

SCHEDULES

SCHEDULE 1

Section 3

THE PENSIONS REGULATOR

PART 1

MEMBERS OF THE REGULATOR

Terms of appointment and tenure of members

- 1 (1) The members of the Regulator appointed by the Secretary of State under section 2(1) (a) or (c) are to be appointed on such terms and conditions as are determined by the Secretary of State.
 - (2) Subject to sub-paragraph (3), such a member—
 - (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
 - (3) A person must cease to be a member of the Regulator where—
 - (a) in the case of the chairman, he ceases to hold that office or becomes a member of the staff of the Regulator;
 - (b) in the case of any other non-executive member, he becomes a member of the staff of the Regulator;
 - (c) in the case of an executive member appointed under section 2(1)(c), he ceases to be a member of the staff of the Regulator.
- 2 Where a person ceases to be employed as Chief Executive, he ceases to be a member of the Regulator.
- 3 No person is to be prevented from being a member of the Regulator (whether as chairman or otherwise) merely because he has previously been such a member.

Remuneration etc of members

- 4 The Regulator may pay, or make provision for paying, its non-executive members such remuneration as the Secretary of State may determine.
- 5 The Regulator may—
 - (a) pay to or in respect of any person who is or has been a non-executive member such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.

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- 6 Where—
- (a) a non-executive member ceases to be a member otherwise than on the expiry of his term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Regulator may make a payment to that person of such amount as the Secretary of State may determine.

PART 2

STAFF OF THE REGULATOR

The staff

- 7 (1) The staff of the Regulator consists of—
- (a) the Chief Executive of the Regulator appointed under paragraph 8,
 - (b) the other employees of the Regulator appointed under paragraph 9, and
 - (c) any additional staff made available by the Secretary of State under paragraph 10.
- (2) No member of the Board of the Pension Protection Fund is eligible for appointment as a member of the staff of the Regulator.

The Chief Executive

- 8 (1) The Regulator is to employ a person as its Chief Executive.
- (2) The Chief Executive's main function is to be responsible for securing that the functions of the Regulator are exercised efficiently and effectively.
- (3) The first appointment of a Chief Executive—
- (a) is to be made by the Secretary of State, and
 - (b) is to be on such terms and conditions as to remuneration and other matters as are determined by the Secretary of State.
- (4) Subsequent appointments of a Chief Executive—
- (a) are to be made by the Regulator with the approval of the Secretary of State, and
 - (b) are to be on such terms and conditions as to remuneration and other matters as are determined by the Regulator with the approval of the Secretary of State.
- (5) By virtue of subsection (2) of section 8 (non-executive functions), the function conferred on the Regulator by sub-paragraph (4)(b), so far as it relates to the terms and conditions as to remuneration, is exercisable on its behalf by the committee established under that section.

Other employees

- 9 (1) Other employees of the Regulator may be appointed by the Regulator with the approval of the Secretary of State as to numbers.

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- (2) Any such appointments are to be on such terms and conditions as to remuneration and other matters as are determined by the Regulator with the approval of the Secretary of State.

Additional staff etc

- 10 (1) The Secretary of State may make available to the Regulator such additional staff and such other facilities as he considers appropriate.
- (2) The availability of such staff and facilities may be on such terms as to payment by the Regulator as the Secretary of State may determine.

PART 3

MEMBERS OF THE DETERMINATIONS PANEL

Nomination of the chairman of the Panel

- 11 (1) On each occasion when the Regulator is required to appoint a person as chairman of the Determinations Panel, the chairman of the Regulator must establish a committee (in this Schedule referred to as “the appointments committee”).
- (2) The appointments committee must consist of—
- (a) a chairman appointed by the chairman of the Regulator from the non-executive members of the Regulator, and
 - (b) one or more persons appointed by the chairman of the Regulator.
- (3) At least one of the persons appointed under sub-paragraph (2)(b) must be a person who is not a member of the Regulator.
- (4) But a person appointed under sub-paragraph (2)(b) must not be a person who is a member of the staff of the Regulator.
- (5) The committee must nominate a person suitable for appointment as chairman of the Panel.

Terms of appointment and tenure of members of the Panel

- 12 (1) The members of the Determinations Panel are to be appointed on such terms and conditions as are determined by the Regulator with the approval of the Secretary of State.
- (2) Subject to sub-paragraph (3) such a member—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and
 - (b) may resign or be removed from office in accordance with those terms and conditions.
- (3) A person must cease to be a member of the Panel where—
- (a) in the case of the chairman, he ceases to hold that office, or
 - (b) in the case of any member, he becomes a member of the Regulator or a member of the staff of the Regulator.

