

*Status: Point in time view as at 06/04/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Companies Act 1985, Part II. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>SCHEDULE 2

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

##### Textual Amendments

- F1** Schs. 1-15B repealed (prosp.) by Companies Act 2006 (c. 46), ss. 1295, 1300, Sch. 16 and the repeal being partly in force, as to which see individual provisions

### [<sup>F1</sup>PART II

#### REFERENCES IN SCHEDULE 5]

##### Textual Amendments

- F1** Sch. 2 paras. 6–9 inserted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, Sch. 3) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), Sch. 10 para. 18(7)

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

- 6 (1) Where shares in an undertaking are held on trust for the purposes of a pension scheme or an employees’ share scheme, there shall be disregarded any residual interest which has not vested in possession, being an interest of the undertaking or any of its subsidiary undertakings.
- (2) In this paragraph a “residual interest” means a right of the undertaking in question (the “residual beneficiary”) to receive any of the trust property in the event of—
- all the liabilities arising under the scheme having been satisfied or provided for, or
  - the residual beneficiary ceasing to participate in the scheme, or
  - 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—
- in a case within sub-paragraph (2)(a), 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;

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- (b) in a case within sub-paragraph (2)(b) or (c), when the residual beneficiary becomes entitled to require the trustee to transfer to that beneficiary any of the property receivable pursuant to that right.

*[<sup>F2</sup> Employer’s charges and other rights of recovery]*

#### Textual Amendments

- F2** Sch. 2 paras. 6–9 inserted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, Sch. 3) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), Sch. 10 para. 18(7)

- 7 (1) Where shares in an undertaking are held on trust, there shall be disregarded—
- (a) if the trust is for the purposes of a pension scheme, any such rights as are mentioned in sub-paragraph (2) below;
  - (b) if the trust is for the purposes of an employee’s share scheme, any such rights as are mentioned in paragraph (a) of that sub-paragraph,
- being rights of the undertaking or any of its subsidiary undertakings.
- (2) The rights referred to 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>F3</sup>section 61 of the Pension Schemes Act 1993 (deduction of contributions equivalent premium from refund of scheme contributions)] or otherwise as reimbursement or partial reimbursement for any [<sup>F4</sup>contributions equivalent premium]paid in connection with the scheme under [<sup>F3</sup>Chapter III of Part III] of that Act.

#### Textual Amendments

- F3** Words in Sch. 2 para. 7(2)(b) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 16(b); S.I. 1994/86, art. 2
- F4** Words in Sch. 2 para. 7(2)(b) substituted (6.4.1997) by 1995 c. 26, s. 151, Sch. 6 para. 11; S.I. 1997/664, art. 2(3), Sch. Pt. II

*[<sup>F5</sup> Trustee’s right to expenses, remuneration, indemnity, &c.]*

#### Textual Amendments

- F5** Sch. 2 paras. 6–9 inserted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, Sch. 3) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), Sch. 10 para. 18(7)

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- 8 Where an undertaking is a trustee, there shall be disregarded any rights which the undertaking 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 undertaking in the performance of its duties as trustee.

*[<sup>F6</sup> Supplementary]*

**Textual Amendments**

- F6** Sch. 2 paras. 6–9 inserted (subject to the transitional and saving provisions in S.I. 1990/355, arts. 6–9, Sch. 3) by Companies Act 1989 (c. 40, SIF 27), ss. 23, 213(2), Sch. 10 para. 18(7)

- 9 (1) The following applies for the interpretation of this Part of this Schedule.
- (2) “Undertaking”, and “shares” in relation to an undertaking, have the same meaning as in Part VII.
- (3) This Part of this Schedule applies in relation to debentures as it applies in relation to shares.
- (4) “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.
- (5) In sub-paragraph (4) of this paragraph and in paragraph 7(2) “employee” and “employer” shall be read as if a director of an undertaking were employed by it.

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