

## SCHEDULES

### SCHEDULE 2

Regulation 3

#### Scheme employers

### PART 1

A local authority.

A joint board or joint committee appointed under any enactment, order or scheme, all the constituent authorities of which are local authorities.

The body known as Scottish Water established under section 20 of the Water Industry (Scotland) Act 2002<sup>(1)</sup>.

The Scottish Children's Reporter established under section 128 of the Local Government etc. (Scotland) Act 1994<sup>(2)</sup> and continued in being by section 15 of the Children's Hearings (Scotland) Act 2011<sup>(3)</sup>.

The Scottish Environment Protection Agency established under section 20 of the Environment Act 1995<sup>(4)</sup>.

A board of management of a college of further education established in terms of Part 1 of the Further and Higher Education (Scotland) Act 1992<sup>(5)</sup>.

A board of management of a self-governing school constituted and incorporated under section 19(2) of the Self-governing Schools etc. (Scotland) Act 1989<sup>(6)</sup>.

The Strathclyde Passenger Transport Authority established under section 40(1) of the Local Government etc. (Scotland) Act 1994.

The Strathclyde Passenger Transport Executive established under section 9(1) of the Transport Act 1968<sup>(7)</sup> or any subsidiary thereof.

Visit Scotland, established under section 1(1) of the Development of Tourism Act 1969<sup>(8)</sup>.

A Transport Partnership created by virtue of an order under section 1 of the Transport (Scotland) Act 2005<sup>(9)</sup>.

The Scottish Police Authority established under section 1 of the Police and Fire Reform (Scotland) Act 2012<sup>(10)</sup>.

The Scottish Fire and Rescue Service established under section 1A(1) of the Fire (Scotland) Act 2005<sup>(11)</sup>.

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(1) 2002 asp. 3.

(2) 1994 c.39.

(3) 2011 asp 1.

(4) 1995 c.25.

(5) 1992 c.37.

(6) 1989 c.39.

(7) 1968 c.73.

(8) 1969 c.51.

(9) 2005 asp. 12.

(10) S.S.I. 2012/236.

(11) S.S.I. 2012/336.

## PART 2

1. The following bodies are admission bodies with whom an administering authority may make an admission agreement—

- (a) a body which provides a public service in the United Kingdom which operates otherwise than for the purposes of gain and has sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest (whether because the operations of the body are dependent on the operations of the Scheme employer or otherwise);
- (b) a body, to the funds of which a Scheme employer contributes;
- (c) a body representative of—
  - (i) any Scheme employers, or
  - (ii) local authorities or officers of local authorities;
- (d) a body that is providing or will provide a service or assets in connection with the exercise of a function of a Scheme employer as a result of—
  - (i) the transfer of the service or assets by means of a contract or other arrangement, or
  - (ii) any provision in any enactment
- (e) a body which provides a public service in the United Kingdom and is approved in writing by the Scottish Ministers for the purpose of admission to the Scheme.

2. An approval under paragraph 1(e) may be subject to such conditions as the Scottish Ministers think fit and the Scottish Ministers may withdraw an approval at any time if such conditions are not met.

3. The Scheme employer, if it is not also the administering authority, must be a party to the admission agreement with a body falling within the description in paragraph 1(d).

4. In the case of an admission body falling within the description in paragraph 1(b), where at the date of the admission agreement the contributions paid to the body by one or more Scheme employers equal in total 50% or less of the total amount it receives from all sources, the Scheme employer paying contributions (or, if more than one pays contributions, all of them) must guarantee the liability of the body to pay all amounts due from it under these Regulations.

5. If the admission body is exercising the functions of the Scheme employer in connection with more than one contract or other arrangement under paragraph 1(d)(i), the administering authority and the admission body shall enter into a separate admission agreement in respect of each contract or arrangement.

6. An admission agreement must require the admission body to carry out, to the satisfaction of the administering authority, and to the satisfaction of the Scheme employer in the case of a body falling within paragraph 1(d)(i), an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up, or liquidation of the admission body.

