

SCHEDULES

SCHEDULE 2

Section 11(2)

SCHEDULE TO BE INSERTED AS SCHEDULE 3A TO THE PENSIONS ACT

“SCHEDULE 3A

Section 58A.

ANNUAL INCREASE IN RATE OF CERTAIN OCCUPATIONAL PENSIONS

Interpretation

1 In this Schedule—

“annual rate”, in relation to a pension or the later or earlier service component of a pension, means the annual rate of the pension or component, as previously increased under the rules of the scheme or this Schedule;

“the appointed day” means the day on which this Schedule and section 58A of this Act come into force;

“the appropriate percentage”, in relation to an increase in the annual rate of a pension or a component of a pension, means the percentage specified in the last revaluation order made before the increase is to take effect as the revaluation percentage for the last revaluation period of twelve months;

“earlier service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service before the appointed day;

“later service component” means so much (if any) of the annual rate of the pension as is attributable to pensionable service on or after the appointed day;

“pension”, in relation to a scheme, means any pension which commences or has commenced under the scheme but does not include—

(a) a guaranteed minimum pension or any increase in such a pension under section 37A above; or

(b) any money purchase benefit;

“pensionable service” has the meaning given by paragraph 3 of Schedule 16 to the 1973 Act;

“qualifying scheme” means a scheme to which section 58A of this Act applies;

“revaluation order”, “revaluation percentage” and “revaluation period” shall be construed in accordance with section 52A above.

Annual increase of later service component

- 2 (1) If, apart from this Schedule, the annual rate of a pension under a qualifying scheme would not be increased as mentioned in section 58A(1)(b) of this Act, the annual rate of its later service component shall be increased annually by at least an amount equal to the appropriate percentage of the annual rate of that component as applicable immediately before the increase takes effect.

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- (2) The first increase by virtue of this paragraph in the rate of a pension shall take effect not later than the first anniversary of the commencement of the pension and subsequent increases shall take effect at intervals of not more than twelve months thereafter.
- (3) This paragraph is subject to paragraphs 4 to 7 below.

Annual increase of earlier service component where scheme is in surplus

- 3 (1) If on any valuation day the value of a qualifying scheme's assets, as determined in accordance with regulations, exceeds the value of its liabilities, as so determined, the amount of the excess (the "valuation surplus") shall be applied in accordance with the following provisions of this paragraph in providing for annual increases, up to the aggregate referred to in sub-paragraph (6) below, in the annual rate of the earlier service component of each pension under the scheme that would not, apart from this Schedule, be increased as mentioned in section 58A(1)(b) of this Act.
- (2) The amount of each annual increase to be provided in pursuance of this paragraph in consequence of a valuation surplus shall be an amount equal to the appropriate percentage of the annual rate of the earlier service component of the pension in question as applicable immediately before that annual increase takes effect.
- (3) Except in a case where regulations otherwise provide, the days which are "valuation days" for the purposes of this paragraph are—
 - (a) the appointed day; and
 - (b) each subsequent day as at which the assets and liabilities of the scheme in question are actuarially valued for any purpose.
- (4) Where, in consequence of a valuation surplus, this paragraph requires provision to be made for annual increases in the annual rate of the earlier service component of a pension, the first of those increases shall take effect not later than the first anniversary of the later of—
 - (a) the valuation day as at which the valuation was made which disclosed the valuation surplus; or
 - (b) the commencement of the pension;
 and subsequent increases shall take effect at intervals of not more than twelve months thereafter.
- (5) In any case where—
 - (a) a valuation of the assets and liabilities of a qualifying scheme discloses a valuation surplus, but
 - (b) the amount of the surplus is insufficient to provide in full for the annual increases otherwise required by this paragraph in pensions under the scheme,
 the valuation surplus shall be applied in providing for the increases so required, but only at the percentage rate that would apply year by year in relation to those increases if, for the maximum percentage of 5 per cent. specified in section 52A(9) (a) above, there were substituted such lower percentage as represents the greatest maximum percentage, as determined in accordance with regulations, by reference to which the valuation surplus is sufficient to provide for annual increases in the earlier service component of the pensions in question.
- (6) If a valuation surplus is disclosed on a valuation at any time when either—

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- (a) provision has already been made by the scheme for the annual rate of the earlier service component of every such pension as is mentioned in sub-paragraph (1) above to be increased annually in the aggregate by at least the appropriate percentage of that rate, or
- (b) the application of part only of the valuation surplus would be sufficient to secure that result,

this paragraph does not require that valuation surplus or, as the case may be, the remaining part of it, to be applied in the provision of increases under this paragraph.

