

SCHEDULES

SCHEDULE 2

Regulations 3 and 5

ADMISSION AGREEMENTS WITH ADMISSION BODIES

PART 1

Admission Bodies

1. Subject to the requirements of regulations 3(1)(b) (active membership, employed by an admission body) and 5 (employees of admission bodies) and this Schedule the Committee may make an admission agreement with any admission body.

2.—(1) An admission body is—

- (a) a body which provides a public service in the United Kingdom otherwise than for the purposes of gain and which either—
 - (i) has sufficient links with an employing authority for the body and the employing authority to be regarded as having a community of interest whether because the operations of the body are dependent on the operations of the employing authority or otherwise; or
 - (ii) is approved by the Department for the purpose of admission to the Scheme.
- (b) a body, to the funds of which any employing authority contributes;
- (c) a body representative of—
 - (i) local authorities;
 - (ii) local authorities and officers of local authorities;
 - (iii) officers of local authorities where it is formed for the purpose of consultation on the common interests of local authorities and the discussion of matters relating to local government; or
 - (iv) employing authorities;
- (d) a statutory undertaker;
- (e) a non-statutory undertaker;
- (f) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(1);
- (g) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(2); and
- (h) a body that is providing or will provide—
 - (i) a service or assets in connection with the exercise of a function of an employing authority as a result of the transfer of the service or assets by means of a contract or other arrangement; or

(1) S.I. 1986/594 (N.I. 3) as amended by S.I.1993/2810 (N.I. 12) and S.I. 1997/1772 (N.I. 15).

(2) S.I. 1997/1772 (N.I. 15).

Status: This is the original version (as it was originally made).

(ii) a public service and which is approved by the Department for the purposes of admission to the Scheme.

(2) In this paragraph—

(a) “a non-statutory undertaker” means a body who, though not authorised by any statutory provision to do so, is primarily engaged in carrying on—

(i) any railway, light railway, road transport, water transport, canal, inland navigation, dock harbour or pier; or

(ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic; and

(b) “a statutory undertaker” means a body authorised by any statutory provision to carry on—

(i) any railway, light railway, road transport, water transport, canal, inland navigation, dock harbour or pier; or

(ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic.

3. An approval under paragraph 2(1)(a)(ii) of this Part of this Schedule, or an approval under paragraph 2(1)(h)(ii) of this Part of this Schedule may be subject to such conditions as the Department thinks fit and it may withdraw approval at any time if such conditions are not met.

4. In the case of an admission agreement with an admission body under paragraph 2(1)(h)(i) of this Part of this Schedule, the employing authority, if it is not also the Committee, shall be a party to the admission agreement.

5. Where, at the date that an admission agreement is made with a body mentioned in paragraph 2(1)(b) of this Part of this Schedule, the funding contributions paid to the body by one or more employing authorities equal in total 50% or less of the total amount it receives from all sources, it shall be a term of that admission agreement that the employing authority which provides the funding (or, if more than one, all of them) guarantees the liability of the body to pay all amounts due from it under the Scheme.

6. Where an admission body under paragraph 2(1)(h)(i) of this Part of this Schedule is exercising the functions of an employing authority in connection with more than one contract or other arrangement under that paragraph, the Committee and the admission body shall enter into a separate admission agreement in respect of each contract or arrangement.

7. This paragraph applies where an admission body under paragraph 2(1)(h) of this Part of this Schedule undertakes to meet the relevant requirements of regulation 3(1)(b) (active membership, employed by an admission body) and this Schedule, and—

(a) in the case of a body under paragraph 2(1)(h)(i) of this Part of this Schedule, the employing authority undertakes to meet the requirements of this paragraph; or

(b) in the case of a body under paragraph 2(1)(h)(ii) of this Part of this Schedule, the Department approves the body for admission to the Scheme and the conditions, if any, to which the approval is subject, have been met.

8. Where paragraph 7 of this Part of this Schedule applies—

(a) the Committee shall admit to the Scheme the eligible employees of the admission body specified by the body; and

(b) where it does so, the terms on which it does so are the admission agreement for the purposes of the Scheme.

9. Only those employees of the admission body who are employed in connection with the provision of a service or assets mentioned in paragraph 2(1)(h) of this Part of this Schedule are

eligible to be designated, under regulation 3(1)(b) (active membership, employed by an admission body), members of the Scheme.

PART 2

Admission Agreements

1. An admission agreement shall require that—

- (a) in the case of a body under paragraph paragraphs 2(1)(h)(i) of Part 1 of this Schedule, the employing authority; or
- (b) in all other cases, the admission body, to the satisfaction of the Committee,

shall carry out 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.

2. Subject to paragraph 3 of this Part of this Schedule, the admission agreement shall further provide that where the level of risk identified by the assessment is such as to require it, an admission body shall enter into an indemnity or bond in an approved form with—

- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000(3) to accept deposits or to effect and carry out contracts of general insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) and 5(d) of Schedule 3 to that Act(4), which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule(5)) 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.

