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SCHEDULE 1

The New Provisions

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APPENDIX 2—RULES OF THE CAA SECTION

SCHEDULE 2 TO APPENDIX 2

PENSION SHARING ON DIVORCE

Application of schedule

1. This Schedule overrides all provisions of the CAA Rules. It applies only to the CAA Section.

Definitions

2. For the purposes of this Schedule:

Ex-Spouse means an individual to whom Pension Credit Rights have been or are to be allocated following a Pension Sharing Order;

Ex-Spouse Participant means an Ex-Spouse who is entitled to a Pension Credit Benefit in addition to any benefits to which he or she is entitled as a Member of the CAA Section or as a Dependant of a Member of the CAA Section;

Deferred Pension Reduction means the amount by which the Member's pension or deferred pension under the CAA Section which arises from Service is reduced at the Relevant Date in accordance with the provisions of section 31 of the Welfare Act⁽¹⁾ following a Pension Sharing Order;

Pension Credit means a credit under section 29(1)(b) of the Welfare Act and is equal to the Pension Debit;

Pension Credit Benefit means the benefit payable from the CAA Section to or in respect of an Ex-Spouse Participant by virtue of rights under the CAA Section attributable either directly or indirectly to a Pension Credit. The value of such benefit (calculated as required by the Welfare Act) shall not be less than the Pension Credit;

Pension Credit Rights means rights to future benefits under the CAA Rules which are attributable either directly or indirectly to a Pension Credit;

Pension Debit means a debit under section 29(1)(a) of the Welfare Act and is calculated in accordance with section 29 and 30 of the Welfare Act;

Pension Debit Member means a Member of the CAA Section who on the date of his or her marriage is dissolved or annulled is or was either.

- (i) a Controlling Director or would be a Controlling Director if he or she left Service on that date; or
- (ii) in receipt of Earnings in excess of one quarter of the Permitted Maximum on that date, and whose benefits have been permanently reduced by a Pension Debit in accordance with section 31 of the Welfare Act. For the purpose of this definition Earnings means the total emoluments (from which tax has been deducted in accordance with the Income Tax (Employment) Regulations 1993)⁽²⁾ received by the member from the Employers during the year of assessment immediately before the year of assessment in which the marriage of the Member was dissolved or annulled;

Pension Sharing Order means an order or provision as mentioned in section 28(1) of the Welfare Act or an agreement or equivalent provision;

(1) 1999 c. 30.

(2) S.I.1993/744, amended by S.I. 1993/2276, 1994/775, 1994/1212, 1995/216, 1995/853, 1995/1223, 1995/1284, 1996/804, 1996/980, 1996/1312, 1996/2381, 1996/2554, 1996/2631/1997/214.

Welfare Act means the Welfare Reform and Pensions Act 1999 and any reference to the Welfare Act or to a section of that Act shall include (where necessary) the corresponding provision applicable in Northern Ireland.

Options of ex-spouse participant in respect of pension credit

3.1 The following provisions shall apply to an Ex-Spouse Participant in relation to his or her Pension Credit.

Pension

3.2 At the request of an Ex-spouse Participant a pension can be paid to the Ex-Spouse Participant at any time between the date he or she attains the age of 50 and the date he or she attains the age of 75. It may be paid at an earlier age if he or she is suffering incapacity but only if, where the Ex-Spouse Participant is entitled to benefits under the CAA Rules as a Member of the CAA Section, he or she has been permitted to take benefits under the CAA Rules which are available on incapacity. The pension shall increase each year by at least the amount (if any) as is required in accordance with the Pensions Act 1995. The value of the Pension shall be equal to the amount of the Pension Credit.

If the Ex-Spouse Participant is over the age of 75 at the date the Pension Sharing Order comes into effect the pension shall commence immediately.