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- 13 No person is to be prevented from being a member of the Panel (whether as chairman or otherwise) merely because he has previously been a member of the Panel.

Remuneration etc of members of the Panel

- 14 The Regulator may pay, or make provision for paying, the members of the Determinations Panel such remuneration as the Secretary of State may determine.
- 15 The Regulator may—
- (a) pay to or in respect of any person who is or has been a member of the Panel such pension, allowances or gratuities as the Secretary of State may determine, or
 - (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.
- 16 Where—
- (a) a member of the Panel ceases to be a member otherwise than on the expiry of his term of office, and
 - (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,
- the Regulator may make a payment to that person of such amount as the Secretary of State may determine.

PART 4

PROCEEDINGS AND DELEGATION ETC

Committees

- 17 (1) The Regulator may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) The members of such committees or sub-committees may include persons who are not members of the Regulator.
- (4) The members of such sub-committees may include persons who are not members of the committee.
- (5) But the majority of the members of a committee or a sub-committee must consist of persons who are members of the Regulator or members of the staff of the Regulator.
- (6) Sub-paragraphs (2) to (5) do not apply to—
- (a) the committee established under section 8 or any of its sub-committees, or
 - (b) the Determinations Panel or any of its sub-committees (see section 9).
- (7) Subject to that, references in this Schedule to the committees of the Regulator are to—
- (a) the committee established under section 8 and any of its sub-committees,
 - (b) the Determinations Panel and any of its sub-committees,
 - (c) the appointments committee, and
 - (d) any committees or sub-committees established under this paragraph.

Procedure

- 18 (1) The Regulator may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any of its committees (other than the Determinations Panel and any of that Panel’s sub-committees).
- (2) The Determinations Panel may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any of its sub-committees.
- (3) This paragraph is subject to—
- (a) sections 93 to 104 (procedure in relation to the regulatory functions) and any corresponding provisions in force in Northern Ireland, and
 - (b) any regulations made by the Secretary of State under paragraph 19.
- 19 (1) The Secretary of State may make regulations—
- (a) as to the procedure (including quorum) to be followed by the Regulator or any of its committees;
 - (b) as to the manner in which the functions of the Regulator are to be exercised.
- (2) Such regulations may in particular—
- (a) make provision as to the hearing of parties, the taking of evidence and the circumstances (if any) in which a document of any prescribed description is to be treated for the purposes of any proceedings before the Regulator, as evidence, or conclusive evidence, of any prescribed matter;
 - (b) make provision as to the manner in which parties to any proceedings before the Regulator may or are to be represented for the purposes of the proceedings;
 - (c) provide for enabling the Regulator to summon persons—
 - (i) to attend proceedings before the Regulator and give evidence (including evidence on oath) for any purposes of proceedings in connection with a determination whether to exercise, or the exercise of, a regulatory function (or any corresponding function under any provisions in force in Northern Ireland corresponding to this Act), or
 - (ii) to produce any documents required by the Regulator for those purposes.
- (3) In this paragraph references to proceedings before the Regulator include references to proceedings before the Determinations Panel and any of the Panel’s sub-committees.

Delegation

- 20 (1) The Regulator may authorise—
- (a) any executive member of the Regulator,
 - (b) any other member of the staff of the Regulator, or
 - (c) any of its committees (other than the appointments committee, the Determinations Panel and any of that Panel’s sub-committees),
- to exercise, on behalf of the Regulator, such of its functions, in such circumstances, as the Regulator may determine.
- (2) But sub-paragraph (1) does not apply to—

