

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

The New Provisions

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

APPENDIX 3—RULES OF THE NATS SECTION

PART 1:

ADMINISTRATIVE PROVISIONS

19.3

ORDER OF PRIORITY

Section A—Pensions Act 1995 Priorities

- (a) Pensions and other benefits which in the opinion of the Trustees are derived from the payment of voluntary contributions to the NATS Section by Members.
- (b) Benefits (other than any included in (a) above) required to satisfy section 73 of the Pensions Act 1995(1) and any other provisions of that Act relating to the application of assets of the NATS Section upon its winding-up, being benefits corresponding to the amounts of the liabilities and the order in which they are to be secured in accordance with the provisions of the Pensions Act 1995.

Section B—Other Priorities

The order of priority in this Section B is as follows, provided that (1) where the balance of assets to be applied as aforesaid is insufficient to secure the whole of the benefits within any of the following numbered sub-paragraphs the benefits within that sub-paragraph shall be secured on a proportionate basis and (2) none of the following sub-paragraphs shall include benefits already included within a higher priority and (3) except as provided below, any pension under this Section B shall include increased and prospective increases to such pensions in accordance with Rule 39:

- (a) Pensions and other benefits for Members, their Spouses, Qualifying Children and Dependants and for any other persons to which entitlement to payment has arisen hereunder prior to the effective date of winding-up of the NATS Section including any associated death benefits.
- (b) Pensions and other benefits which have been postponed beyond Normal Pension Date (such benefits to be payable as at the effective date of winding-up of the NATS Section) including any associated death benefits.
- (c) Guaranteed minimum pensions and accrued rights to guaranteed minimum pensions, benefits excluded from guaranteed minimum pensions by virtue of section 13(6) of the Pension Schemes Act 1993(2), and Contributions Equivalent Premiums.
- (d) Benefits which have been conferred on Members under the NATS Section in respect of transfers to the NATS Section (other than in respect of transfers from retirement benefits schemes of any of the Employers or from another Section of the Scheme).
- (e) In respect of Members who have not reached Normal Pension Date and have not received any retirement benefits from the NATS Section, the benefits to which those Members are entitled from the NATS Section or, in the case of Current Members, the benefits or refunds of contributions to which they would have been entitled from the NATS Section if they had left Service at the effective date of winding-up of the NATS Section such benefits being

(1) Section 73 was amended by S.I.1996/3126, regulation 3.

(2) 1993 c. 48.

non-assignable benefits payable to such Members, their Spouses, Qualifying Children and Dependants.

Purchase of additional benefits

19. If any part of the Section Assets remains after application of the aforesaid provisions of this Rule 19, then before making any payment to the Employers as described in paragraph (c) of Rule 19.2, the Trustees after consultation with the Actuary:

- (a) may purchase such other or additional benefits as they shall determine for Members, former Members, their Spouses, Qualifying Children and Dependants or any other person acceptable for the purposes of this Rule to the Board of Inland Revenue, or any one or more of such persons, subject always to the requirements of the Board of Inland Revenue; and
- (b) shall by application of a part or all of the remaining Section Assets (if any) increase the annual rates of pension payable or to be paid from the NATS Section in accordance with the relevant provisions of the Pensions Act 1995.

Methods of securing benefits

19.5 Any benefits to be provided under this Rule 19 may be secured by the Trustees in either or both of the following ways:

- (a) by the purchase in respect of any Member of appropriate benefits under an Approved Policy (or any other policy or annuity contract acceptable to the Board of Inland Revenue for the purposes of this Clause) subject, with the necessary alterations in point of detail, to the provisions of Rule 33; or
- (b) by the transfer of an amount in respect of any Member to secure appropriate benefits under a retirement benefits arrangement of which he becomes a member subject, with the necessary alterations in point of detail, to Rule 34,

provided always that:

- (i) benefits in respect of a Member shall be deemed to be appropriate for the purposes of (a) and (b) above if they are, in the opinion of the Trustees with the advice of the Actuary, not less in value than the benefits in respect of the Member under this Rule 19 and subject to conditions which the Trustees consider to be as similar as may be practicable although not necessarily identical to the conditions applicable to such benefits under the NATS Section or, if after consultation with the Actuary the Trustees decide that it would be more expedient and, provided that such conditions are acceptable to the Board of Inland Revenue and to the Occupational Pensions Regulatory Authority, on conditions which differ from the conditions applicable to such benefits under the NATS Section; and
- (ii) a transfer under (b) above shall not be subject to the consent of the Member if the transfer is to another Section of the Scheme or to another retirement benefits scheme relating to the same employment or to another employment with the same Employer or the Employer's successor, and if the Actuary makes the relevant certification described in the Preservation Regulations; and
- (iii) where any benefit to be secured does not at the effective date of winding-up of the NATS Section exceed the limit set out in Rule 29.1 the Trustees may elect to make immediate payment of a cash sum of an amount to be determined by the Trustees subject, with the necessary alterations in point of detail, to the provisos to that Rule; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(iv) in any application of the above provisions the Trustees shall comply with the provisions of section 74 of the Pensions Act 1995⁽³⁾ and with the requirements of the Board of Inland Revenue.

(3) 1995 c. 26; section 74 was amended by the Welfare Reform and Pensions Act 1999 (c. 30), section 84(1) and Schedule 12, Part I, paragraphs 43 and 56.