- (7) The powers conferred by sub-paragraphs (1) and (5) above to make regulations include, respectively, power to provide that the valuation of the scheme's assets or liabilities is to be calculated and verified, or the percentage in question is to be determined,—
 - (a) in such manner as may, in the particular case, be approved—
 - (i) by a prescribed person;
 - (ii) by a person with prescribed professional qualifications or experience; or
 - (iii) by a person approved by the Secretary of State;
 - (b) in accordance with guidance prepared by a prescribed body;
 - (c) in accordance with prescribed principles and requirements; or
 - (d) in accordance with principles determined by the person who performs the duties of calculation and verification.

- (8) This paragraph is subject to paragraphs 4 to 7 below.

Proportional increases where first period is less than 12 months

- 4 (1) Where a pension commenced to be paid less than twelve months before the date on which its first increase under paragraph 2 above is to take effect, the amount of that first increase shall be determined by the application of the formula—

$$\frac{M \times I}{12}$$

where—

M is the number of complete months in the period beginning with the commencement of the pension and ending immediately before that date; and

I is the amount of the increase that would have been required by that paragraph, apart from this sub-paragraph.

- (2) This paragraph shall apply in relation to the first increase of a pension by virtue of paragraph 3 above in consequence of each successive valuation surplus as it applies in relation to the first increase of a pension under paragraph 2 above.

Restriction on increases where member is under 55

- 5 (1) No increase under paragraph 2 or 3 above is required to be paid to or for a member of a scheme whose pension has commenced but who has not attained the age of 55 at the time when the increase takes effect, unless—
 - (a) he is permanently incapacitated by mental or physical infirmity from engaging in regular full-time employment, or

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- (b) he has retired on account of mental or physical infirmity from the office or employment in respect of which, or on retirement from which, the pension is payable,

in which case the pension shall be payable at the annual rate at which it would have been payable apart from this sub-paragraph.

- (2) The rules of a scheme may provide that if, in a case where a pension has been paid to or for a member under the age of 55 at an increased rate in consequence of paragraph (a) or (b) of sub-paragraph (1) above, the member—

- (a) ceases to suffer from the infirmity in question before he attains the age of 55, but

- (b) continues to be entitled to the pension,

any increases subsequently taking effect under paragraph 2 or 3 above in the annual rate of the pension shall not be paid or shall not be paid in full.

- (3) In any case where—

- (a) by virtue only of sub-paragraph (1) or (2) above, increases are not paid to or for a member or are not paid in full, but

- (b) the member attains the age of 55 or, in a case falling within sub-paragraph (2) above, again satisfies the conditions set out in paragraph (a) or (b) of sub-paragraph (1) above,

his pension shall thereupon become payable at the annual rate at which it would have been payable apart from sub-paragraph (1) or (2) above.

Application of Schedule to pensions not attributable to pensionable service

- 6 Regulations may provide that this Schedule (other than this paragraph) shall apply in relation to any pension under a qualifying scheme as if so much of the annual rate of the pension as would not otherwise be attributable to pensionable service were attributable in accordance with the regulations—

- (a) to pensionable service before the appointed day;

- (b) to pensionable service on or after that day; or

- (c) partly to pensionable service before, and partly to pensionable service on or after, that day;

and any reference to the earlier or later service component of the pension shall be construed accordingly.

Regulations

- 7 (1) The Secretary of State may by regulations direct that section 58A of this Act and this Schedule shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may specify.

- (2) In sub-paragraph (1) above “modification”, without prejudice to the generality of that sub-paragraph, includes addition, omission and amendment.

Overriding effect of the increase provisions

- 8 The provisions of section 58A of this Act, this Schedule and any regulations made under it override any provision of a qualifying scheme, other than a protected

provision (within the meaning of paragraph 7 of Schedule 1A to this Act), to the extent that it conflicts with them.”