

## SCHEDULE 1

Regulation 4(1)

### MODIFICATION OF CERTAIN PROVISIONS OF PARTS 1 AND 2 OF THE ACT

1. In section 68 (power for the Regulator to collect information relevant to the Board of the Pension Protection Fund), for “the Board of the Pension Protection Fund”, substitute “ the scheme manager of the financial assistance scheme which are conferred on [F<sup>1</sup>it] by regulations made under, or by virtue of, section 286 ”.

#### Textual Amendments

**F1** Word in Sch. 1 para. 1 substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(4)(b)** (with reg. 37)

2. In section 85 (disclosure by the Regulator for facilitating the exercise of functions by the Board)—

- (a) for “Section 82 does not preclude” substitute “ Neither section 82 nor Article 77 of the Pensions (Northern Ireland) Order 2005 precludes ”;
- (b) for the words “the Board of the Pension Protection Fund to exercise its functions”, substitute “ the scheme manager of the financial assistance scheme to exercise functions conferred on [F<sup>2</sup>it] by regulations made under or by virtue of section 286, and Part 2 of the Pensions (Northern Ireland) Order 2005 shall be read accordingly ”.

#### Textual Amendments

**F2** Word in Sch. 1 para. 2(b) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(4)(b)** (with reg. 37)

3. In section 88(4) (disclosure of tax information by the Regulator), after “subsection (3)” insert “ or as mentioned in Article 83(3) of the Pensions (Northern Ireland) Order 2005 ”.

[F<sup>3</sup>**3ZA.** In section 113 (investment of funds)—

- (a) at the beginning of subsection (1), insert “Subject to subsection (1A),”; and
- (b) after subsection (1), insert—

“(1A) The Board may hold any grant received in accordance with regulation 5(3) of the Financial Assistance Scheme Regulations 2005 (scheme manager) in an interest-bearing account but may not otherwise invest any such grant.”.

#### Textual Amendments

**F3** Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

**3ZB.** After section 114(4) (investment principles), insert—

“(4A) A statement of investment principles need not cover investments made in accordance with section 113(1A).”.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 1. (See end of Document for details)

#### Textual Amendments

**F3** Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

**3ZC.** In section 115(1)(a) (borrowing), after “any of its functions”, insert “except its functions relating to the financial assistance scheme”.

#### Textual Amendments

**F3** Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

**3ZD.** In section 117(1)(b) (administration levy), after “section 116”, insert “except where such expenditure relates to the financial assistance scheme”.

#### Textual Amendments

**F3** Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

**3ZE.** In section 119 (annual reports to Secretary of State)—

- (a) in subsection (2)—
  - (i) after “the Board” insert “in relation to the financial assistance scheme”;
  - (ii) for “the report” substitute “any part of the report”; and
  - (iii) after “that section” insert “which relates to the financial assistance scheme”;
- (b) in subsection (3), after paragraph (c) insert—
  - (“d) the operation of the financial assistance scheme including the number of persons who have received payments under the Financial Assistance Scheme Regulations 2005 and the total amount of those payments.”; and
- (c) in subsection (6)(a), for “the date on which the Board is established” substitute “the date on which the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 come into force”.]

#### Textual Amendments

**F3** Sch. 1 paras. 3ZA-3ZE inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(a)** (with reg. 37)

[<sup>F4</sup>**3A.** In section 134 (directions)—

- (a) in subsection (1), for “there is an assessment period in relation to an eligible scheme” substitute “an occupational pension scheme is a qualifying pension scheme under section 286(2) which has not been fully wound up”;
  - (b) in subsection (2), for the words from the beginning to “is kept to a minimum” substitute “With a view to ensuring that any reduction in the scheme’s assets is kept to a minimum or that the assets of the scheme are invested in a way which, in the opinion of the scheme manager, is appropriate”;
- [ in subsection (2), after paragraph (b) insert—

- <sup>F5</sup>(ba) “(ba) the determination of interim pensions;”]
- (c) in subsections (2) and (4), for “the Board”, substitute “the scheme manager”; and
- [ in subsection (3), before paragraph (a) insert—
- <sup>F6</sup>(ca) “(za) “interim pension” has the meaning given by regulations under section 286(1);”]
- (d) in subsection (3), after paragraph (a)(i) insert—
- “(ia) a professional adviser to the scheme;
- (ib) any other person appearing to the scheme manager to be a person who carries out, or is likely to carry out, activities relevant to the use of the assets of the scheme;”.]

