

SCHEDULE 2

INFORMATION ABOUT RELATED UNDERTAKINGS WHERE COMPANY NOT PREPARING GROUP ACCOUNTS (COMPANIES ACT OR IAS INDIVIDUAL ACCOUNTS)

PART 2

INTERPRETATION OF REFERENCES TO “BENEFICIAL INTEREST”

Introduction

12.—(1) References in this Schedule to a beneficial interest are to be interpreted in accordance with the following provisions.

(2) This Part of this Schedule applies in relation to debentures as it applies in relation to shares.

Residual interests under pension and employees’ share schemes

13.—(1) Where shares in an undertaking are held on trust for the purposes of a pension scheme or an employees’ share scheme, there must be disregarded any residual interest of the undertaking or any of its subsidiary undertakings (the “residual beneficiary”) that has not vested in possession.

(2) A “residual interest” means a right to receive any of the trust property in the event of—

- (a) all the liabilities arising under the scheme having been satisfied or provided for, or
- (b) the residual beneficiary ceasing to participate in the scheme, or
- (c) the trust property at any time exceeding what is necessary for satisfying the liabilities arising or expected to arise under the scheme.

(3) In sub-paragraph (2)—

- (a) references to a right include a right dependent on the exercise of a discretion vested by the scheme in the trustee or any other person, and
- (b) references to liabilities arising under a scheme include liabilities that have resulted or may result from the exercise of any such discretion.

(4) For the purposes of this paragraph a residual interest vests in possession—

- (a) in a case within sub-paragraph (2)(a), on the occurrence of the event there mentioned, whether or not the amount of the property receivable pursuant to the right mentioned in that sub-paragraph is then ascertained,
- (b) in a case within sub-paragraph (2)(b) or (c), when the residual beneficiary becomes entitled to require the trustee to transfer to it any of the property receivable pursuant to that right.

Employer’s charges and other rights of recovery

14.—(1) Where shares in an undertaking are held on trust there must be disregarded—

- (a) if the trust is for the purposes of a pension scheme, any such rights as are mentioned in sub-paragraph (2),
- (b) if the trust is for the purposes of an employees’ share scheme, any such rights as are mentioned in paragraph (a) of that sub-paragraph,

being rights of the undertaking or any of its subsidiary undertakings.

(2) The rights referred to are—

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

- (a) any charge or lien on, or set-off against, any benefit or other right or interest under the scheme for the purpose of enabling the employer or former employer of a member of the scheme to obtain the discharge of a monetary obligation due to him from the member,
- (b) any right to receive from the trustee of the scheme, or as trustee of the scheme to retain, an amount that can be recovered or retained under section 61 of the Pension Schemes Act 1993⁽¹⁾ or section 57 of the Pension Schemes (Northern Ireland) Act 1993⁽²⁾ (deduction of contributions equivalent premium from refund of scheme contributions) or otherwise, as reimbursement or partial reimbursement for any contributions equivalent premium paid in connection with the scheme under Chapter 3 of Part 3 of that Act.

Trustee’s right to expenses, remuneration, indemnity etc.

15.—(1) Where an undertaking is a trustee, there must be disregarded any rights which the undertaking has in its capacity as trustee.

(2) This includes in particular—

- (a) any right to recover its expenses or be remunerated out of the trust property, and
- (b) any right to be indemnified out of that property for any liability incurred by reason of any act or omission of the undertaking in the performance of its duties as trustee.

Meaning of “pension scheme”

16.—(1) In this Part of this Schedule “pension scheme” means any scheme for the provision of benefits consisting of or including relevant benefits for or in respect of employees or former employees.

(2) For this purpose “relevant benefits” means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death.

Application of provisions to directors

17. In paragraphs 14(2) and 16, “employee” and “employer” are to be read as if a director of an undertaking were employed by it.

(1) 1993 c.48.
(2) 1993 c.49.