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- (a) the non-executive functions of the Regulator listed in subsection (4) of section 8 (which, by virtue of subsection (2) of that section, must be discharged by the committee established under that section),
 - (b) the duty of the Regulator to appoint the chairman and other members of the Determinations Panel under section 9,
 - (c) the duty of the Regulator to determine the terms and conditions of their appointments under paragraph 12(1), and
 - (d) the functions of the Regulator which are exercisable only by the Panel by virtue of—
 - (i) section 10(1) (the power in certain circumstances to determine whether to exercise the functions listed in Schedule 2 and to exercise them) or any corresponding provision in force in Northern Ireland, or
 - (ii) section 99(10) (the functions concerning the compulsory review of certain determinations) or any corresponding provision in force in Northern Ireland.
- (3) The Regulator may authorise the appointments committee to exercise the power under paragraph 18 to determine the committee’s own procedure (including quorum).
- (4) The Regulator may authorise the Determinations Panel, in such circumstances as the Regulator may determine, to exercise on behalf of the Regulator—
- (a) the power to determine whether to exercise one or more of the regulatory functions listed in sub-paragraph (5), and
 - (b) where the Panel so determines to exercise the regulatory function in question, the power to exercise it.
- (5) The regulatory functions mentioned in sub-paragraph (4) are—
- (a) the power to issue an improvement notice under section 13;
 - (b) the power to issue a third party notice under section 14;
 - (c) the power to issue a clearance statement under section 42;
 - (d) the power to issue a notice under section 45(1) approving the details of arrangements;
 - (e) the power to issue a clearance statement under section 46;
 - (f) the power to make an order under section 154(8);
 - (g) the power to make an order under section 219(4);
 - (h) the power to grant or revoke authorisation under section 288;
 - (i) the power to grant or revoke approval under section 289;
 - (j) the power to issue a notice under section 293(5);
 - (k) the power by direction under section 2(3)(a) of the Welfare Reform and Pensions Act 1999 (c. 30) to refuse to register a scheme under section 2 of that Act;
 - (l) the power to appoint a trustee under any of the following provisions of section 7 of the Pensions Act 1995 (c. 26)—
 - (i) subsection (1) where a trustee is removed by reason of his disqualification;
 - (ii) subsection (3)(b);
 - (m) the power to appoint an independent trustee under section 23 of that Act;
 - (n) the power to give directions under section 72B of that Act facilitating a winding up.

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- (6) The Regulator may also authorise the Determinations Panel, in such circumstances as the Regulator may determine, to exercise on behalf of the Regulator such functions (other than those mentioned in sub-paragraph (2)(a) to (c)) as the Regulator considers necessary for the effective exercise by the Panel of—
- (a) a function of the Regulator which it is authorised to exercise by virtue of sub-paragraph (4),
 - (b) a function of the Regulator mentioned in sub-paragraph (2)(d) (functions exercisable only by the Panel), or
 - (c) a function of the Panel under section 93(3), section 99(11) or paragraph 18(2) of this Schedule (procedure).
- (7) This paragraph is subject to any regulations made by the Secretary of State under paragraph 21.
- 21 The Secretary of State may make regulations—
- (a) limiting the extent to which any of the functions mentioned in subsection (8) of section 8 may be delegated by the committee established under that section to any of its members or any of its sub-committees under that subsection;
 - (b) limiting the extent to which any of the functions mentioned in subsection (9) of section 10 may be delegated by the Determinations Panel to any of its members or any of its sub-committees under that subsection;
 - (c) limiting the extent to which functions of the Regulator may be delegated under paragraph 20;
 - (d) limiting the delegation under paragraph 20 of any power to delegate contained in that paragraph;
 - (e) permitting the Regulator in prescribed circumstances to delegate to prescribed persons prescribed functions of the Regulator.

Application of seal and proof of instruments

- 22 (1) The fixing of the common seal of the Regulator must be authenticated by the signature of a person authorised for that purpose by the Regulator (whether generally or specifically).
- (2) Sub-paragraph (1) does not apply in relation to any document which is or is to be signed in accordance with the law of Scotland.
- 23 A document purporting to be duly executed under the seal of the Regulator or purporting to be signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be so executed or signed unless the contrary is proved.

PART 5

FUNDING AND ACCOUNTS

Funding

- 24 The Secretary of State may pay the Regulator out of money provided by Parliament such sums as he may determine towards its expenses.

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- 25 (1) The Secretary of State may make regulations authorising the Regulator to charge fees to meet the costs incurred by the Regulator in connection with applications made for—
- (a) the modification of an occupational pension scheme under section 69 of the Pensions Act 1995 (c. 26) or under any corresponding provision in force in Northern Ireland, or
 - (b) the issuing of a clearance statement under section 42 or 46 or under any corresponding provision in force in Northern Ireland.
- (2) Regulations under sub-paragraph (1) may prescribe, or authorise the Regulator to determine, the time at which any fee is due.
- (3) Any fee which is owed to the Regulator by virtue of regulations under this paragraph may be recovered as a debt due to the Regulator.
- 26 (1) Section 175 of the Pension Schemes Act 1993 (c. 48) (levies towards certain expenditure) is amended as follows.
- (2) In subsection (1) omit “or” at the end of paragraph (b) and for paragraph (c) substitute—
- “(c) of the Regulatory Authority (including the establishment of the Authority under the Pensions Act 2004), or
 - (d) of the Lord Chancellor in meeting the costs of the legal assistance scheme established by virtue of section 106 of the Pensions Act 2004 (legal assistance in connection with proceedings before the Pensions Regulator Tribunal),”.
- (3) In subsection (3), in paragraph (a), for the words from “any amounts paid” to the end of the paragraph substitute “—
- (i) any amounts paid to the Secretary of State under section 168(4) of this Act or section 10 of the Pensions Act 1995 (civil penalties), and
 - (ii) any fees paid to the Authority under paragraph 25 of Schedule 1 to the Pensions Act 2004 (fees for certain applications), and”.