#### Textual Amendments

- F4** Sch. 1 para. 3A inserted (17.7.2008) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1903\)](#), regs. 1, **13(a)**
- F5** Sch. 1 para. 3A(ba) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(a)(i)**
- F6** Sch. 1 para. 3A(ca) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(a)(ii)**

- [<sup>F7</sup>**3B.** In section 135 (restrictions on winding up, discharge of liabilities etc)—
- (a) in subsection (1), for “there is an assessment period in relation to an eligible scheme” substitute “an occupational pension scheme is a qualifying pension scheme under section 286(2)”;
- (b) omit subsections (2), (3), (5) to (7) and (11);
- (c) in subsection (4)—
- (i) for the words before paragraph (a) substitute “Except where subsection (4A) applies—
- (ii) in paragraph (a), for “member’s” substitute “qualifying member’s”; and
- (iii) for paragraph (b) substitute—
- “(b) no steps may be taken to discharge any liability of the scheme to or in respect of a qualifying member of the qualifying pension scheme by way of making a payment which would be—
- (i) a winding-up lump sum under paragraph 10 of Schedule 29 to the Finance Act 2004 (c.12); or
- (ii) a trivial commutation lump sum under paragraph 7 or 7A of that Schedule.”;
- (d) after subsection (4) insert—
- “(4A) This subsection applies where—
- (a) before 26th September 2007 the trustees or managers entered into a binding commitment to purchase an annuity for the qualifying member;
- (b) the purchase of an annuity has been approved by the scheme manager under section 286A(2)(b);
- (c) the transfer or discharge of liability has been approved by the scheme manager under subsection (4C) on the application of the trustees or managers of the scheme and any condition imposed under subsection (4D) is satisfied;

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- (d) before the date on which the Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 came into force, the trustees or managers of the scheme offered a trivial commutation lump sum to the qualifying member;
  - (e) before the date on which those Regulations came into force—
    - (i) an application under section 93A of the Pension Schemes Act 1993 or section 89A of the Pension Schemes (Northern Ireland) Act 1993 (salary related schemes: right to statement of entitlement) for a statement of entitlement had been received by the trustees or managers of the scheme for the qualifying member;
    - (ii) the trustees or managers of the scheme have provided the qualifying member with such a statement; and
    - (iii) the qualifying member has made, within the relevant period, and not withdrawn, an application under section 95 of the Pension Schemes Act 1993 or section 91 of the Pension Schemes (Northern Ireland) Act 1993 (ways of taking right to cash equivalent);
  - (f) the transfer or discharge of liability relates only to money purchase benefits; or
  - (g) the transfer or discharge of liability relates only to benefits derived from the payment of voluntary contributions.
- (4B) For the purposes of subsection (4A)(e), “the relevant period” means—
- (a) where section 94(1)(aa) of the Pension Schemes Act 1993 or section 90(1)(aa) of the Pension Schemes (Northern Ireland) Act 1993 (right to cash equivalent) applies, three months beginning with the guarantee date, as defined in those Acts, in respect of the statement of entitlement; or
  - (b) where regulation 14 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 or regulation 14 of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (extension of time within which a member may exercise option to take a guaranteed cash equivalent) applies, the three month period for making a relevant application determined in accordance with that regulation.
- (4C) The scheme manager may approve a transfer referred to in subsection (4)(a) or any steps to discharge any liability of the scheme to or in respect of a qualifying member of the qualifying pension scheme by way of making a payment referred to in subsection (4) (b) if the scheme manager thinks it appropriate to do so.
- (4D) An approval under subsection (4C) may be made subject to such conditions (if any) as the scheme manager thinks appropriate.”; and
- (e) in subsection (9) for “Board” substitute “scheme manager”.

