which is 29th February shall be disregarded.
- (4) For the purposes of this Part of this Schedule "normal pension age", "relevant employment" and, subject to paragraph 2(3) below, "

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pensionable service " are to be construed in accordance with Schedule 16 to the Social Security Act 1973.

- 2 (1) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied—

- (a) any pension or other retirement benefit payable under the scheme to the member; and
- (b) any pension or other benefit payable under it to any other person in respect of him,

is to be revalued by adding the appropriate amount to the amount that would be payable but for this Schedule or regulations made under it.

- (2) For the purposes of this Schedule "the appropriate amount" is

$$\frac{A \ B}{C} (D - E)$$

, where—

- (a) A=the revaluation percentage specified in the last period of one year beginning on the date of the commencement of this Part of this Schedule or on an anniversary of that date and ending before the date on which the member attains normal pension age as the revaluation percentage for the period which is of the same length as the number of complete years in the period mentioned in paragraph 1(2)(a) above ;
- (b) B=the length of the member's qualifying pensionable service;
- (c) C=the length of his pensionable service ;
- (d) D=the amount of the pension or other benefit—
  - (i) which on the date when his pensionable service terminates has accrued to him or to any other person in respect of him ; or
  - (ii) which would have so accrued on that date if his relevant employment had also terminated on that date ;
- (e) E=any part of the amount mentioned in paragraph (d) above which consists of the member's or his widow's guaranteed minimum.

- (3) In sub-paragraph (2)(b) and (c) above—

" pensionable service" includes any notional pensionable service which is credited to the member by the scheme ; and

" qualifying pensionable service" means any part of the member's pensionable service which falls on or after 1st January 1985.

- (4) For the purposes of sub-paragraph (2)(b) and (c) above, any notional pensionable service which is credited to a member by a scheme shall be taken to have ended immediately before the member's actual pensionable service began.

- (5) Any rule of a scheme the effect of which is that benefit falls to be revalued by reference to any period is to be disregarded in making any calculation required by this paragraph.

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- (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference to the member's average salary over the period of service on which that benefit is based.
  - (2) A benefit to which this paragraph applies is referred to in this Schedule as an " average salary benefit ".
  - (3) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied, any average salary benefit payable to the member or to any other person in respect of him is to be revalued—
    - (a) by revaluing his salaries during the period mentioned in paragraph 1(2)(a) above in any way in which they would have been revalued during it if he had remained in the same pensionable service ; or
    - (b) by the method specified in paragraph 2 above.
  - (4) The method by which a benefit is to be revalued under this paragraph is whichever of the methods mentioned in subparagraph (3) above appears to the trustees or managers of the scheme to be appropriate.
  - (5) In this paragraph "salaries " means the member's salaries for the period between 1st January 1985 and the date when his pensionable service terminated, or such part of them as was relevant under the scheme to the calculation of the retirement benefits payable under the scheme to him or to any other person in respect of him ; and those salaries are to be taken for the purposes of this paragraph to include—
    - (a) any amount which is attributed to them, otherwise than by virtue of this paragraph, as the result of a revaluation for which the rules of the scheme provide ; and
    - (b) any amount which is for any reason credited to the member by way of salary notionally earned.
  - (6) For the purposes of the application of this paragraph to a case where a member is credited with an amount by reference to salary notionally earned over a period of time of a particular length that period shall be taken to have ended immediately before the member's actual pensionable service began.
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- (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference solely to the member's length of service.
  - (2) A benefit to which this paragraph applies is referred to in this Schedule as a " flat rate benefit ".
  - (3) Subject to the following provisions of this Schedule, if the revaluation condition is satisfied, any flat rate benefit payable to the member or to any other person in respect of him is to be revalued—
    - (a) by revaluing the benefits which have accrued to him during the period mentioned in paragraph 1(2)(a) above in any way in which they would have been revalued during it if he had remained in the same pensionable service; or
    - (b) by the method specified in paragraph 2 above.

