

## SCHEDULE 2

### MODIFICATIONS OF THE ACT AND REGULATIONS

#### *Multi-employer schemes*

1.—(1) Where—

- (a) a scheme in relation to which there is more than one employer is divided into two or more sections, and
- (b) the provisions of the scheme are such that they meet conditions A and B,

Part 3 of the 2004 Act and these Regulations shall apply as if each section of the scheme were a separate scheme.

(2) Condition A is that contributions payable to the scheme by an employer, or by a member in employment under that employer, are allocated to that employer's section (or, if more than one section applies to the employer, to the section which is appropriate in respect of the employment in question).

(3) Condition B is that a specified part or proportion of the assets of the scheme is attributable to each section and cannot be used for the purposes of any other section.

(4) In their application to a scheme—

- (a) which has been such a scheme as is mentioned in sub-paragraph (1);
- (b) which is divided into two or more sections, at least one of which applies only to members who are not in pensionable service under the section;
- (c) the provisions of which have not been amended so as to prevent conditions A and B being met in relation to two or more sections, and
- (d) in relation to one or more sections of which those conditions have ceased to be met at any time by reason only of there being no members in pensionable service under the section and no contributions which are to be allocated to it,

Part 3 of the 2004 Act and these Regulations apply as if the section in relation to which those conditions have ceased to be satisfied were a separate scheme.

(5) For the purposes of sub-paragraphs (1) to (4), any provisions of the scheme by virtue of which contributions or transfers of assets may be made to make provision for death benefits are disregarded.

(6) But if sub-paragraph (1) or (4) applies and, by virtue of any provisions of the scheme, contributions or transfers of assets to make provision for death benefits are made to a section (“the death benefits section”) the assets of which may only be applied for the provision of death benefits, the death benefits section is also to be treated as if it were a separate scheme for the purpose of Part 3 of the 2004 Act and these Regulations.

(7) For the purpose of this paragraph, any provisions of a scheme by virtue of which assets attributable to one section may on the winding up of the scheme or a section be used for the purposes of another section are disregarded.

(8) In their application in a case of the kind described in sub-paragraph (1) or (4), the forms set out in Schedule 1 are modified as follows—

- (a) after “*Name of scheme*”, there is inserted “*and name of section*”, and
- (b) for “scheme” and “scheme's”, wherever else they occur, there is substituted “section” and “section's”.

2. In the application of section 229 of the 2004 Act to a scheme in relation to which there is more than one employer, references to the employer have effect as if they were references to a person

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nominated by the employers, or by the rules of the scheme, to act as the employers' representative for the purposes of the section or, if no such nomination is made—

- (a) for the purposes of agreement to any of the matters mentioned in subsection (1) of that section, to all of the employers other than any employer who has waived his rights under that sub-section, and
- (b) for the purposes of agreement to a modification of the scheme under subsection (2) of that section, to all of the employers.

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