#### Textual Amendments

**F7** Sch. 1 paras. 3B-3E inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(b)**

- 3C.** In section 136 (power to validate contraventions of section 135)—
- (a) in each place it occurs, for “Board” substitute “scheme manager”;
  - (b) in subsection (1) for the words “to do so is consistent” to the end, substitute “it is appropriate to do so”;
  - (c) in subsection (2) omit paragraphs (a), (c) and (d);

- (d) after subsection (2) insert—
  - “(2A) The scheme manager may copy the notice under subsection (2) to any other person to whom, in the opinion of the scheme manager, the determination is relevant.”;
- (e) in subsection (3) for “Board’s” substitute “scheme manager’s”; and
- (f) omit subsections (4) and (5).

#### Textual Amendments

**F7** Sch. 1 paras. 3B-3E inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **15(b)**

#### **3D.** In section 161 (effect of Board assuming responsibility for a scheme)—

- (a) in subsection (1)—
  - (i) after “given” insert “under regulation 29 of the Financial Assistance Scheme Regulations 2005 (transfer notice)”;
  - (ii) for “an eligible scheme” substitute “a qualifying pension scheme under section 286(2)”;
  - (iii) for the words from “the Board” to the end substitute—
    - “(a) the property, rights and liabilities of the scheme are transferred to the Secretary of State, without further assurance, with effect from the time the trustees or managers are given the transfer notice,
    - (b) the trustees or managers of the scheme are discharged from their pension obligations from that time, and
    - (c) any liabilities other than those transferred under paragraph (a) or liabilities in respect of money purchase benefits referred to in subsection (4A) are discharged.”;
- (b) omit subsection (2);
- (c) in subsection (3)—
  - (i) after “liabilities of the scheme” insert “means any liabilities which are liabilities of the scheme as a direct result of the rights or property referred to in subsection (1)(a) being held by or vested in the trustees or managers of the scheme, but”;
  - (ii) omit the words from “, other than” to the end;
- (d) in subsection (4)—
  - (i) after the words in brackets insert “which are not pensions or benefits in respect of money purchase benefits referred to in subsection (4A)”;
  - (ii) omit paragraph (b) and the “and” which precedes it;
- (e) after subsection (4) insert—
  - “(4A) Subsection (1)(a) does not transfer any property which is, or rights which are, held by or vested in the trustees or managers of the scheme in respect of money purchase benefits where the scheme manager is satisfied that appropriate arrangements have been made or are being made for the discharge of the scheme’s liabilities relating to money purchase benefits.
  - (4B) The trustees or managers of the scheme may discharge their liabilities in respect of money purchase benefits irrespective of any rules of the scheme which may provide that such liabilities must be discharged together with benefits which are not money purchase benefits.”;

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- (f) in subsection (7) for “Board” substitute—
  - (i) where it first occurs, “scheme manager”; and
  - (ii) for the subsequent occurrences, “Secretary of State”;
- (g) after subsection (7) insert—
  - “(7A) Neither paragraph (b) nor (c) of subsection (1) affects any rights transferred to the Secretary of State in accordance with paragraph (a) of that subsection.”; and
- (h) in each place it occurs, for “subsection (2)” substitute “subsection (1)”.

**Textual Amendments**

**F7** Sch. 1 paras. 3B-3E inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **15(b)**

- 3E.** In section 165 (guaranteed minimum pensions)—
- (a) in subsection (1)—
    - (i) for “Board” substitute “scheme manager”;
    - (ii) for “Commissioners of Inland Revenue” substitute “Commissioners for Her Majesty’s Revenue and Customs”; and
    - (iii) for “it assuming responsibility for an eligible scheme in accordance with this Chapter” substitute “the scheme manager giving a transfer notice under regulation 29 of the Financial Assistance Scheme Regulations 2005 (transfer notice)”; and
  - (b) after subsection (3) insert—
    - “(4) In subsection (8) of that section (as inserted by subsection (3) above) for “on the Board of the Pension Protection Fund assuming responsibility for the scheme” substitute “when a transfer notice was given under regulation 29 of the Financial Assistance Scheme Regulations 2005”.”.]

