

SCHEDULES

SCHEDULE 1

Section 75

THE TRUSTEE CORPORATION

PART 1

MEMBERS AND EMPLOYEES

Members

- 1 (1) Appointments of members of the corporation, and of a member as chair of the corporation, are to be made—
 - (a) by the Secretary of State, if they take effect on the commencement of section 75(1) or in the initial period;
 - (b) by the corporation, if they take effect after the initial period.
- (2) Subject to sub-paragraph (3), the Secretary of State must consult the chair of the corporation before appointing an ordinary member (that is, a member who is not, on appointment, also appointed as chair).
- (3) A vacancy in the office of chair does not prevent the appointment of an ordinary member.
- (4) The Secretary of State and the corporation must aim to ensure that, from the end of the initial period, there are not fewer than 9 and not more than 15 members at any time.
- (5) It is for the Secretary of State to determine the length of the initial period.
- (6) An order under section 67 may provide for section 242 of the Pensions Act 2004 (c. 35) (member-nominated directors of corporate trustees) to apply to the members of the corporation as it applies to the directors of a company, subject to any modifications specified in the order.

Conflicts of interest

- 2 (1) The Secretary of State and, under paragraph 1(1)(b), the corporation must satisfy themselves that a person to be appointed as a member does not have a conflict of interest.
- (2) The Secretary of State and the corporation must also satisfy themselves from time to time that none of the members has a conflict of interest.
- (3) A member of the corporation, or a person the Secretary of State or the corporation proposes to appoint as a member, must provide the Secretary of State on request with any information the Secretary of State considers necessary for the purposes of sub-paragraph (1) or (2).

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- (4) A member of the corporation, or a person the corporation proposes to appoint as a member, must provide the corporation on request with any information the corporation considers necessary for the purposes of sub-paragraph (1) or (2).
- (5) In this paragraph and paragraph 3 “conflict of interest”, in relation to a person, means a financial or other interest which is likely to affect prejudicially that person’s discharge of functions as a member of the trustee corporation.
- (6) But for the purposes of this paragraph and paragraph 3 a person is not to be taken to have a conflict of interest for these reasons alone—
 - (a) being or having previously been engaged, on behalf of the relevant authority, in activities connected with the discharge of the authority’s functions relating to occupational pension schemes or personal pension schemes;
 - (b) having previously been a trustee or manager of such a scheme or an employee of such a trustee or manager.

Disqualification and removal

- 3 (1) A person is disqualified for appointment as a member if—
 - (a) prohibited by an order under section 3 of the Pensions Act 1995 (c. 26) or Article 3 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) from being a trustee of trust schemes in general, or
 - (b) suspended by an order under section 4 of that Act or Article 4 of that Order as a trustee of any scheme.
- (2) While the trustee corporation is a trustee of a scheme established under section 67, section 3 of that Act applies in relation to being a member of the trustee corporation as it applies in relation to being a trustee of the scheme.
- (3) The Pensions Regulator may also make an order under section 3 of that Act as applied by sub-paragraph (2) at any time when it would have power to make an order under section 4 of that Act (suspension) if the person were a trustee of the scheme.
- 4 (1) A person is disqualified for appointment as a member if disqualified under section 29 of the Pensions Act 1995 or Article 29 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) for being a trustee of a trust scheme.
- (2) A person is not disqualified under this paragraph if the Pensions Regulator has given the person a general waiver under section 29(5) of that Act or Article 29(5) of that Order.
- (3) The Pensions Regulator may, on the application of a person disqualified under this paragraph, give the person notice in writing waiving the disqualification.
- (4) A member who becomes disqualified under sub-paragraph (1) ceases to be a member.
- 5 The Secretary of State may remove a member from office if satisfied that the member—
 - (a) has a conflict of interest,
 - (b) is unfit for office by reason of misconduct,
 - (c) has failed to comply with the terms of appointment,
 - (d) has without reasonable excuse failed to discharge the functions of the office, or

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- (e) is otherwise incapable of discharging, or unfit or unwilling to discharge, the functions of the office.

Tenure of office

- 6 (1) A person holds and vacates office as a member or as chair in accordance with the terms of the appointment (subject to this Schedule).
- (2) A person's appointment as a member or as chair must state the period for which the appointment is made.
- (3) The period must not be more than five years.
- (4) At the end of the period the person is eligible for re-appointment, but may not be re-appointed more than once.
- (5) A person may resign as a member by notice in writing to the chair.
- (6) A person may resign as chair by notice in writing to the Secretary of State.
- (7) A person's appointment as chair ceases if the person ceases to be a member.

