

SCHEDULE 2

Regulations 8 and 14.

THE PRESCRIBED APPROPRIATE RULES

PART I

MEMBER-NOMINATED TRUSTEES

Eligibility and procedure for nomination

1.—(1) The trustees of the scheme shall invite nominations to be made for the filling of vacancies by giving notice in writing to the active members specifying the last date on which nominations may be made (being a date not earlier than one month after the date on which the notice is given).

(2) Subject to sub-paragraph (3), any person may be nominated to be a member-nominated trustee (including a person already serving as such).

(3) A person who is not a member of the scheme may only be nominated if—

- (a) his nomination is approved in writing by the employer; or
- (b) the employer does not require his approval to be obtained.

(4) A nomination must be made by an active member of the scheme and be supported by at least one other active member.

(5) A nomination must be made—

- (a) by notice in writing to the trustees of the scheme; and
- (b) with the consent in writing of the person nominated.

(6) A notice under sub-paragraph (1) must specify in general terms the arrangements that the trustees are proposing to make to comply with the requirements of section 16, specifying in particular the matters which would be required by paragraph 4(2) of Schedule 1 to be specified in a notice given by the trustees under paragraph 2 of that Schedule if they were proposing appropriate rules.

Selection of nominees

2.—(1) If the number of persons duly nominated to fill vacancies for member-nominated trustees does not exceed the number of vacancies, those persons shall become member-nominated trustees.

(2) If the number of persons duly nominated to fill vacancies for member-nominated trustees exceeds the number of vacancies, those vacancies must be filled by those nominees elected by a ballot of the active members, conducted by the trustees of the scheme in accordance with sub-paragraph (3) and in the manner specified in the notice under sub-paragraph (4).

(3) Each member may vote only for [^{F1}one nominee in respect of each vacancy] and the vacancy or, as the case may be, vacancies shall be filled by the nominee or, as the case may be, the nominees for whom the most votes are cast (with a tie between nominees being resolved by those nominees drawing lots).

(4) Not later than 14 days after the last date on which nominations may be made the trustees of the scheme shall give notice in writing to the active members specifying—

- (a) the procedure to be used for the ballot (including whether it is to be conducted so as to secure that those voting do so in secret);
- (b) the last date on which votes may be cast (being a date not less than 14 days nor more than one month after the date on which the notice is given); and

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Occupational Pension Schemes (Member-nominated Trustees and Directors) Regulations 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) the arrangements to be made for overseeing the conduct of the ballot, and for the counting of the votes and the declaration of the result.
- (5) If the arrangements provide that, where a vacancy for a member-nominated trustee is not filled because insufficient nominations are received, the vacancy is to be filled—
 - (a) further nominations to fill that vacancy may be made at any time during the period beginning with the day after the last date specified in the notice under paragraph 1(1) originally inviting nominations in respect of the vacancy and ending with the time mentioned in regulation 21; and
 - (b) where a person is duly nominated in that period, he is selected to fill that vacancy on the date that nomination is made or, if there is more than one nomination, the first person nominated is selected.
- (6) If the arrangements provide that, where a vacancy for a member-nominated trustee is not filled because insufficient nominations are received, the vacancy is to remain, the next period in which persons may be nominated and selected to fill that vacancy is—
 - (a) if the trustees of the scheme consent, the period—
 - (i) beginning with the day after the last date specified in the last notice under paragraph 1(1) inviting nominations for the vacancy; and
 - (ii) ending with the time mentioned in regulation 21;
 - (b) otherwise, the period—
 - (i) beginning with the period during which nominations could be made to select a new member-nominated trustee if the vacancy had been filled and the member-nominated trustee appointed had completed his period of office; and
 - (ii) ending with the time mentioned in regulation 21.

F1 Words in Sch. 2 para. 2(3) substituted (6.4.1997) by The Personal and Occupational Pension Schemes (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/786), reg. 1, Sch. 1 para. 5(13) (with Sch. 1 para. 5(15))

PART II

MEMBER-NOMINATED DIRECTORS

- 3.** The prescribed rules for the purposes of section 20(1)(b) in respect of a company to which section 18 applies are those set out in Part I but with the following modifications—
- (a) for references to member-nominated trustees there shall be substituted references to member-nominated directors;
 - (b) for the references in paragraphs 1(1), (5) and (6) and 2(2), (4) and (6) to the trustees of the scheme there shall be substituted references to the company to which section 18 applies; and
 - (c) for the reference in paragraph 1(6) to section 16 there shall be substituted a reference to section 18.

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Changes and effects yet to be applied to :

- Sch.2 para.1(3)(a) amended by [S.I. 1996/1216 reg.19Sch.3 para.2\(b\)\(i\)](#)
- Sch.2 para.1(3)(b) substituted by [S.I. 1996/1216 reg.19Sch.3 para.2\(b\)\(ii\)](#)
- reg.20(1)(g)(ii) amended by [S.I. 1996/1216 reg.19Sch.3 para.2\(5\)\(a\)\(b\)](#)
- reg.16(2)(b)(i) applied by [S.I. 1996/1216 reg.19Sch.3 para.2\(a\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch.4 para.3(1)(5) amended by [S.I. 1996/1216 reg.19Sch.3 para.2\(7\)\(a\)](#)
- Sch.4 para.3(5)(e) amended by [S.I. 1996/1216 reg.19Sch.3 para.2\(7\)\(b\)](#)
- reg.15(2)(a)(i)reg.15(2)(a)(ii)(b)(i) amended by [S.I. 1996/1216 reg.19Sch.3 para.3\(3\)\(b\)\(i\)\(ii\)](#)
- reg.13(2)(d) substituted by [S.I. 1996/1216 reg.19Sch.3 para.3\(2\)](#)
- reg.2 (defns. of alternative arrangements and opt- out failure date) applied by [S.I. 1996/1216 reg.19Sch.3 para 2\(a\)](#)
- reg.9(2)(a)(i)reg.9(2)(a)(ii)(b)(i) amended by [S.I. 1996/1216 reg.19Sch.3 para.2\(3\)\(b\)\(i\)\(ii\)](#)