**Textual Amendments**

**F7** Sch. 1 paras. 3B-3E inserted (2.4.2010) by The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/1149), regs. 1, **15(b)**

- 4.** In section 168 (administration of compensation payable by the Board)—
- (a) in subsection (1), for “this Chapter” substitute “the financial assistance scheme established by regulations under section 286 ”;
  - (b) for subsection (2), substitute—
    - “(2) Regulations under subsection (1) may, in particular, make provision—
      - (a) for the recovery of amounts paid by the scheme manager of the financial assistance scheme in excess of entitlement;
      - (b) specifying the circumstances in which payments from the financial assistance scheme can be suspended.”; and
  - (c) omit subsection (3).
- 5.** In section 190 (information to be provided to the Board etc.)—
- [<sup>F8</sup>(a) in subsection (1), for “the Board” substitute “the scheme manager”]

- (b) in subsection (2), for “of entitlement to compensation under Chapter 3 of this Part” substitute “ that a person is entitled to a payment from the financial assistance scheme ”.

#### Textual Amendments

**F8** Sch. 1 para. 5(a) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(b)** (with reg. 37)

[<sup>F9</sup>6. In section 191 (notices requiring provision of information to the Board)—

- (a) in subsection (1)(b), after “the Board’s” insert “or scheme manager’s”;
- (b) in subsection (2)—
- (i) before paragraph (a), insert—
- “(za) the scheme manager, in relation to the scheme manager’s functions,”;
- (ii) in paragraph (a), after “the Board,” insert “in relation to the Board’s functions,”; and
- (iii) in paragraph (b), after “the Board” insert “or scheme manager”; and
- (c) in subsection (3)—
- (i) omit “and” at the end of paragraph (d);
- (ii) after paragraph (d), insert—
- “(da) in the case of a wound up scheme, any insurance company (within the meaning of the Financial Assistance Scheme Regulations 2005) which is paying annuities to former members of the scheme, and”; and
- (iii) in paragraph (e)—
- (aa) after “the Board” insert “, scheme manager”; and
- (bb) after “the Board’s” insert “or scheme manager’s”.]

#### Textual Amendments

**F9** Sch. 1 para. 6 substituted (17.7.2008) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2008 \(S.I. 2008/1903\)](#), regs. 1, **13(b)**

7. In section 192 (entry of premises to enable performance of functions by the Board)—

- (a) for “the Board”, in each place, substitute “ the scheme manager ”;
- (b) in subsection (1)(f), for “the Board's” substitute “ the scheme manager's ”; and
- (c) in subsection (6), for “The Board” substitute “ The scheme manager ”.

8. In section 194 (warrants to enforce entry of premises and obtaining of documents by, or on behalf, of the Board)—

- (a) for “the Board”, in each place, substitute “ the scheme manager ”;
- (b) omit in both places “ , or any corresponding provision in force in Northern Ireland ”;
- (c) in subsection (1), after “information on oath” insert “ or, in Northern Ireland, on complaint on oath ”;
- (d) in subsection (1)(b), for “the Board's” substitute “ the scheme manager's ”;
- (e) in subsection (2)(a), after “the information” insert “ or complaint ”; and
- (f) in subsection (6), for “The Board” substitute “ The scheme manager ”.

*Changes to legislation: There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 1. (See end of Document for details)*

9. In section 195(1)(b) (offence of providing false or misleading information to the Board), for the words from “by the Board” to the end of that paragraph substitute “ by the scheme manager for the purposes of exercising [<sup>F10</sup>its] functions. ”.

**Textual Amendments**  
**F10** Word in Sch. 1 para. 9 substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

10. In section 196 (use of information by the Board)—  
(a) for “the Board”, in each place, substitute “ the scheme manager ”; and  
<sup>F11</sup>(b) .....

