

## SCHEDULES

### SCHEDULE 14

Section 24.

#### POWER TO AMEND SCHEMES TO REFLECT ABOLITION OF CONTRACTING-OUT

##### *Introduction*

1. This Schedule is about the power under section 24(2) to amend an occupational pension scheme in relation to some or all of its members.

##### *What can the power be used to do?*

2.—(1) The power may be used—

- (a) to increase the employee contributions of the relevant members;
- (b) to alter the future accrual of benefits for or in respect of them.

(2) But the power may not be used in a way that would—

- (a) increase the amount of the total annual employee contributions of the relevant members by more than the annual increase in the employer's national insurance contributions in respect of them,
- (b) reduce the amount of the scheme's liabilities in respect of the benefits that accrue annually for or in respect of the relevant members by more than the annual increase in the employer's national insurance contributions in respect of them, or
- (c) result in the sum of the amount of any increase in the total annual employee contributions of the relevant members and the amount of any reduction in the scheme's liabilities in respect of the benefits that accrue annually for or in respect of the relevant members being more than the annual increase in the employer's national insurance contributions in respect of the relevant members.

(3) Regulations are to define what is meant by—

- (a) the total annual employee contributions of the relevant members;
- (b) the annual increase in an employer's national insurance contributions in respect of the relevant members;
- (c) a scheme's liabilities in respect of the benefits that accrue annually for or in respect of the relevant members.

(4) The regulations may make provision about the calculation of those amounts, including provision requiring them to be calculated in accordance with specified methods or assumptions.

(5) Where the effect of using the power to increase employee contributions of the relevant members would be to increase the contributions that the employer is required to pay, the power may be used to make other amendments needed to ensure that only the employee contributions are increased because of the use of the power.

(6) Where the effect of using the power to alter the future accrual of benefits for or in respect of the relevant members would be to decrease the contributions that any members are required to pay, the power may be used to make other amendments needed to ensure that the contributions of those members are not decreased because of the use of the power.

3.—(1) The power may not be used in a way that would or might adversely affect the subsisting rights of—

- (a) a member of the scheme, or
- (b) a survivor of a member of the scheme.

(2) “Subsisting right” and “survivor” have the meanings given by Article 67A of the 1995 Order.

4. Regulations may impose further restrictions on the use of the power.

#### *Creation of exceptions*

5. The power may not be used to amend a scheme in relation to a member of a description specified in regulations under this paragraph.

#### *Requirement for actuary’s certificates*

6.—(1) The power may be used only if an actuary has certified that the proposed amendments would comply with such of the requirements imposed by or under this Schedule as are specified in regulations under this paragraph.

(2) “Actuary” means—

- (a) a person of a description specified in regulations, or
- (b) a person approved by the Department.

#### *When can the power be used?*

7. The power may be used before or after the repeal of section 37 of the Pension Schemes Act comes into operation (but amendments made under it must not be framed so as to take effect before the repeal comes into operation).

**8.** An amendment made before the repeal of section 37 of the Pension Schemes Act comes into operation does not take effect in relation to any relevant members who have ceased to be in contracted-out employment by reference to the scheme before the repeal comes into operation.

*Can the power be used more than once?*

**9.—(1)** The power may be used to amend a scheme in relation to the same members on more than one occasion.

(2) For the purposes of paragraph 2 as it applies in relation to the use of the power on the second or subsequent occasion, all of the amendments are to be treated as if they were being made on that occasion.

(3) Regulations may make further provision modifying section 24(2) to (7) or this Schedule (including paragraph 2) where the power is used to amend the scheme in relation to the same members on more than one occasion.

*Modifications for multi-employer or sectionalised schemes*

**10.—(1)** Regulations may modify section 24(2) to (7) or this Schedule as it applies in relation to—

- (a) multi-employer schemes,
- (b) schemes that have different rules for different members.

(2) “Multi-employer scheme” means a scheme in relation to which there is more than one employer.

*The power overrides other legislation*

**11.** An amendment under section 24 and this Schedule may be made in relation to any member, and has effect, despite anything in any other statutory provision to the contrary.

*Procedural requirements and supplementary matters*

**12.** Regulations may impose procedural requirements about the use of the power and the manner in which any amendments must be made.

**13.** Regulations under this Schedule may confer a discretion on a person.

*Information*

**14.—(1)** Regulations may require the trustees or managers of an occupational pension scheme to provide information requested by an employer in connection with the powers given by section 24(2).

(2) The regulations may provide for Article 10 of the 1995 Order (civil penalties) to apply to a person who fails to comply with a requirement.

(3) In this paragraph “managers”, in relation to a pension scheme (other than a scheme established under a trust), means the persons responsible for the management of the scheme.

### *Definitions*

**15.** In this Schedule—

“employee contributions” means, in relation to a member of a scheme, contributions made to the scheme by or on behalf of the member on his or her own account;

“relevant member”, in relation to a scheme, means a current member in relation to whom the scheme has been or is to be amended under section 24(2).