Remuneration etc

- 7 (1) The trustee corporation may—
 - (a) pay to the members such remuneration, and
 - (b) pay to or in respect of them such sums by way of or in respect of allowances and gratuities,as the Secretary of State may determine.
- (2) Where—
 - (a) a person whose term of office as member or chair has not expired ceases to hold that office, and
 - (b) the Secretary of State thinks there are special circumstances that make it right for the person to receive compensation,the trustee corporation may make a payment to the person of such amount as the Secretary of State may determine.

Staff

- 8 (1) The trustee corporation may appoint employees and make any other arrangements for its staffing that it thinks fit.
- (2) Employees are appointed and hold their employment on terms and conditions, including remuneration, determined by the trustee corporation.
- (3) The trustee corporation must—
 - (a) pay to or in respect of employees such pensions, allowances or gratuities as it may determine, or
 - (b) provide and maintain for them such pension schemes (whether contributory or not) as it may determine.

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PART 2

PROCEEDINGS ETC

Committees and advisory committees

- 9 (1) The trustee corporation may—
- (a) establish a committee for the purpose of discharging any of its functions;
 - (b) establish a committee for the purpose of giving the corporation advice about matters relating to the discharge of its functions.
- (2) A committee may include persons (including persons constituting a majority, but not the whole, of the committee) who are neither members nor employees of the trustee corporation.
- (3) Where a person who is neither a member nor an employee of the trustee corporation is a member of a committee, the trustee corporation may pay to that person such remuneration and expenses as it may determine.
- 10 (1) A committee of the trustee corporation may establish a sub-committee.
- (2) Every member of a sub-committee must be a member of the committee which established it.

Proceedings

- 11 (1) The trustee corporation may, subject to this Schedule—
- (a) regulate its own procedure;
 - (b) regulate the procedure of its committees or sub-committees;
 - (c) enable committees or sub-committees to regulate their own procedure subject to any provision made by the corporation.
- (2) The trustee corporation must publish, in such manner as it thinks fit, its own procedures and those of its committees and sub-committees.
- (3) This paragraph has effect subject to paragraph 13 (disqualification for acting in relation to certain matters).
- 12 The trustee corporation must make arrangements for the keeping of proper records—
- (a) of its proceedings,
 - (b) of the proceedings of its committees and sub-committees,
 - (c) of anything done by an employee or member of the corporation under paragraph 14(a) or (b) (delegation to member or employee).

Disqualification for acting in relation to certain matters

- 13 (1) This paragraph applies if at any meeting of—
- (a) the trustee corporation, or
 - (b) any committee or sub-committee,
- a member of the trustee corporation or, as the case may be, of the committee or sub-committee has a direct or indirect interest in any matter falling to be considered at the meeting.

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- (2) The person with the interest must declare it and the declaration must be recorded in the minutes of the meeting.
- (3) The person with the interest may not take part in any discussion or decision relating to the matter in which he has an interest, unless—
 - (a) in the case of a meeting of the trustee corporation the other members who are present when the discussion or decision falls to take place or is made have resolved unanimously that the interest is to be disregarded, or
 - (b) in the case of a meeting of a committee or sub-committee, the other members of the committee or sub-committee who are present when the discussion or decision falls to take place or is made have resolved in the manner authorised by the trustee corporation that the interest is to be disregarded.
- (4) In granting authorisations for the purposes of sub-paragraph (3)(b), the trustee corporation must secure that a resolution for those purposes does not allow a person to take part in a discussion or decision at a meeting of a committee established by virtue of paragraph 9(1)(a) or of a sub-committee of such a committee unless at least the following requirements are met—
 - (a) the number of other members of the committee or sub-committee in favour of the resolution is not less than two-thirds of those who are both present and entitled to vote on the resolution, and
 - (b) the number of other members of the committee or sub-committee in favour of the resolution is not less than its quorum.
- (5) For the purposes of this paragraph a general notification given at or sent to a relevant meeting that—
 - (a) a person—
 - (i) has an interest (as member, officer, employee or otherwise) in a specified body corporate or firm, or
 - (ii) is connected with a specified person (other than a body corporate or firm), and
 - (b) the person is to be regarded as interested in any matter involving that body corporate or firm or, as the case may be, person,is to be regarded as compliance with sub-paragraph (2) in relation to any such matter for the purposes of that meeting and any subsequent relevant meeting of the same type which is held while the notification is in force.
- (6) Section 252 of the Companies Act 2006 (c. 46) (persons connected with a director) applies for determining whether a person is connected with another person for the purposes of sub-paragraph (5) as it applies for determining whether a person is connected with a director of a company.
- (7) A notification for the purposes of sub-paragraph (5) remains in force until it is withdrawn.
- (8) For the purposes of sub-paragraph (5) each of the following is a “relevant meeting”—
 - (a) a meeting of the trustee corporation,
 - (b) a meeting of a committee,
 - (c) a meeting of a sub-committee,and a relevant meeting is of the same type as another relevant meeting if both meetings are relevant meetings by virtue of falling within the same paragraph of this sub-paragraph.