**Textual Amendments**  
**F11** Sch. 1 para. 10(b) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(c)** (with reg. 37)

11. In section 197 (restricted information)—  
(a) in subsections (1) and (3), after “the Board”, in each place, insert “ or the scheme manager ”;  
<sup>F12</sup>(ab) in subsection (2), before paragraph (a) insert—  
    “(za) regulation 6A of the Financial Assistance Scheme Regulations 2005,”;  
(b) in subsection (4), after “its functions” insert “ or by the scheme manager in the exercise of [<sup>F13</sup>its] functions ”;  
(c) in subsection (6)(a), after “that section” insert “ (disregarding any modifications of that section made by the Financial Assistance Scheme Regulations 2005) ”; and  
(d) after subsection (6), insert—  
    “(6A) Information which—  
        (a) is obtained under section 191 by a person authorised under subsection (2)(b) of that section, but  
        (b) if obtained by the scheme manager, would be restricted information,  
is treated for the purposes of subsections (1) and (3) and sections 198 to 201 and 203 as restricted information which the person has received from the scheme manager.”.

**Textual Amendments**  
**F12** Sch. 1 para. 11(ab) inserted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(d)** (with reg. 37)  
**F13** Word in Sch. 1 para. 11(b) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

12. In section 198 (disclosure by the Board of restricted information for facilitating exercise of functions by the Board)—  
(a) at the end of subsection (1), add “ or the scheme manager to exercise [<sup>F14</sup>its] functions ”;  
(b) in subsection (2)—



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- (i) after “its functions”, insert “ or the scheme manager properly to exercise any of [<sup>F15</sup>its] functions ”; and
- (ii) after “the Board”, in the second place, insert “ or, as the case may be, the scheme manager ”; and
- (c) in subsection (3)—
  - (i) after “the Board”, in both places, insert “ or, as the case may be, the scheme manager ”; and
  - (ii) for “he” substitute “ that person ”.

**Textual Amendments**

- F14** Word in Sch. 1 para. 12(a) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)
- F15** Word in Sch. 1 para. 12(b)(i) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)

**13.** In section 200(1) (disclosure by the Board of restricted information for facilitating the exercise of functions by other supervisory authorities)—

- (a) after “the Board”, in the first place, insert “ or the scheme manager ”; and
- (b) after “the Board”, in the second place, insert “ or, as the case may be, the scheme manager ”.

**14.** In section 201 (other permitted disclosures of restricted information by the Board)—

- (a) in subsection (1)—
  - (i) after “the Board”, in the first place, insert “ or the scheme manager ”;
  - (ii) after “the Board”, in the second place, insert “ or, as the case may be, the scheme manager ”;
- (b) in subsection (2), after “the Board”, in both places, insert “ or the scheme manager ”;
- (c) in subsection (2)(d), for “it has a right” substitute “ the Board or the scheme manager has a right ”;
- (d) in subsection (8), for “with the consent of the Board” substitute—
  - “(a) in a case where the disclosure under that subsection was made by the Board, with the consent of the Board, and
  - (b) in a case where the disclosure under that subsection was made by the scheme manager, with [<sup>F16</sup>its] consent”;
- (e) for subsection (9)(a), substitute—
  - “(a) in a case where the disclosure under that subsection was made by the Board, with the consent of the Board,
  - (aa) in a case where the disclosure under that subsection was made by the scheme manager, with [<sup>F16</sup>its] consent, and”;
- (f) in subsection (10)—
  - <sup>F17</sup>(i) .....
  - (ii) after “the Board” insert “ or, as the case may be, the scheme manager ”; and
  - <sup>F18</sup>(iii) .....