7. Notwithstanding paragraph 6, and subject to paragraph 8, the admission agreement must further provide that where the level of risk identified by the assessment is such as to require it, the admission body shall enter into an indemnity or bond in a form approved by the administering authority with—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000(12) to accept deposits or to effect and carry out contracts of general insurance;

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(12) 2000 c.8.

- (b) a firm in an EEA state of the kind mentioned in paragraph 5(b) and (d) of Schedule 3 to that Act(13), which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule(14)) to accept deposits or to effect and carry out contracts of general insurance; or
  - (c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.
- 8.** Where, for any reason, it is not desirable for an admission body to enter into an indemnity or bond, the admission agreement must provide that the admission body secures a guarantee in a form satisfactory to the administering authority from—
- (a) a person who funds the admission body in whole or in part;
  - (b) in the case of an admission body falling within the description in paragraph 1(d), the Scheme employer referred to in that paragraph;
  - (c) a person who—
    - (i) owns, or
    - (ii) controls the exercise of the functions of, the admission body; or
  - (d) the Scottish Ministers in the case of an admission body—
    - (i) which is established by or under any enactment, and
    - (ii) where that enactment enables the Scottish Ministers to make financial provision for that admission body.
- 9.** An admission agreement must include—
- (a) provision for it to terminate if the admission body ceases to be such a body;
  - (b) a requirement that the admission body notify the administering authority of any matter which may affect its participation in the Scheme;
  - (c) a requirement that the admission body notify the administering authority of any actual or proposed change in its status, including a take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation and a material change to the body's business or constitution;
  - (d) a right for the administering authority to terminate the agreement in the event of—
    - (i) the insolvency, winding up or liquidation of the admission body,
    - (ii) a material breach by the admission body of any of its obligations under the admission agreement or these Regulations which has not been remedied within a reasonable time,
    - (iii) a failure by the admission body to pay any sums due to the fund within a reasonable period after receipt of a notice from the administering authority requiring it to do so.
- 10.** An admission agreement must include a requirement that the admission body will not do anything to prejudice the status of the Scheme as a registered scheme.
- 11.** When an administering authority makes an admission agreement it must make a copy of the agreement available for public inspection at its offices and must promptly inform the Scottish Ministers of—
- (a) the date the agreement takes effect;

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(13) Paragraph 5(b) of Schedule 3 was amended by [S.I. 2006/3221](#), and paragraph 5(d) of that Schedule was amended by [S.I. 2004/3379](#).

(14) There are amendments to paragraphs 12 and 15 of the Schedule which are not relevant to these Regulations.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (b) the admission body's name; and
- (c) the name of any Scheme employer that is party to the agreement.

**12.** Where an admission body is such a body by virtue of paragraph 1(d), an admission agreement must include—

- (a) a requirement that only employees of the body who are employed in connection with the provision of the service or assets referred to in that sub-paragraph may be members of the Scheme;
- (b) details of the contract, other arrangement or statutory provision by which the body met the requirements of that sub-paragraph;
- (c) a provision whereby the Scheme employer referred to in that sub-paragraph may set off against any payments due to the body, an amount equal to any overdue employer and employee contributions and other payments (including interest) due from the body under these Regulations;
- (d) a provision requiring the admission body to keep under assessment, to the satisfaction of the bodies mentioned in paragraph 6, the level of risk arising as a result of the matters mentioned in that paragraph;
- (e) a provision requiring copies of notifications due to the administering authority under paragraph 9(b) or (c) to be given to the Scheme employer referred to in that sub-paragraph; and
- (f) a provision requiring the Scheme employer referred to in that sub-paragraph to make a copy of the admission agreement available for public inspection at its offices.

**13.** Where an admission body of the description in paragraph 1(d) undertakes to meet the requirements of these Regulations, the appropriate administering authority must admit to the Scheme the eligible employees of that body.