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- (4) The method by which a benefit is to be revalued under this paragraph is whichever of the methods mentioned in subparagraph (3) above appears to the trustees or managers of the scheme to be appropriate.
- 5 (1) This paragraph applies to any benefit the rate or amount of which is calculated by reference to a payment or payments made by the member, or by any other person in respect of him.
- (2) A benefit to which this paragraph applies is referred to in this Schedule as a " money purchase benefit".
- (3) In the case of such a benefit, if the revaluation condition is satisfied, the investment yield and any bonuses arising from payments made by or on behalf of a member shall be applied, subject to sub-paragraph (4) below, towards providing any pension or other retirement benefit which is payable under the scheme to him or to any other person in respect of him in the manner in which they would have been applied if his pensionable service had not terminated.
- (4) The Secretary of State may by regulations authorise trustees and managers of schemes to deduct from any pension or other retirement benefit provided under sub-paragraph (3) above an appropriate amount in respect of the administrative expenses incurred by them in carrying this paragraph into effect.
- 6 Nothing in paragraph 2, 3, 4 or 5 above is to be construed as requiring the revaluation of any pension or other benefit provided by virtue of paragraph 9(2)(b) of Schedule 16 to the Social Security Act 1973 by way of complete substitute for another pension or benefit.
- 7 (1) Subject to sub-paragraph (2) below, this Part of this Schedule overrides any provision of a scheme to the extent that it conflicts with this Part of this Schedule.
- (2) This Part of this Schedule does not override a protected provision of a scheme.
- (3) Subject to sub-paragraph (4) below, in sub-paragraph (2) above " protected provision " has the same meaning as it has in subsection (2) of section 41C above by virtue of subsection (3) of that section.
- (4) In its application to schemes which are not contracted-out section 41C(3) above shall have effect for the purpose of this paragraph as if—
- (a) there were omitted—
    - (i) from paragraph (a), sub-paragraph (ii) and the word " or " immediately preceding it;
    - (ii) from paragraph (b), the word " and " ; and
    - (iii) from paragraph (c), the words from " authorised " to the end ; and
  - (b) there were added at the end of paragraph (c) the words "and
    - (d) any provision of a scheme whereby—
      - (i) no pension, or a pension at a reduced rate, is payable to a widow whom

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- the earner married not more than six months before his death ;
- (ii) the whole or any part of a pension is not paid to a widow, but instead comparable benefits are provided for one or more dependants of the deceased earner; or
- (iii) no pension, or a pension at a reduced rate, is payable to a widow (or, where a provision such as is mentioned in sub-paragraph (ii) above operates, to another dependant of the deceased) who was more than ten years younger than he was "."
- 8 If under a scheme—
- (a) the amount of the pension or other benefit for a member or for any other person in respect of him falls to be increased during the period mentioned in paragraph 1(2)(a) above— v
- (i) by the percentages specified during that period under section 23(2) above ; or
- (ii) under any arrangement which, in the opinion of the Occupational Pensions Board, maintains the value of the pension or other benefit by reference to the rise in the general level of prices in Great Britain during that period; and
- (b) the increase falls to be determined by reference to an amount from which the guaranteed minimum for a member or his widow has not been deducted,
- the fact that the scheme provides as mentioned in sub-paragraph (a) above does not in itself result in conflict with paragraph 2, 3 or 4 above.
- 9 In making any calculation for the purposes of this Part of this Schedule any commutation, forfeiture or surrender of the whole or part of a pension shall be disregarded.
- 10 The same money may not be treated as providing both the benefit required by section 41A or 41B above and the increase in benefit required by this Part of this Schedule.

## PART II

### TRANSFER VALUES

- 11 (1) This Part of this Schedule applies to any member of an occupational pension scheme whose pensionable service terminates after the commencement of this Part of this Schedule if—
- (a) it terminates at least one year before normal pension age; and
- (b) on the date when it terminates—
- (i) he has accrued rights to benefit under the scheme ; or
- (ii) he would have accrued rights to benefit under it if his relevant employment had also terminated on that date.

