

SCHEDULE 5

Regulation 29.

MODIFICATIONS

Multi-employer schemes

1.—(1) Where a scheme in relation to which there is more than one employer is divided into two or more sections and the provisions of the scheme are such that—

- (a) different sections of the scheme apply to different employers or groups of employers (whether or not more than one section applies to any particular employer or groups including any particular employer);
- (b) contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to the employer, to the section which is appropriate in respect of the employment in question); and
- (c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section,

sections 56 to 60 and these Regulations (except regulation 28(1)(e)) shall apply as if each section of the scheme were a separate scheme.

(2) Where—

- (a) a scheme which has been such a scheme as is mentioned in sub-paragraph (1) is divided into two or more sections some or all of which apply only to members who are not in pensionable employment under the scheme;
- (b) the provisions of the scheme have not been amended so as to prevent the conditions mentioned in sub-paragraph (1)(a) to (c) being satisfied in relation to two or more sections; but
- (c) those conditions have ceased to be satisfied in relation to one or more sections (whether before or after the commencement date) by reason only of there being no members in pensionable service under the section and no contributions which are to be allocated to it,

sections 56 to 60 and these Regulations (except regulation 28(1)(e)) shall apply as if the section in relation to which those conditions have ceased to be satisfied were a separate scheme.

(3) In their application in any such case as is mentioned in sub-paragraph (1) or (2), the forms set out in Part II of Schedules 1, 2 and 3 and in Schedule 6 have effect with the following modifications—

- (a) after “Name of scheme” insert “and name of section”; and
- (b) for “scheme” and “scheme’s”, wherever else they occur, substitute “section” and “section’s”.

2.—(1) In the application of section 58(4) to a scheme in relation to which there is more than one employer (other than a scheme to which paragraph 1(1) or (2) applies), paragraph (a) of that section has effect with the substitution for the word “employer” of the words “the person whom the employers nominate to act as their representative for the purposes of this paragraph or, if no such nomination is made, all the employers”.

(2) In the application of regulation 23 to such a scheme the reference to members in paragraph (1) (b) only includes the members whose pensionable service under the scheme is with the employer whose default is being notified.

(3) Subject to sub-paragraphs (4) and (5), in the application of regulations 25 and 26 to such a scheme, references to the employer are to be taken as references to all the employers.

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

(4) In the case of a scheme where the employers are not all persons who are associated or connected (within the meaning of section 123), an application under regulation 25(1) or 26(1) may be made—

- (a) by the trustees or managers;
- (b) by all the employers; or
- (c) by the employers of at least two-thirds of the active members of the scheme.

(5) In the case of an application by virtue of sub-paragraph (4)(c), regulation 25(2) to (5) and regulation 26(2) shall apply as if there were no employers other than the applicant or applicants.

Frozen or paid-up schemes

3. In the application of sections 56 to 60 and these Regulations to a scheme which has no active members, references to the employer are references to the person who was the employer immediately before the occurrence of the event after which the scheme ceased to have any such members.

Schemes covering United Kingdom and foreign employment

4.—(1) This paragraph applies where a scheme which applies to members in employment in the United Kingdom and members in employment outside the United Kingdom is divided into two or more sections and the provisions of the scheme are such that—

- (a) different sections of the scheme apply to members in employment in the United Kingdom and the other members (“the United Kingdom section” and “the foreign section”),
- (b) contributions payable to the scheme in respect of a member are allocated to the section applying to that member’s employment,
- (c) a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section,
- (d) the United Kingdom section is approved and the foreign section is not approved.

(2) In sub-paragraph (1)(d) “approved”, in relation to a section, means approved or formerly approved under section 590 or 591 of the Income and Corporation Taxes Act 1988⁽¹⁾.

(3) Where this paragraph applies—

- (a) sections 56 to 60 and these Regulations shall apply as if each section of the scheme were a separate scheme; and
- (b) the forms set out in Part II of Schedules 1, 2 and 3 and Schedule 6 apply with the following modifications—
 - (i) after “Name of scheme” insert “and name of section”,
 - (ii) for “scheme” and “scheme’s”, wherever else they occur, substitute “section” and “section’s”.

5.—(1) This paragraph applies in any case where a scheme which applies to members in employment in the United Kingdom and members in employment outside the United Kingdom does not fall within paragraph 4 and part of the scheme is approved under section 590 or 591 of the Income and Corporation Taxes Act 1988 by virtue of section 611(3) of that Act.

(2) Where this paragraph applies—

- (a) sections 56 to 60 and these Regulations shall apply as if the approved and unapproved parts of the scheme were separate schemes; and

(1) 1988 c. 1.

- (b) the references to the scheme in the forms set out in Part II of Schedules 1, 2 and 3 and Schedule 6 may be modified appropriately.

Schemes with partial government guarantee

6. Where such a guarantee has been given or such arrangements have been made as are mentioned in regulation 28(1)(b) in respect of part only of a scheme—

- (a) sections 56 to 60 and these Regulations shall apply as if that part and the other part of the scheme were separate schemes; and
- (b) the references to the scheme in the forms set out in Part II of Schedules 1, 2 and 3 and Schedule 6 may be modified appropriately.