

SCHEDULES

SCHEDULE 8

PENSIONS

PART 3

PUBLIC SECTOR TRANSFERS OF UKAEA PENSION SCHEME MEMBERS

Transfers of employment for NDA purposes

- 3 For the purposes of this Part of this Schedule a transfer of a person's employment is made for NDA purposes if his employment immediately after the transfer takes effect is—
- (a) employment with the NDA or a subsidiary of the NDA; or
 - (b) other employment the duties of which consist wholly or mainly of duties relating to matters connected with the carrying out by the NDA of its functions.

Application of UKAEA pension scheme

- 4 (1) A person who—
- (a) in accordance with a nuclear transfer scheme, or with any transfer arrangements, becomes an employee of a relevant public sector employer, and
 - (b) immediately before the transfer of his employment takes effect, is a participant in a UKAEA pension scheme,
- is not to cease to be a participant in that pension scheme by reason only that he has ceased to be employed by the transferor.
- (2) A person falling within sub-paragraph (1)(a) but not within sub-paragraph (1)(b) who, immediately before the transfer of his employment takes effect—
- (a) is eligible to become a participant in a UKAEA pension scheme, or
 - (b) would be eligible to become such a participant had he attained an age, or fulfilled a condition, specified in the pension scheme,
- is not precluded from being, or becoming, eligible to participate in that pension scheme by reason only that he has ceased to be employed by the transferor.
- (3) Sub-paragraphs (1) and (2) do not apply in relation to the transfer of a person's employment unless—
- (a) the transfer is made for NDA purposes; or
 - (b) the transfer is a transfer to the Civil Nuclear Police Authority.
- (4) Sub-paragraphs (1) and (2) do not apply in relation to the transfer of a person's employment that takes effect on or after the designated date unless—

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- (a) that person has satisfied the qualification requirement throughout the period beginning immediately before that date and ending immediately before the transfer takes effect; or
 - (b) the transfer is a transfer to the Civil Nuclear Police Authority.
- (5) The qualification requirement is satisfied by a person for the purposes of sub-paragraph (4) at any time when—
 - (a) he is a participant in a UKAEA pension scheme;
 - (b) he is eligible to become such a participant; or
 - (c) he would be eligible to become such a participant had he attained an age, or fulfilled a condition, specified in the pension scheme;

and it is immaterial for the purposes of that sub-paragraph that the requirement is satisfied at different times in the period in question by reference to different paragraphs of this sub-paragraph.
- (6) A UKAEA pension scheme may apply to persons who are—
 - (a) persons to whom it would not otherwise apply, and
 - (b) entitled to participate in that pension scheme by virtue of sub-paragraph (1) or (2),

as it applies to persons to whom it applies apart from this paragraph.
- (7) A UKAEA pension scheme may also apply to persons who (without being persons to whom it would apply apart from this sub-paragraph) are employees of a publicly controlled company in a case in which—
 - (a) that company is a company to which employees have been transferred in accordance with a nuclear transfer scheme or with transfer arrangements;
 - (b) those transfers, if they were made in accordance with transfer arrangements, were made for NDA purposes;
 - (c) the employees transferred were or included employees who, immediately after the transfer, were entitled by virtue of sub-paragraph (1) or (2) to participate in a UKAEA pension scheme or to an actual or potential eligibility to participate; and
 - (d) the employees to whom the scheme is applied do not include persons who were employees of the company immediately before the occasion or (as the case may be) first occasion on which a transfer of the employment of a person so entitled was made in accordance with a nuclear transfer scheme or transfer arrangements.
- (8) A person is not entitled to participate in a UKAEA pension scheme by virtue of any of sub-paragraphs (1) to (7) at any time after he has ceased to be able to remain, or to become, a participant in that scheme as a consequence of having agreed to become a participant in—
 - (a) a pension scheme maintained by the relevant public sector employer to whom his employment was transferred; or
 - (b) a pension scheme maintained by another person in which he is able to become a participant by reference to his employment with that employer.
- (9) If a relevant public sector employer to which the employment of any person is transferred in accordance with a nuclear transfer scheme or with transfer arrangements—
 - (a) is a publicly controlled company at the time when the employment is transferred, but

(b) subsequently ceases to be a publicly controlled company, then, from the time when it so ceases, no person employed by that company shall be entitled, by virtue of that employment, to participate in a UKAEA pension scheme or to be or to become eligible to participate in such a scheme.

(10) In this paragraph “transferor”, in relation to a transfer of employment, means the person by whom the transferred employee was employed immediately before the transfer takes effect.

Modification of UKAEA pension scheme

- 5 (1) The Secretary of State may direct the UKAEA to make such modifications of a UKAEA pension scheme for the purpose of giving effect to paragraph 4 as may be specified in the direction.
- (2) He may also direct the UKAEA to make such modifications as may be so specified for either or both of the following purposes—
- (a) applying provisions of a UKAEA pension scheme that apply to employees of a publicly controlled company to the case of a person falling within sub-paragraph (3) who becomes a director or other officer of that company; and
 - (b) modifying those provisions in their application to such a case.
- (3) A person falls within this sub-paragraph if, immediately before becoming a director or other officer of the company in question, he—
- (a) is a participant in a UKAEA pension scheme;
 - (b) is eligible to become such a participant; or
 - (c) would be eligible to be such a participant had he attained an age, or fulfilled a condition, specified in such a scheme.

Transfer of funds from UKAEA pension scheme

- 6 (1) The Secretary of State may direct the UKAEA to make such modifications of a UKAEA pension scheme as may be specified in the direction for the purpose of requiring or enabling the transfer of funds and liabilities arising under the scheme in a case falling within sub-paragraph (2).
- (2) That case is where a person ceases to be a participant in the scheme in consequence of—
- (a) a transfer of his employment in accordance with a nuclear transfer scheme or transfer arrangements; or
 - (b) a transfer, in accordance with such a scheme or such arrangements, of securities of, or voting rights in, a company by which he is employed or a company of which such a company is a subsidiary.
- (3) A direction by the Secretary of State under this paragraph may prescribe—
- (a) the method of determining what is to be transferred; and
 - (b) the assumptions to be used in making that determination.

Exercise of powers of Secretary of State

- 7 (1) A direction under paragraph 5 or 6 may require the UKAEA to make such supplemental, consequential and transitional provision modifying a UKAEA pension scheme as the Secretary of State considers appropriate.

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- (2) Before giving a direction under paragraph 5 or 6, the Secretary of State must consult—
 - (a) the UKAEA;
 - (b) the Treasury; and
 - (c) such persons as appear to him to represent the employees, or directors or other officers, likely to be affected by the direction.
- (3) The power to give a direction under paragraph 5 affecting persons who become employees, or directors or other officers, of a publicly controlled company is not exercisable after the company has ceased to be a publicly controlled company.
- (4) The provisions of paragraphs 5 and 6—
 - (a) are in addition to the powers of the Secretary of State to give directions to the UKAEA under paragraph 13 of this Schedule, paragraph 7 of Schedule 10 to this Act or section 3 of the Atomic Energy Authority Act 1954 (c. 32); and
 - (b) are to be disregarded in construing those powers.

Payments to UKAEA by relevant public sector employer

- 8 Where employees, or directors or other officers, of a relevant public sector employer to whom employees are transferred in accordance with a nuclear transfer scheme or transfer arrangements participate in a UKAEA pension scheme by virtue of paragraph 4 or 5, the employer must pay to the UKAEA such amounts in respect of that participation as are—
- (a) agreed between the relevant public sector employer and the UKAEA; or
 - (b) in the absence of such agreement, determined in relation to that employer by the Secretary of State.