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- (2) For the purposes of this Part of this Schedule "relevant employment", "pensionable service" and "normal pension age" are to be construed in accordance with Schedule 16 to the Social Security Act 1973.
- (3) Any reference to a member in the following provisions of this Part of this Schedule is a reference to a member of an occupational pension scheme to whom this Part of this Schedule applies.
- 12 (1) Subject to the following provisions of this Schedule, a member acquires a right, when his pensionable service terminates, to the cash equivalent at the relevant date of any benefits—
- (a) which have accrued to or in respect of him under the applicable rules ; or
  - (b) which would have so accrued to or in respect of him if his relevant employment had terminated on the date when his pensionable service terminates.
- (2) In this paragraph "the applicable rules" means
- (a) the rules of the scheme, except so far as—
    - (i) section 41A or 41B above ; or
    - (ii) Part I of this Schedule, overrides them ; and
  - (b) any provision which the rules of the scheme do not contain but which a scheme must contain if it is to conform with the preservation requirements ; and
  - (c) any provision—
    - (i) of section 41A or 41B above ; or
    - (ii) of Part I of this Schedule,
 which overrides any of the rules of the scheme ;
 

"the relevant date" means the date when the member's pensionable service terminates or the date of the relevant application, whichever is the later ; and

"the relevant application" means any application which the member has made under paragraph 16 below and which he has not withdrawn.
- (3) Subject to sub-paragraph (4) below, in sub-paragraph (2) above "the preservation requirements" means the requirements set out in Part I of Schedule 16 to the Social Security Act 1973 as the requirements of Part II of that Act relating to preservation of benefit under occupational pension schemes.
- (4) Where—
- (a) a scheme provides benefits for members with less than 5 years' qualifying service, as defined in paragraph 7 of Schedule 16 to the Social Security Act 1973 ; and
  - (b) on the date when the pensionable service of a member of that scheme terminates he has sufficient service to qualify for benefits under the scheme,
- paragraph 6(1)(b) of that Schedule is to be treated as if a reference to the service which the member has on the date when his pensionable service

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- terminates were substituted for the reference to 5 years' qualifying service.
- 13 (1) A member who acquires a right to a cash equivalent under this Part of this Schedule may only take it by exercising the option conferred by sub-paragraph (2) below.
- (2) Subject to sub-paragraphs (3) and (4) below, the option conferred by this sub-paragraph on any such member is that of requiring the trustees or managers of the scheme of which he is a member to use the cash equivalent to which he has acquired a right in whichever of the ways specified in paragraphs (a), (b) and (c) below he chooses—
- (a) for acquiring transfer credits allowed under the rules of another scheme whose trustees or managers are able and willing to accept him and which satisfies prescribed requirements ;
  - (b) for purchasing from one or more insurance companies such as are mentioned in section 52C(4)(a) above, chosen by the member and willing to accept payment on account of the member from the trustees or managers, one or more annuities which satisfy prescribed requirements ;
  - (c) subject to sub-paragraph (3) below, for subscribing to such other type or types of pension arrangements as may be prescribed.
- (3) Except in such circumstances as may be prescribed sub-paragraph (2) above is to be construed as if paragraph (c) were omitted.
- (4) A member may exercise the option conferred by sub-paragraph (2) above in different ways in relation to different portions of his cash equivalent, but a member who exercises that option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (5) below applies, in relation to the whole of the sum mentioned in sub-paragraph (6) below.
- (5) Where—
- (a) the trustees or managers of an occupational pension scheme which is not a contracted-out scheme are able or willing to have transferred to it only the liability for a member's accrued rights other than his accrued rights to guaranteed minimum pensions ; and
  - (b) the member has not required them to use the portion of his cash equivalent that represents guaranteed minimum pensions in either of the ways specified in sub-paragraph (2)(b) and (c) above,
- paragraph 12 above, this paragraph and paragraph 14 below are to be construed as conferring on the member an option only in respect of the sum mentioned in sub-paragraph (6) below.
- (6) The sum referred to in sub-paragraph (5) above is the sum equal to the balance of the cash equivalent to which the member would be entitled if sub-paragraph (5) above did not apply, after deduction of an amount sufficient for the trustees or managers of the scheme from which he is being transferred to meet their liability in respect of his and his widow's guaranteed minimum pensions.