### Textual Amendments

- F16** Word in Sch. 1 para. 14(d)(e) substituted (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **7(2)(b)** (with reg. 37)
- F17** Sch. 1 para. 14(f)(i) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(e)** (with reg. 37)
- F18** Sch. 1 para. 14(f)(iii) omitted (10.7.2009) by virtue of [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(e)** (with reg. 37)

[<sup>F19</sup>**14A.** In section 202 (tax information)—

- (a) in each place it occurs, for “the Board” substitute “the scheme manager”;
- (b) in subsection (1) for “tax functions” substitute “a function of the Revenue and Customs”;
- (c) in subsection (2) for “section 182 of the Finance Act 1989 (c.26)” substitute “sections 18 and 19 of the Commissioners for Revenue and Customs Act 2005 (c.11)”;
- (d) in subsection (4) for “Commissioners of Inland Revenue or the Commissioners of Customs and Excise” substitute “Commissioners for Her Majesty’s Revenue and Customs”; and
- (e) for subsection (5) substitute—

“(5) In subsection (1), “a function of the Revenue and Customs” has the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005.”.]

### Textual Amendments

- F19** [Sch. 1 para. 14A](#) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(c)**

**15.** In section 203 (provision of information to members of schemes etc. by the Board)—

- (a) in subsection (1), after “the Board” insert “ or the scheme manager ”;
- (b) in subsections (3)(c), (5)(b) and (c) and (6)(c), after “the Board”, in each place, insert “ or, as the case may be, the scheme manager ”;
- (c) after “the Board's”, in each place, insert “ or the scheme manager's ”;
- (d) omit “ or ” at the end of subsection (1)(b)(ii) and insert after that sub-paragraph—
  - “(ia) relating to any determination made in relation to the financial assistance scheme, or”;
- (e) in subsection (2), after “Chapter 3” insert “ or, as the case may be, to a payment from the financial assistance scheme ”;
- (f) in subsection (4)—
  - (i) in paragraph (a), after “who is” insert “ or was ”;
  - (ii) in paragraph (b), after “member” insert “ or former member ”; and
- (g) after subsection (6)(a)(iv), insert—
  - “(v) in the case of a wound up scheme, any insurance company (within the meaning in the Financial Assistance Scheme Regulations 2005) which is paying annuities to former members of the scheme,”.

**16.** In section 204 (interpretation of sections 190 to 203)—

- (a) after subsection (2), insert—

“(2A) The “scheme manager” is the person who manages the financial assistance scheme.

(2B) The “financial assistance scheme” is the scheme established by regulations under section 286.”; and

(b) after subsection (3), add—

“(4) Where the scheme manager has functions in relation to a scheme which is wound up, any reference to a trustee, manager, professional adviser or employer in relation to the scheme is to be read as reference to a person who held that position in relation to the scheme before it wound up.”.

[<sup>F20</sup>17. In paragraph 18(2) of Schedule 5 (delegation)—

(a) after sub-paragraph (g), insert—

[ Paragraphs 6A, 7(1) and 8 of Schedule 6 (transfer of property, rights and liabilities to the Board) as modified;]

(ga) regulation 9(1)(d) of the Financial Assistance Scheme Regulations 2005 (“the 2005 Regulations”) (receiving notification of the details prescribed in regulation 14);

(gb) regulation 14A of the 2005 Regulations (working with qualifying pension schemes);

(gc) regulations 17 to 20 of, and [<sup>F22</sup>Schedules 2 to 7] to, the 2005 Regulations in so far as those provisions relate to—

(i) the determination of the amount of payments to beneficiaries,

(ii) paying instalments of payments to beneficiaries (including non-payment where the scheme manager decides to suspend payments in accordance with regulation 8 of the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005), or

(iii) receiving information pursuant to notification requirements;

(gd) the Financial Assistance Scheme (Provision of Information and Administration of Payments) Regulations 2005 except—

(i) regulation 3(2) (notification following determination of whether or not a scheme is a qualifying pension scheme), and

(ii) regulation 8 (suspension of payments) in so far as that regulation provides for the scheme manager to decide to suspend payments or not continue any such suspension;

(ge) regulations 3 (notice of a reviewable determination), 14(d) (dealing with matters arising out of a review decision) and 16 (notice of a review decision or a subsequent review decision) of the Financial Assistance Scheme (Internal Review) Regulations 2005;

(gf) regulation 23(6) and (8) (taking or refraining from taking such steps as directed by the Ombudsman) of the Financial Assistance Scheme (Appeals) Regulations 2005;

[ regulation 27 of the 2005 Regulations (scheme manager calculations after a valuation);]

(gh) regulation 28 of the 2005 Regulations (determination of certain asset shares, notional pensions and survivor notional pensions);

- (gi) regulation 31 of the 2005 Regulations (payments where amounts relating to money purchase benefits are transferred to the Secretary of State);”]; and
- (b) in sub-paragraph (h), for the words “paragraphs (a) to (g)” substitute “paragraphs (a) to [F24(gi)]”.