3. Where, for any reason, it is not desirable for an admission body to enter into an indemnity or bond, the admission agreement shall provide that the admission body secures a guarantee, in a form satisfactory to the Committee, from—

- (a) a person, or persons, who funds the admission body in whole or in part;
- (b) in the case of an admission body falling within the description in paragraph 2(1)(h)(i) of Part 1 of this Schedule, the employing authority 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 Department, in the case of an admission body—
 - (i) which is established by or under any enactment, and
 - (ii) where that enactment enables the Department to make financial provision for that admission body.

4. An admission agreement shall include a requirement for the admission body to pay to the Committee all contributions and payments due under these Regulations.

(3) 2000 c. 8.

(4) 2000 c. 8; Paragraph 5(b) of Schedule 3 was amended by S.I. 2006/3221; paragraph 5(d) of that Schedule was amended S.I. 2004/3379.

(5) 2000 c. 8; there are amendments to paragraphs 12 and 15 of Schedule 3 which are not relevant to these Regulations.

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

5. An admission agreement shall include—
 - (a) (i) provision for it to terminate immediately if the admission body ceases to be such a body; and
(ii) any such other provisions about its termination as the parties consider appropriate;
 - (b) a requirement that the admission body notify the Committee as soon as reasonably practicable of any matter that may affect, or is likely to affect, its participation in the Scheme;
 - (c) a requirement that the admission body notify the Committee immediately of any actual or proposed change in its status which may give rise to a termination, including take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation or a material change to the body's business or constitution; and
 - (d) a right for the Committee to terminate the agreement in the event of—
 - (i) the insolvency, winding up or liquidation of the admission body;
 - (ii) a 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; or
 - (iii) a failure by the admission body to pay any sums due to the pension fund within a reasonable period after receipt of a notice from the Committee requiring it to do so.
6. An admission agreement shall include a requirement for the admission body to pay to the Committee all contributions and payments due under these Regulations.
7. An admission agreement shall include an undertaking from the admission body that it will promptly notify the Committee in writing of any material change in the terms and conditions of employment which affect entitlement to benefits under the Scheme for its employees who are members and of any terminations of employment by virtue of redundancy or in the interests of efficiency.
8. An admission agreement shall include a requirement that the admission body notifies the Committee of each occasion on which it exercises a discretion under these Regulations or the Transitional Regulations and the manner in which it exercises that discretion.
9. An admission agreement shall include a requirement that the admission body will not do anything to prejudice the status of the Scheme as a registered scheme.
10. When the Committee makes an admission agreement, it shall promptly inform the Department of—
 - (a) the date the agreement takes effect;
 - (b) that admission body's name; and
 - (c) in the case of an agreement with an admission body under paragraph 2(1)(h)(i) of Part 1 of this Schedule, the name of the relevant employing authority.
11. Where an admission body is such a body by virtue of paragraph 2(1)(h) of Part 1 of this Schedule, an admission agreement shall 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 paragraph may be members of the Scheme;
 - (b) details of the contract or other arrangement by which the body met the requirements of that paragraph;
 - (c) a provision whereby the employing authority referred to in that paragraph may set off against any payments due to the admission body, an amount equal to any overdue

employer and employee contributions and other payments (including interest) due from the admission body under these Regulations;

- (d) a provision requiring the employing authority to keep under assessment the level of risk arising as a result of the matters mentioned in paragraph 1 of this Part of this Schedule;
- (e) a provision requiring copies of notifications due to the Committee under paragraphs 4(b), 4(c) or 10(a) of this Part of this Schedule to be given to the employing authority referred to in paragraph 2(1)(h) of Part 1 of this Schedule; and
- (f) a provision requiring the employing authority referred to in that paragraph to make a copy of the admission agreement available for public inspection at its offices.

12. The Committee and an admission body may make an admission agreement despite the fact they do not exercise their functions or provide services or assets in areas that overlap or adjoin each other.

13. A body designated under the provisions of the Local Government (Superannuation) Act (Northern Ireland) 1950⁽⁶⁾ shall be deemed to have an admission agreement under regulation 5 (employees of admission bodies) and this Schedule for so long as that body continues to employ active members of the Scheme.

14. Any question which may arise between the parties to an admission agreement relating to the construction of the agreement or the rights and obligations under that agreement shall be referred to the Department in writing for determination.

15. In this Schedule “indemnity or bond in an approved form” means an indemnity or bond, payable to the pension fund, to meet a level of risk exposure arising on insolvency, winding up or liquidation of the admission body, actuarially assessed to the satisfaction of the Committee and employing authority in the case of an admission body under paragraph 2(1)(h) of Part 1 of this Schedule.

⁽⁶⁾ 1950 c. 10 (N.I.)