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- 14 (1) The cash equivalents mentioned in paragraph 12(1) above are to be calculated and verified in the prescribed manner.
- (2) The power to make regulations conferred by sub-paragraph (1) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
- (a) by prescribed persons ; or
  - (b) by persons with prescribed professional qualifications or experience ; or
  - (c) by persons approved by the Secretary of State.
- (3) Regulations may provide—
- (a) that in calculating cash equivalents account shall be taken—
    - (i) of any surrender, commutation or forfeiture of the whole or part of a member's pension which occurs before the trustees or managers of the scheme of which he is a member do what is needed to comply with what he requires under paragraph 16 below ;
    - (ii) in a case where paragraph 13(5) above applies, of the need to deduct an appropriate amount to provide guaranteed minimum pensions ; and
  - (b) that in circumstances specified in the regulations a cash equivalent shall be increased or reduced to an amount greater or less than the amount for which paragraph 12(1) above provides.
- (4) Without prejudice to the generality of sub-paragraph (3) above—
- (a) the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include—
    - (i) the length of time which elapses between the termination of a member's pensionable service and his exercise of the option conferred by this Part of this Schedule or regulations under it;
    - (ii) failure by the trustees or managers of a scheme to do what is needed to carry out what a member of the scheme requires within six months of the date on which they receive an application from him under paragraph 16 below ; and
    - (iii) the state of the funding of a scheme ; and
  - (b) regulations under that sub-paragraph may specify as the amount by which a cash equivalent is to be reduced such an amount that a member has no right to receive anything.
- 15 (1) A member may only exercise the option conferred by paragraph 13 above on or before the last option date.
- (2) In this paragraph " the last option date " means the date which falls—
- (a) one year before the date on which he attains normal pension age; or
  - (b) six months after the date when his pensionable service terminates,
- whichever is the later.



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- (3) A member loses the right to any cash equivalent under this Part of this Schedule—
- (a) if his pension or benefit in lieu of a pension or any part of it becomes payable before he attains normal pension age;
  - (b) if he fails to exercise the option conferred by paragraph 13 above on or before the last option date; or
  - (c) if the scheme is wound up.
- 16 (1) A member may only exercise the option conferred by paragraph 13 above by making an application in writing to the trustees or managers of the scheme.
- (2) In any case where—
- (a) a member has exercised that option ; and
  - (b) the trustees or managers of the scheme have done what is needed to carry out what the member requires,
- the trustees or managers shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such case as is mentioned in paragraph 13(5) above, to the extent that an obligation to provide such guaranteed minimum pensions continues to subsist.
- (3) If the trustees or managers of a scheme receive an application under this paragraph, it shall be their duty, subject to the following provisions of this paragraph, to do what is needed to carry out what the member requires—
- (a) within twelve months of the date on which they receive the application; or
  - (b) by the date on which the member attains normal pension age, whichever is the earlier.
- (4) If
- (a) disciplinary proceedings or proceedings before a court have been commenced against a member at any time before the expiry of the period of twelve months beginning with the date when his pensionable service terminates; and
  - (b) it appears to the trustees or managers of the scheme of which he is a member that the proceedings may lead to the whole or part of the pension or benefit in lieu of a pension payable to the member or his widow being forfeited,
- it shall be the trustees' or managers' duty, subject to the following provisions of this paragraph, to do what is needed to carry out what the member requires before—
- (i) the date before which they would be obliged to do it under subparagraph (3) above ; or
  - (ii) the end of the period of three months after the conclusion of the disciplinary or court proceedings (including any proceedings on appeal),
- whichever is the later.