#### Textual Amendments

- F20** Sch. 1 paras. 17, 18 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(f)** (with reg. 37)
- F21** Words in Sch. 1 para. 17(a) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(i)(aa)**
- F22** Words in Sch. 1 para. 17(a) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(i)(bb)**
- F23** Words in Sch. 1 paras. 17(a) inserted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(i)(cc)**
- F24** Word in Sch. 1 para. 17(b) substituted (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(d)(ii)**

**18.** In paragraph 22(7)(a) of Schedule 5 (accounts), for “the date on which the Board is established” substitute “the date on which the Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009 come into force”.]

#### Textual Amendments

- F20** Sch. 1 paras. 17, 18 added (10.7.2009) by [The Financial Assistance Scheme \(Miscellaneous Provisions\) Regulations 2009 \(S.I. 2009/1851\)](#), regs. 1, **18(f)** (with reg. 37)

[F25**19.** In Schedule 6 (transfer of property, rights and liabilities to the Board)—

- (a) after paragraph 3(2) insert—

“(3) Where any liabilities in respect of an existing or future cause of action are not transferred as a result of sub-paragraph (2), the trustees or managers are not discharged from any obligations in respect of such causes of action.”;

- (b) after paragraph 5 insert—

“**5A.** Any contract which does not form part of any rights or liabilities transferred to the Secretary of State shall be treated as terminated.”;

- (c) in paragraph 6 for the words from “so far as necessary” to the end substitute—

“(a) so far as necessary for the purposes of giving effect to the transfer as a reference to the Secretary of State, and

(b) so far as necessary for the purposes of giving effect to paragraph 6A(1) as a reference to the scheme manager.”;

- (d) after paragraph 6 insert—

“**6A.**—(1) The rights, powers and obligations of the Secretary of State in relation to the property, rights and liabilities are exercisable by the scheme manager without limitation.

(2) Where, by virtue of sub-paragraph (1), any amount becomes payable, or is to be paid, to the scheme manager, that amount must be paid to the Secretary of State.”;

- (e) in paragraph 7(1) in the first place in which it occurs for “Board” substitute “scheme manager”;

- (f) in all other places in which it occurs for “Board” substitute “Secretary of State”; and
- (g) after paragraph 7 add—

“8.—(1) Where, by virtue of paragraph 3(1), an application to the Pensions Ombudsman under Part 10 of the Pension Schemes Act 1993 (c.48) or Part 10 of the Pension Schemes (Northern Ireland) Act 1993 (c.49) is to be continued by or against the Secretary of State, any reference in section 146 of the Pension Schemes Act 1993 or section 142 of the Pension Schemes (Northern Ireland) Act 1993 to the trustees or managers of an occupational pension scheme shall have effect, so far as necessary, for the purpose of giving effect to paragraph 3(1), as a reference to the Secretary of State.

(2) Where, as a result of such an application being continued against the Secretary of State, a direction is given by the Ombudsman under section 151 of the Pension Schemes Act 1993 or section 147 of the Pension Schemes (Northern Ireland) Act 1993, the Secretary of State may require the scheme manager to carry out a review under regulation 10 of the Financial Assistance Scheme (Internal Review) Regulations 2005.”.]

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**Textual Amendments**

- F25** Sch. 1 para. 19 added (2.4.2010) by [The Financial Assistance Scheme \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/1149\)](#), regs. 1, **15(e)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Assistance Scheme Regulations 2005, SCHEDULE 1.