SCHEDULES

SCHEDULE 3

OCCUPATIONAL PENSION SCHEMES

PART II

SCHEMES APPROVED BEFORE THE PASSING OF THIS ACT

Preliminary.

18 (1) This Part of this Schedule shall be deemed to have come into force on 17th March 1987 and, subject to sub-paragraphs (2) and (3) below, applies in relation to any retirement benefits scheme approved by the Board before the passing of this Act.

(2) The Board may by regulations provide that this Part of this Schedule, or any provision of it, shall not apply in relation to a scheme or to an employee—

(a) in circumstances prescribed in the regulations;

(b) in any case where in the opinion of the Board the facts are such that it would be appropriate for this Part of this Schedule, or the provision in question, not to apply;

and regulations under this sub-paragraph shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(3) This Part of this Schedule shall not apply to a retirement benefits scheme if, before the end of 1987, the administrator of the scheme gives written notice to the Board that it is not to apply.

(4) Where a notice is given to the Board under sub-paragraph (3) above, the scheme shall, with effect from 17th March 1987 or (if later) the date with effect from which it was approved, cease to be approved.

Accelerated accrual.

19 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987.

(2) Notwithstanding anything to the contrary in the rules of the scheme, they shall have effect as if they did not allow the provision for the employee of a pension exceeding one-thirtieth of his relevant annual remuneration for each year of service up to a maximum of 20.

20 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987 and the scheme allows him to commute his pension or part of it for a lump sum or sums.

(2) If the employee's full pension (that is, the pension before any commutation) is equal to or less than a basic rate commutable pension, the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow him to obtain by way of commutation a lump sum or sums exceeding in all a basic rate lump sum.

(3) If the employee's full pension is greater than a basic rate commutable pension but less than a maximum rate commutable pension, the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow him to obtain by way of commutation a lump sum or sums exceeding in all the aggregate of—

(a) a basic rate lump sum, and

(b) an amount equal to the relevant percentage of the difference between a basic rate lump sum and a maximum rate lump sum.

(4) In this paragraph, as it applies in relation to an employee—

(a) a "basic rate commutable pension" means a pension of one-sixtieth of his relevant annual remuneration for each year of service up to a maximum of 40;

(b) a "maximum rate commutable pension" means a pension of one-thirtieth of his relevant annual remuneration for each year of service up to a maximum of 20;

(c) a "basic rate lump sum" means a lump sum of three-eightieths of his relevant annual remuneration for each year of service up to a maximum of 40;

(d) a "maximum rate lump sum" means a lump sum of such amount as may be determined by or under regulations made by the Board for the purposes of this paragraph and paragraph 21 below;

(e) "the relevant percentage" means the difference between a basic rate commutable pension and the employee's full pension expressed as a percentage of the difference between a basic rate commutable pension and a maximum rate commutable pension.

(5) Regulations under this paragraph shall be made by statutory instrument.

21 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987 and the scheme provides a lump sum or sums for him otherwise than by commutation of his pension or part of it.

(2) If the employee's pension is equal to or less than a basic rate non-commutable pension, the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to him, otherwise than by way of commutation, of a lump sum or sums exceeding in all a basic rate lump sum.

(3) If the employee's pension is greater than a basic rate non-commutable pension but less than a maximum rate non-commutable pension the rules of the scheme shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to him, otherwise than by way of commutation, of a lump sum or sums exceeding in all the aggregate of—

(a) a basic rate lump sum, and

(b) an amount equal to the relevant percentage of the difference between a basic rate lump sum and a maximum rate lump sum.

(4) In this paragraph, as it applies in relation to an employee—

(a) a "basic rate non-commutable pension" means a pension of one-eightieth of his relevant annual remuneration for each year of service up to a maximum of 40;

(b) a "maximum rate non-commutable pension" means a pension of one-fortieth of his relevant annual remuneration for each year of service up to a maximum of 20;

(c) "basic rate lump sum" and "maximum rate lump sum" have the same meanings as in paragraph 20 above; and

(d) "the relevant percentage" means the difference between a basic rate non-commutable pension and the employee's actual pension expressed as a percentage of the difference between a basic rate non-commutable pension and a maximum rate non-commutable pension.

Final remuneration.

22 (1) This paragraph applies where an employee who is a member of the scheme retires on or after 17th March 1987.

(2) The rules of the scheme shall have effect as if they provided that in determining the employee's relevant annual remuneration for the purpose of calculating benefits, no account should be taken of anything excluded from the definition of "remuneration" in section 26(1) of the Finance Act 1970.

(3) In the case of an employee—

(a) whose employer is a company and who at any time in the last ten years of his service is a controlling director of the company, or

(b) whose relevant annual remuneration for the purpose of calculating benefits, so far as the remuneration is ascertained by reference to years beginning on or after 6th April 1987, would (apart from this Schedule) exceed the permitted maximum,

the rules of the scheme shall have effect as if they provided that his relevant annual remuneration must not exceed his highest average annual remuneration for any period of three or more years ending within the period of ten years which ends with the date on which his service ends.

(4) In the case of an employee within paragraph (b) of sub-paragraph (3) above who retires before 6th April 1991, the rules of the scheme shall have effect as if they provided that his relevant annual remuneration must not exceed the higher of—

(a) the average annual remuneration referred to in that sub-paragraph, and

(b) his remuneration (within the meaning given in section 26(1) of the Finance Act 1970) assessable to income tax under Schedule E for the year of assessment 1986–87.

(5) For the purposes of this paragraph a person is a controlling director of a company if—

(a) he is a director as defined in section 26 of the Finance Act 1970, and

(b) he is within paragraph (c) of section 303(5) of the Taxes Act,

in relation to the company.

Lump sums.

23 (1) This paragraph applies where an employee becomes a member of the scheme on or after 17th March 1987.

(2) If the rules of the scheme allow the employee to obtain (by commutation of his pension or otherwise) a lump sum or sums calculated by reference to his relevant annual remuneration, they shall have effect as if they included a rule that in calculating a lump sum any excess of that remuneration over the permitted maximum should be disregarded.

Additional voluntary contributions.

24 (1) This paragraph applies where—

(a) the rules of the scheme make provision for the payment by employees of voluntary contributions, and

(b) on or after 8th April 1987 an employee enters into arrangements to pay such contributions.

(2) Notwithstanding anything in the rules of the scheme, they shall have effect as if they did not allow the payment to the employee of a lump sum in commutation of a pension if or to the extent that the pension is secured by the voluntary contributions.

25 (1) This paragraph applies where an employee who is a member of the scheme ("the main scheme") is also a member of an approved scheme ("the voluntary scheme") which provides additional benefits to supplement those provided by the main scheme and to which no contributions are made by any employer of his.

(2) Any rules of the main scheme imposing a limit on the amount of a benefit provided for the employee shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the employee by the voluntary scheme.

Supplementary.

26 (1) In this Part of this Schedule "relevant annual remuneration" means final remuneration or, if the scheme provides for benefits to be calculated by reference to some other annual remuneration, that other annual remuneration.

(2) Expressions used in this Part of this Schedule and in Chapter II of Part II of the Finance Act 1970 have the same meanings in this Part as they have in that Chapter.