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- (5) The Occupational Pensions Board may grant an extension of the period within which the trustees or managers of a scheme are obliged to do what is needed to carry out what a member of the scheme requires—
- (a) in any case where in the opinion of the Board—
    - (i) the scheme is being wound up or is about to be wound up;
    - (ii) the scheme is ceasing to be a contracted-out scheme ;
    - (iii) the interests of the members of the scheme generally will be prejudiced if the trustees or managers of the scheme do what is needed to carry out what is required within that period ; or
    - (iv) the member has not taken all such steps as the trustees or managers can reasonably expect him to take in order to satisfy them of any matter which falls to be established before they can properly carry out what he requires ;
  - (b) in any case where the provisions of section 49 above apply ; and
  - (c) in any case where a request for an extension has been made on a ground specified in paragraph (a) or (b) above, and the Board's consideration of the request cannot be completed before the end of that period.
- (6) A request under sub-paragraph (5) above may only be made by the trustees or managers.
- (7) The Board shall have power, if they are satisfied that there has been a relevant change of circumstances since they granted an extension, or that they granted an extension in ignorance of a material fact or on the basis of a mistake as to a material fact—
- (a) to direct that the extension shall end on a date earlier than that on which it would otherwise have ended ; or
  - (b) to revoke the grant of the extension.
- (8) An application to the trustees or managers of a scheme under this paragraph is to be taken to have been made if it is delivered to them personally, or sent by post in a registered letter or by the recorded delivery service.
- 17 (1) Subject to sub-paragraph (2) below, a member of a scheme may withdraw an application under paragraph 16 above by giving the trustees or managers of the scheme notice in writing that he no longer wishes them to do what is needed to carry out what he previously required.
- (2) Such a notice shall be of no effect if it is given to the trustees or managers at a time when, in order to comply with what the member previously required, they have already entered into an agreement with a third party to use the whole or part of the member's cash equivalent in a way specified in paragraph 13(2)(a), (b) or (c) above.
- (3) A member who withdraws an application may make another.
- (4) A notice to the trustees or managers of a scheme under this paragraph is to be taken to have been given if it is delivered to them personally, or sent by post in a registered letter or by recorded delivery service.

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- 18 (1) Subject to sub-paragraph (2) below, this Part of this Schedule overrides any provision of a scheme to the extent that it conflicts with this Part of this Schedule.
- (2) This Part of this Schedule does not override any provision of a scheme to the extent that it deals with priorities on a winding-up.

### PART III

#### SUPPLEMENTARY

- 19 In making any calculation for the purposes of this Schedule—
- (a) any charge or lien on the whole or part of a pension; and
  - (b) any set-off against the whole or part of a pension,
- shall be disregarded.
- 20 (1) The Secretary of State may by regulations direct that this Schedule shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may there specify.
- (2) In sub-paragraph (1) above " modification " includes, without prejudice to the generality of that sub-paragraph, addition, omission and amendment.
- 21 The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether—
- (a) any provision of this Schedule (including, without prejudice to section 20(2) of the Interpretation Act 1978, any such provision as modified by regulations under paragraph 20 above) does or does not override any provision of the scheme;
  - (b) any benefit is an average salary benefit, a flat rate benefit or a money purchase benefit.
- 22 (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in paragraph 21 above.
- (2) The persons competent to make an application under this paragraph in respect of a scheme are
- (a) the persons mentioned in section 41E(2)(a) to (d) above; and
  - (b) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this paragraph in respect of a scheme of that category.
- 23 It is hereby declared that nothing in the foregoing provisions of this Schedule is to be taken to preclude a scheme from being framed or managed more favourably to beneficiaries than is called for by those provisions.”.