Trivial Pension Serious Ill-health and Dependant's Pension Option

3.3 The provisions of Rule 29.1 and 29.3 and Rule 30 shall apply to an Ex-Spouse as if the reference to a Member in those Rules were to an Ex-Spouse Participant provided that:

- (a) if the Member of the CAA Section in relation to whom the Ex-Spouse Participant is entitled to Pension Credit Rights has received a cash payment from the CAA Section before the date of implementation by the CAA Section of the Pension Sharing Order the Ex-Spouse Participant may not exercise the option under Rule 29.1 or 29.3; and
- (b) if the Ex-Spouse Participation is also a Member, commutation under Rule 29.1 of the benefit to which he or she is entitled either as a Member or an Ex-Spouse Participant shall not be available if the aggregate of those benefits exceeds the limit referred to in that Rule and if available such aggregate shall be fully commuted.

Normal Commutation

3.4 An Ex-Spouse Participant may (subject to proviso (b) to Rule 3.3 of this Schedule) commute part of the pension to which he or she is entitled by virtue of the Pension Sharing Order for a lump sum at the date the pension is due to commence. The lump sum shall not exceed 2.25 times the amount of annual pension which, apart from the commutation and, if applicable, the exercise of the option under Rule 30, would have been payable to the Ex-Spouse Participant at its commencement.

Death before Pension starts

3.5 If the Ex-Spouse Participant or an Ex-Spouse who, but for the Trustees having not implemented the provisions of the Pension Sharing Order, would be an Ex-Spouse Participant (in which case such Ex-Spouse shall be deemed to be an Ex-Spouse Participant) dies before a pension becomes payable to him or her from the CAA Section the following benefits shall be payable.

Lump Sum

- (a) A lump sum of such amount (if any) (subject to a maximum of 25% of the Cash Value of the Pension Credit Rights of the Ex Spouse Participant at the date of his or her death) as

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the Trustees shall decide. Such lump sum shall be paid in accordance with Rule 37 as if the Ex-Spouse Participant was a Member of the CAA Section.

Dependant Pension

- (b) A non-commutable pension for the benefit of such one or more of the Dependents of the Ex-Spouse Participant selected by the Trustees and of such amount(s) as the Trustees (acting on the advice of the Actuary) shall determine to be equivalent in value to the Cash Value of the Pension Credit Rights less the amount (if any) payable in accordance with paragraph (a) above. The amount of the pension shall not exceed 2/3rds (in the case of any one Dependant) or 100% (in the case of all Dependants) of the Appropriate Pension. For this purpose the Appropriate Pension is the amount of pension which could in the opinion of the Trustees acting on the advice of the Actuary have been provided for the Ex-Spouse Participant by the whole of the Cash Value aforesaid if he or she had commenced receiving a pension from the CAA Section on the day before his or her death and for this purpose an Ex-Spouse Participant under the age of 50 shall be deemed to have been exactly 50 years of age.

Such pension(s) shall be payable in accordance with Rule 38.

- (c) Any part of the Pension Credit Rights which cannot be applied in accordance with Rule 3.5(b) of this Schedule shall be retained in the Fund.

Death After Pension Starts

3.6 If the Ex-Spouse Participant dies after a pension becomes payable to him or her from the CAA Section and the Ex-Spouse Participant, with the agreement of the Trustees, elected at the date the pension commenced that such benefit would be payable on his or her death, there shall be payable in accordance with Rule 37 as if the Ex-Spouse Participant were a Member of the CAA Section an amount (if any) by which five times the initial annual amount of pension exceeds the amount of pension actually paid.

Transfer Out (Ex-Spouse Participant)

3.7 The Trustees may at their discretion instead of providing Pension Credit Rights for an Ex-Spouse Participant and shall, on the written request of an Ex-Spouse Participant or as provided under paragraph 1(3) of schedule 5 of the Welfare Act, transfer his or her Pension Credit Rights to either

- (a) a scheme which is approved under Chapter 1 of part XIV of the Taxes Act(3) and which the Ex-Spouse Participant is a member of or has a Pension Credit under it, or
- (b) a Personal Pension Scheme, or
- (c) a scheme which satisfies the requirement of the Board of Inland Revenue in connection with such transfer,

provided such scheme is able and willing to accept such Pension Credit Rights.

The Trustees shall inform the trustees or administrator of the scheme to which the transfer is made that the whole of the transfer made in accordance with this Rule relates to the Pension Credit Rights of the Ex-Spouse Participant.