Accounts

- 27 (1) The Regulator must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (3) The Regulator must send a copy of each statement of accounts—
- (a) to the Secretary of State, and

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- (b) to the Comptroller and Auditor General,
before the end of the month of August next following the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must—
 - (a) examine, certify and report on each statement of accounts which he receives under sub-paragraph (3), and
 - (b) lay a copy of each statement and of his report before each House of Parliament.
- (5) In this paragraph “financial year” means—
 - (a) the period beginning with the date on which the Regulator is established and ending with the next following 31st March, and
 - (b) each successive period of 12 months.

Other expenses

- 28 (1) The Regulator may—
- (a) pay, or make provision for paying, persons attending proceedings before the Regulator at its request such travelling and other allowances (including compensation for loss of remunerative time) as the Secretary of State may determine, and
 - (b) pay, or make provision for paying, persons from whom the Regulator may decide to seek advice, as being persons considered by the Regulator to be specially qualified to advise it on particular matters, such fees as the Regulator may determine.
- (2) In this paragraph references to proceedings before the Regulator include references to proceedings before any committee of the Regulator.

PART 6

STATUS AND LIABILITY ETC

Status

- 29 (1) The Regulator is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, privilege or immunity of the Crown.
- (2) Accordingly, the Regulator’s property is not to be regarded as property of, or held on behalf of, the Crown.

Validity

- 30 The validity of any proceedings of the Regulator (including any proceedings of any of its committees) is not to be affected by—
- (a) any vacancy among the members of the Regulator or of any of its committees,
 - (b) any defect in the appointment of any member of the Regulator or of any of its committees, or

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- (c) any defect in the appointment of the Chief Executive.

Disqualification

- 31 Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) is amended as follows—
- (a) in Part 2 (bodies whose members are disqualified) at the appropriate place insert—
- “The Pensions Regulator.”, and
- (b) in Part 3 (other disqualifying offices) at the appropriate place insert—
- “Member of the Determinations Panel established by the Pensions Regulator under section 9 of the Pensions Act 2004.”
- 32 Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) is amended as follows—
- (a) in Part 2 (bodies whose members are disqualified) at the appropriate place insert—
- “The Pensions Regulator.”, and
- (b) in Part 3 (other disqualifying offices) at the appropriate place insert—
- “Member of the Determinations Panel established by the Pensions Regulator under section 9 of the Pensions Act 2004.”

The Parliamentary Commissioner for Administration

- 33 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13)(departments and authorities subject to investigation), at the appropriate place insert—
- “The Pensions Regulator.”

The Superannuation Act 1972

- 34 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include—
- the chairman of the Regulator
the employees of the Regulator.
- (2) The Regulator must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

Exemption from liability in damages

- 35 (1) Neither the Regulator nor any person who is a member of the Regulator, a member of any of its committees, or a member of its staff is to be liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Regulator conferred by, or by virtue of, this or any other enactment.
- (2) Any person who is—

- (a) the chairman of the Regulator,
- (b) the Chief Executive of the Regulator, or
- (c) the chairman of the Determinations Panel,

is not to be liable in damages for anything done or omitted in the exercise or purported exercise of any function conferred on the office in question by, or by virtue of, this Act or any provisions in force in Northern Ireland corresponding to this Act.

- (3) Any person who is a member of the committee established under section 8 or of any of its sub-committees is not to be liable in damages for anything done or omitted in the discharge or purported discharge of the duty to prepare a report under subsection (5) of that section on the discharge of the non-executive functions.
- (4) Any person who is a member of the Determinations Panel is not to be liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Panel under—
 - (a) section 93(3) (procedure in relation to regulatory functions) or any corresponding provision in force in Northern Ireland,
 - (b) section 99(11) (procedure in relation to exercise of functions on a compulsory review) or any corresponding provision in force in Northern Ireland, or
 - (c) paragraph 18(2) of this Schedule (general procedure).
- (5) But sub-paragraphs (1) to (4) do not apply—
 - (a) if it is shown that the act or omission was in bad faith, or
 - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).