

SCHEDULE 2

Pension schemes

Part 1

Pension schemes - general

Remedies in employment tribunals

6.—(1) This paragraph applies where—

- (a) under regulation 36 (jurisdiction of employment tribunals) a member or prospective member of a scheme (“the complainant”) presents to an employment tribunal a complaint against the trustees or managers of the scheme or an employer;
- (b) the complainant is not a pensioner member of the scheme;
- (c) the complaint relates to the terms on which persons become members of the scheme, or the terms on which members of the scheme are treated; and
- (d) the tribunal finds the complaint to be well-founded.

(2) Where this paragraph applies, the employment tribunal may, without prejudice to the generality of its power under regulation 38(1)(a) (power to make order declaring rights of complainant and respondent), make an order declaring that the complainant has a right—

- (a) where the complaint relates to the terms on which persons become members of the scheme, to be admitted to the scheme;
- (b) where the complaint relates to the terms on which members of the scheme are treated, to membership of the scheme without discrimination.

(3) An order under sub-paragraph (2)—

- (a) may be made in respect of such period as is specified in the order (but may not be made in respect of any time before the coming into force of these Regulations);
- (b) may make such provision as the employment tribunal considers appropriate as to the terms on which, or the capacity in which, the complainant is to enjoy such admission or membership.

(4) Where this paragraph applies, the employment tribunal may not make an order for compensation under regulation 38(1)(b), whether in relation to arrears of benefits or otherwise, except—

- (a) for injury to feelings;
- (b) by virtue of regulation 38(3).