

## SCHEDULES

### SCHEDULE 18

Section 42.

#### POWER TO RESTRICT CHARGES OR IMPOSE REQUIREMENTS IN RELATION TO SCHEMES

##### *Power to restrict charges*

1.—(1) The Department may by regulations make provision—

- (a) prohibiting administration charges which are of a specified class or description, or which exceed specified limits, from being imposed on a member of a relevant scheme;
- (b) prohibiting a relevant scheme from containing provision under which administration charges which are of a specified class or description, or which exceed specified limits, will or may be imposed on a member of the scheme.

“Specified” means specified in the regulations.

(2) The regulations—

- (a) may make provision for the manner of, and criteria for, determining whether an administration charge is of a specified class or description or exceeds specified limits;
- (b) may provide for the determination to be made in accordance with guidance issued from time to time by the Department.

(3) The regulations may impose duties on the trustees or managers of a relevant scheme or others.

(4) The regulations may provide that a scheme is not a qualifying scheme in relation to a jobholder for the purposes of Part 1 of the Pensions (No. 2) Act if a provision of the regulations—

- (a) is contravened, or
- (b) is contravened in a way specified in the regulations.

(5) In this paragraph—

“administration charge”, in relation to a member of a pension scheme, means any of the following to the extent that they may be used to meet the administrative expenses of the scheme, to pay commission or in any other way

that does not result in the provision of pension benefits for or in respect of members—

- (a) any payments made to the scheme by, or on behalf or in respect of, the member,
- (b) any income or capital gain arising from the investment of such payments, or
- (c) the value of the member's rights under the scheme;

“relevant scheme” means a pension scheme of a description specified in the regulations.

*Power to impose requirements relating to administration or governance*

2.—(1) The Department may by regulations impose requirements relating to the administration or governance of a relevant scheme that must be satisfied in relation to the scheme.

(2) The regulations—

- (a) may make provision for the manner of, and criteria for, determining whether a requirement is satisfied;
- (b) may provide for the determination to be made in accordance with guidance issued from time to time by the Department.

(3) The regulations may impose duties on the trustees or managers of a relevant scheme or others.

(4) The regulations may provide that a scheme is not a qualifying scheme in relation to a jobholder for the purposes of Part 1 of the Pensions (No. 2) Act if a provision of the regulations—

- (a) is contravened, or
- (b) is contravened in a way specified in the regulations.

(5) In this paragraph “relevant scheme” means a pension scheme of a description specified in the regulations.

*Compliance*

3.—(1) The Department may by regulations make provision with a view to ensuring compliance with a provision of regulations under paragraph 1 or 2.

(2) The regulations may in particular—

- (a) provide for the Regulator to issue a notice (a “compliance notice”) to a person with a view to ensuring the person's compliance with a provision of regulations under paragraph 1 or 2;

- (b) provide for the Regulator to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of regulations under paragraph 1 or 2;
  - (c) provide for the Regulator to issue a notice (a “penalty notice”) imposing a penalty on a person where the Regulator is of the opinion that the person has failed to comply with a compliance notice or third party compliance notice or has contravened a provision of regulations under paragraph 1 or 2;
  - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
  - (e) confer other functions on the Regulator.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—
- (a) £5,000, in the case of an individual, and
  - (b) £50,000, in any other case.

#### *Interpretation*

- 4.—(1) Expressions used in this Schedule and in Schedule 17 have the same meaning in this Schedule as in that Schedule (see paragraph 14 of that Schedule).
- (2) In this Schedule “relevant scheme” is to be construed in accordance with paragraphs 1(5) and 2(5).

#### *Crown application*

- 5.—(1) This Schedule applies to a pension scheme managed by or on behalf of the Crown as it applies to other pension schemes.
- (2) Accordingly, a reference in this Schedule to a person in the person’s capacity as a trustee or manager of a pension scheme include the Crown, or a person acting on behalf of the Crown, in that capacity.
- (3) This Schedule applies to persons employed by or under the Crown as it applies to persons employed by a private person.

#### *Overriding provision*

- 6.—(1) The Department may by regulations provide that specified provisions override any provision of a relevant scheme to the extent that it conflicts with them.

(2) A “specified provision” is a provision of regulations under this Schedule specified in regulations made under sub-paragraph (1).

*Other provision relating to regulations under this Schedule*

7. The Department may by regulations amend or otherwise modify any statutory provision (whenever passed or made) in connection with any provision made by regulations under the preceding provisions of this Schedule.

8. Before making any regulations under this Schedule, the Department must consult such persons as it considers appropriate, but that duty to consult does not apply to regulations making only provision corresponding to provision contained in regulations made by the Secretary of State in relation to Great Britain.

*Amendments*

9.—(1) The Pension Schemes Act is amended as follows.

(2) In section 90(2A) (right to cash equivalent)—

(a) in paragraph (a), after sub-paragraph (viii) (inserted by Schedule 17) insert—

“(ix) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (vi) (inserted by Schedule 17) insert—

“(vii) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.”.

(3) In section 96B(2) (meaning of “scheme rules”: occupational pension schemes)—

(a) in paragraph (a), after sub-paragraph (xi) (inserted by Schedule 17) insert—

“(xii) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 17) insert—

“(ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.”.

(4) In section 97AI(7) (rights to cash transfer sum and contribution refund: further provisions)—

(a) in paragraph (a), after sub-paragraph (x) (inserted by Schedule 17) insert—

“(xi) regulations made under Schedule 18 to the Pensions Act (Northern Ireland) 2015.”;

(b) in paragraph (b), after sub-paragraph (viii) (inserted by Schedule 17) insert—

“(ix) regulations made under paragraph 6 of Schedule 18 to the Pensions Act (Northern Ireland) 2015.”.

**10.** In Article 233 of the 2005 Order (no indemnification for fines or civil penalties), in paragraph (1)(b), after “or paragraph 10 of Schedule 17 to the Pensions Act (Northern Ireland) 2015” (inserted by Schedule 17) insert “or paragraph 3 of Schedule 18 to that Act.”.

**11.—**(1) Section 16 of the Pensions (No. 2) Act (automatic enrolment: qualifying schemes) is amended as follows.

(2) In subsection (3), omit paragraphs (a), (aa) and (ab).

(3) After subsection (3) insert—

“(3A) See also paragraphs 1(4) and 2(4) of Schedule 18 to the Pensions Act (Northern Ireland) 2015, which confer power to make regulations providing for a scheme not to be a qualifying scheme in relation to a jobholder in certain circumstances.”.

(4) Omit subsections (4) and (5).

**12.** In consequence of the amendments made by paragraph 11, section 11 of the Pensions Act (Northern Ireland) 2012 (qualifying schemes: administration charges) is repealed.