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- (9) A person required to make a declaration for the purposes of this paragraph in relation to any meeting—
- (a) is not required to attend the meeting, but
 - (b) is to be taken to have complied with the requirements of this paragraph if he takes reasonable steps to secure that notice of his interest is read out at, and taken into consideration at, the meeting.
- (10) For the purposes of this paragraph a person is not to be taken to have an interest in any matter for these reasons only—
- (a) being or having previously been engaged, on behalf of the relevant authority, in activities connected with the discharge of the authority's functions relating to occupational pension schemes or personal pension schemes, or
 - (b) having previously been a trustee or manager of such a scheme or an employee of such a trustee or manager.

Delegation

- 14 The trustee corporation may, subject to an order or rules under section 67, delegate any function conferred on it to—
- (a) a member,
 - (b) an employee or other member of staff, or
 - (c) a committee.

Validity of proceedings

- 15 The validity of proceedings of the trustee corporation, a committee or a sub-committee is not affected by a vacancy among the members or a defect in appointment.

Authentication of the trustee corporation's seal

- 16 (1) The application of the trustee corporation's seal must be authenticated by the signature of—
- (a) a member, or
 - (b) any other person authorised by the trustee corporation (whether generally or specially) for the purpose.
- (2) A document purporting to be duly executed under the seal of the trustee corporation, or to be signed on behalf of the trustee corporation, is to be received in evidence and, except to the extent that the contrary is shown, taken to be duly so executed or signed.
- (3) This paragraph does not apply to Scotland.

Annual report

- 17 (1) As soon as is reasonably practicable after the end of each financial year, the trustee corporation must send to the Secretary of State a report on the exercise of the trustee corporation's functions during that year.
- (2) The report must include—
- (a) a report on the trustee corporation's proceedings during the year, and

- (b) any information the Secretary of State directs, relating to the financial position of the trustee corporation or any other matter.
- (3) The Secretary of State must lay before Parliament a copy of each report received under this paragraph.

PART 3

MONEY

Finance

- 18 (1) The Secretary of State may, with the consent of the Treasury, give financial assistance to the trustee corporation.
- (2) The assistance—
 - (a) may take the form of grants, loans, guarantees or indemnities;
 - (b) may be given on conditions;
 - (c) in the case of a loan, must be given on a condition requiring the loan to be repaid with interest at a rate approved by the Treasury.
- (3) Section 5 of the National Loans Act 1968 (c. 13) (rates of interest on certain loans out of the National Loans Fund) has effect as respects the rate of interest on a loan under this paragraph as it has effect as respects a rate of interest within subsection (1) of that section.
- 19 The trustee corporation may make charges in connection with the exercise of its functions.

Accounts

- 20 (1) The trustee corporation must—
 - (a) keep proper accounting records, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) A statement under sub-paragraph (1)(b) must be prepared by the trustee corporation in such form as the Secretary of State may direct.
- (3) The trustee corporation must send a copy of a statement under sub-paragraph (1)(b) —
 - (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General.
- (4) A copy of a statement must be sent under sub-paragraph (3) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may direct.
- (5) The Comptroller and Auditor General must—
 - (a) examine, certify and report on a statement received under this paragraph, and
 - (b) send a copy of the certified statement and of the report on it to the Secretary of State as soon as possible.

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- (6) The Secretary of State must lay before Parliament a copy of the statement and report sent under sub-paragraph (5)(b).

PART 4

SUPPLEMENTARY

Disqualification

- 21 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”
- 22 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”

Records and freedom of information

- 23 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), in paragraph 3, insert at the appropriate place in Part 2 of the Table (other establishments and organisations)—
“The trustee corporation established by section 75 of the Pensions Act 2008.”
- 24 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities: miscellaneous), insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”

Equality

- 25 In Schedule 1A to the Race Relations Act 1976 (c. 74) (bodies subject to general duty), in Part 2, under “Other Bodies, Etc” insert at the appropriate place—
“The trustee corporation established by section 75 of the Pensions Act 2008.”

Interpretation

- 26 (1) In this Schedule—
“financial year” means such period as the Secretary of State may by order prescribe;
“occupational pension scheme” and “personal pension scheme”—
(a) in relation to England and Wales or Scotland, have the same meanings as in the Pension Schemes Act 1993 (c. 48) (see section 1 of that Act);
(b) in relation to Northern Ireland, have the same meanings as in the Pension Schemes (Northern Ireland) Act 1993 (c. 49) (see section 1 of that Act);
“the relevant authority” means—
(a) in relation to England and Wales or Scotland, the Secretary of State;

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(b) in relation to Northern Ireland, the Department for Social Development in Northern Ireland.

(2) In this Schedule references to the relevant authority's functions relating to occupational pension schemes or personal pension schemes include such functions conferred at any time after the passing of this Act.