Ex-Spouse participant also member of the CAA section

4. If an Ex-Spouse Participant is entitled to benefits from the CAA Section as a Member of the CAA Section or as a Dependant of a Member of the CAA Section the benefits to which the Ex-

(3) 1988 c. 1.

Spouse Participant is entitled from the CAA Section as an Ex-Spouse Participant shall, except as provided in Rule 3.3 of this Schedule, be treated separately from the benefits to which he or she is entitled as a Member of the CAA Section or as a Dependant of a Member of the CAA Section.

Effect on Inland Revenue Limits

5.1 The provisions of Appendix 4 shall be amended as follows in respect of a Member of the CAA Section who is a Pension Debit Member.

Maximum Pension

- (a) the maximum aggregate retirement benefit shall be reduced by the Deferred Pension Reduction and by any reduction of a similar nature under Associated Schemes and, in the case of a Class A Member, and a Class B Member (other than a Continued Rights Member) who became a Member on or after 1 June 1989 Connected Schemes;

Maximum Lump Sum

- (b) the maximum lump sum retirement benefit shall be reduced by 2.25 times the Deferred Pension Reduction;

Maximum Dependants Pension

- (c) the maximum Dependants pension under Appendix 4 shall be reduced by deducting from the maximum aggregate retirement benefit (before any reduction in accordance with this Schedule) the Deferred Pension Reduction and any deductions of a similar nature under Associated Schemes and, in the case of Class A Member, and a Class B Member (other than a Continued Rights Member) who became a Member on or after 1 June 1989 Connected Schemes; and

Member also an Ex-Spouse Participant

- (d) any benefits to which a Member of the CAA Section is entitled as an Ex-Spouse Participant in accordance with a Pension Sharing Order or from a Pension Credit Benefit of an Ex-Spouse Participant shall be ignored for the purpose of Appendix 4.

Reduction in Members' benefits

6. The benefits payable to a Member in accordance with the other provisions of the Rules shall be reduced in a manner which satisfies the provisions of the Welfare Act and the amount of such reduction in benefit shall be equal in value to the Pension Debit.

Transfers in

7. The Trustees may accept a transfer to the CAA Section in respect of a Member or Ex-Spouse Participant who has a Pension Credit Benefit under another scheme or arrangement and if they do so they shall separately identify the benefits relating to such Pension Credit Benefit and the provisions of this Schedule shall apply to the benefits relating to such transfer.

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Transfer Out (Member)

8. If a transfer is made in accordance with Rule 34 in respect of a Member of the CAA Section to whom this Schedule applies the Trustees shall give details to the trustees of or person administering such other arrangement of any Pension Credit or Pension Debit which applies to such Member.

Non-Assignment/Forfeiture

9. Rule 41 shall not apply in respect of any part of the benefits for or in respect of a Member of the CAA Section or an Ex-Spouse Participant in connection with benefits to be provided from the CAA Section to an Ex-Spouse in compliance with a Pension Sharing Order.

Restriction of Contracted Out Benefits

10. If any part of the Pension Credit Rights includes safeguarded rights (as defined in Section 68A of the Pension Schemes Act 1993⁽⁴⁾) the other provisions of this Schedule shall be amended to such extent as is necessary to comply with the provisions of the Pension Schemes Act 1993 and the Welfare Act⁽⁵⁾ as regards those safeguarded rights.

Winding up

11. In the event of the CAA Section being wound up in accordance with Rule 19 the Pension Credit Benefits shall be accorded priority as satisfies the provisions of the Pensions Act 1995 and, to the extent that the Pension Credit Benefits are not given priority under that Act, in accordance with Rule 19 as if the Ex-Spouse Participant were a Member of the CAA Section.

Charges

12. If the Trustees determine to recover the charges referred to in section 41 of the Welfare Act in the manner referred to in paragraph 9(2)(b)(c)(d) and (e) of the Pensions on Divorce etc. (Charging) Regulations 2000⁽⁶⁾ then any reference to a Pension Credit or Pension Debit or the Pension Credit Benefit or pension payable to the Member as appropriate shall be reduced or increased accordingly.

(4) 1993 c. 48.

(5) 1999 c. 30.

(6) S.I. 2000/1049.