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## SCHEDULE 1

### The New Provisions

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## APPENDIX 3—RULES OF THE NATS SECTION

### PART 2:

### BENEFITS AND THE ADMINISTRATION OF BENEFITS

#### 46.

#### **SET-OFF**

**46.** If a Member is discharged from Service in the NATS Section on account of his fraud or dishonesty or wilful damage to the property of the Employers or resigns from Service to avoid such discharge the Trustees shall be entitled if they think fit to set off against any money due to him under the NATS Section (other than benefits arising from a transfer into the NATS Section and other than the Member's Guaranteed Minimum Pension) such amounts as the Employers claim to be entitled to recover from the Member arising out of such fraud dishonesty or wilful damage as the case may be or such part of them as they think fit, provided that

- (a) subject to the terms of any agreement in writing between the Employers and the Member, the amount set off must not be greater than the actuarial value of the Member's actual or prospective benefits at the time of the reduction nor greater than the sum of the amounts claimed and the Member shall remain entitled to the balance of any benefits provided for and in respect of him (if any); and
- (b) the Trustees shall give the Member a certificate showing the amount set off and its effect on his benefits or prospective benefits under the NATS Section and shall send a copy of the certificate to the Employers; and
- (c) in the event of any dispute as to the amount to be set off the Trustees shall not satisfy any claim made by the Employers to the amount set off without prior production to them of an order of a competent court or an award of an arbitrator made in proceedings on a submission arising out of the said fraud dishonesty or damage under which the amount or some part of it has become enforceable against the Member and the final total amount set off shall be limited in such event to the total amount enforceable against the Member under such orders or awards as are produced to the Trustees; and
- (d) in a case to which paragraph (c) applies, if within 12 months of the Member's discharge or resignation or such longer period as the Trustees may reasonably allow the Employers have not produced an order of a competent court or an award of an arbitrator under which the amount set off or some part of it is enforceable the Member's benefits shall be paid free of any set off under this Rule; and
- (e) this Rule 46 may, subject always to any regulations made under section 91 of the Pensions Act 1995, also be applied (with any necessary alterations in point of detail) in relation to any sums owed to the NATS Section arising out of any fraudulent dishonest or criminal act of a Member.