

## SCHEDULES

### SCHEDULE 6

#### PENSION COMPENSATION PROVISIONS

*Scheme rules, admissible rules etc.*

**35.**—(1) In this Schedule, in relation to the scheme, each of the following expressions has the meaning given by this paragraph—

“admissible rules”,  
“recent rule changes”, and  
“recent discretionary increase”.

(2) “The admissible rules” means the scheme rules disregarding—

- (a) in a case where sub-paragraph (3) applies, the recent rule changes, and
- (b) in any case, any scheme rule which comes into operation on, or operates by reference to, the winding up of the scheme or any associated event.

(3) This sub-paragraph applies if the combined effect of the recent rule changes and recent discretionary increases is such that, if account were taken of those changes and increases in calculating the protected liabilities in relation to the scheme at the relevant time, those protected liabilities would be greater than they would be if all those changes and increases were disregarded.

(4) In sub-paragraph (3) “the relevant time” means the time immediately before the assessment period which begins on the assessment date.

(5) Subject to sub-paragraph (6), “recent rule changes” means—

- (a) changes to the scheme rules which took effect in the period of three years ending with the assessment date, or were made in that period and took effect by reference to an earlier time, and
- (b) any scheme rules which come into operation on, or operate by reference to—
  - (i) an insolvency event in relation to the employer or any associated event, or
  - (ii) any prescribed event relating to the future of the employer as a going concern.

(6) “Recent rule changes” does not include—

- (a) any scheme rules or changes attributable to paragraph 3 of Schedule 5 to the [Social Security \(Northern Ireland\) Order 1989 \(NI 13\)](#), section 125 of the Pension Schemes Act, Article 114 of the 1995 Order, Article 28(4) of the 1999 Order or Article 279 of this Order (overriding requirements),
- (b) any statutory provision, or any scheme rules or changes which are required or reasonably necessary to comply with a statutory provision,
- (c) any scheme rules or changes that come into operation on, or operate by reference to, the winding up of the scheme, or any associated event, and
- (d) any scheme rules or changes of a prescribed description.

**Status:** This is the original version (as it was originally made).

(7) “Recent discretionary increase” means an increase in the rate of any pension in payment or postponed pension under the scheme rules which took effect in the period mentioned in sub-paragraph (5)(a).

(8) For the purposes of sub-paragraph (7) an increase (“the relevant increase”) in the rate of a pension in payment or postponed pension is to be disregarded to the extent that it does not exceed—

- (a) the amount by which the pension in question is required to be increased by virtue of—
  - (i) the admissible rules, or
  - (ii) sections 9(1) and 105 of the Pension Schemes Act (requirement to index and pay guaranteed minimum pensions), or
- (b) if greater, the appropriate percentage of the rate of that pension.

(9) For the purposes of sub-paragraph (8)(a), no increase in the rate of a pension which is made at the discretion of the trustees or managers of the scheme, the employer or any other person is to be regarded as an increase required by virtue of the admissible rules.

(10) For the purposes of sub-paragraph (8)(b), “the appropriate percentage” is the percentage increase referred to in paragraph 35(10) of Schedule 7 to the Pensions Act 2004.