
Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULE

EDINBURGH MERCHANT COMPANY

PART V

WIDOWS' FUND

A. Maintenance of widows' fund

Maintenance of widows' fund

- 41 The Company shall, subject to the provisions of this Order, continue and maintain the widows' fund.

Closure of widows' fund to new contributors

- 42 From the commencement of this Order no person shall be admitted as a contributor to the widows' fund.

B. Contributors

Stated general meetings of contributors

- 43 (1) The contributors shall hold a stated general meeting each year on the first Thursday of October or such other date as the contributors may prescribe.
- (2) The contributors shall also hold a general meeting immediately after any general meeting (other than a special general meeting) of the Company.

Special general meetings of contributors

- 44 (1) The Master or in his absence the Treasurer may convene a special general meeting of the contributors at any time when he deems it necessary.
- (2) If a requisition for a special general meeting of the contributors, signed by not less than 9 contributors is addressed to the Master he shall upon receiving such requisition convene a special general meeting which shall be held within two weeks of such requisition being received:

Provided that in the absence of the Master the treasurer shall act, or in his absence any of the assistants shall act, in his place for the purposes of this subsection.

Mode of calling meetings of contributors

- 45 (1) All meetings of the contributors shall be called by notice issued by the secretary and posted at least 7 days before the date of meeting.
- (2) The contributors may adjourn any meeting as they see fit.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Chairman of meetings of contributors

46 The Master, or in his absence the treasurer, or in his absence the old Master, or in his absence the senior elected trustee present, shall preside as chairman at all meetings of the contributors:

Provided that in the absence of the Master, the treasurer, the old Master and all the elected trustees a chairman shall be chosen from among the contributors present.

Quorum of meetings of contributors

47 At all meetings of the contributors 25 contributors entitled to vote shall constitute a quorum provided that the quorum shall be reduced to not less than one-tenth of the contributors entitled to vote in the event of there being fewer than 240 contributors.

Voting at meetings of contributors

- 48 (1) When a vote is required to be taken at any meeting of the contributors, such vote shall, unless otherwise provided in this Order, be taken by a show of hands.
- (2) In the event of any such vote being challenged by two or more contributors present, the contributors present at the meeting shall appoint tellers who shall ascertain the vote.
- (3) A contributor whose contributions, or any part thereof, are at the date of the meeting in arrear shall not be entitled to vote.
- (4) The chairman of the meeting shall, in all cases of equality of votes, have a casting vote in addition to any other vote he may have.

Appointment of officials by contributors

49 The contributors may appoint and employ all such officials as they may deem necessary for the carrying on of the business of the widows' fund:

Provided that—

- (a) all existing officials appointed and employed by the contributors shall, until the first general meeting of the contributors to be held after the commencement of this Order, hold their respective offices on their respective existing terms and conditions; and
- (b) the secretary shall also be secretary to the contributors.

Contributors may provide pensions, etc., for officials

50 The contributors may grant to their officials such pensions and life assurance cover as they may deem appropriate, and may join with the Company or any institution connected therewith, for the purpose of contributing to a superannuation fund for such officials, or make payment to an insurance company for a like purpose.

Contributors may make rules

51 The contributors may at any general meeting make such rules for the regulation of the affairs of the widows' fund as they deem expedient:

Provided that such rules shall not be inconsistent with the provisions of this Order.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

C. Powers of widows' fund

Powers of trustees of widows' fund

- 52 The trustees of the widows' fund shall continue in being under the name of “The Trustees of the Widows' Fund of the Company of Merchants of the City of Edinburgh”, as a body corporate with perpetual succession and a common seal; and with power to purchase, acquire, hold, sell, lease and dispose of lands and other property heritable, moveable, real and personal, and to sue and be sued, and with all other rights, powers and privileges of a body corporate.

Constitution of trustees of widows' fund

- 53 (1) The trustees shall be 9 in number as follows:—
- (a) the Master for the time being ex-officio;
 - (b) the treasurer for the time being ex-officio;
 - (c) the old Master for the time being ex-officio; and
 - (d) six persons to be elected annually by the contributors from amongst their number at the stated general meeting of the contributors held each year on the first Thursday of October or such other date as the contributors may prescribe.
- (2) The existing trustees shall, subject to the provisions of this Order, continue in office until the expiry of their respective periods of office.

Elected trustees' eligibility for re-election

- 54 (1) The trustee whose name at the time stands at the head of the list of the trustees elected by the contributors, shall not be eligible for re-election.
- (2) The remaining five elected trustees shall be eligible for re-election.

Filling of vacancies among trustees

- 55 In the event of any vacancy occurring at any time among the elected trustees, the contributors shall fill such vacancy within four months of its occurrence either at a stated general meeting of the contributors or at a special general meeting of the contributors to be called for that purpose and the person elected to fill such vacancy shall be placed at the bottom of the list of elected trustees.

Stated general meetings of trustees

- 56 (1) The trustees shall hold stated general meetings each year on—
- (a) the fourth Thursday of April; and
 - (b) the fourth Thursday of October;
- or such other dates as the trustees may prescribe.
- (2) The trustees may hold additional general meetings on such dates as they may prescribe.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Special general meetings of trustees

- 57 The Master, or in his absence the treasurer, may convene a special general meeting of the trustees at any time when he deems it necessary.

Mode of calling meetings of trustees

- 58 (1) All meetings of the trustees shall be called by notice issued by the secretary and posted at least 7 days before the date of meeting.
- (2) The trustees may adjourn any meeting as they see fit.

Chairman of meetings of trustees

- 59 (1) The Master or, in his absence the treasurer, or in his absence the old Master, or in his absence the senior elected trustee present, shall preside as chairman at all meetings of the trustees.
- (2) The chairman of the meeting shall, in all cases of equality of votes, have a casting vote in addition to any other vote he may have.

Quorum of meetings of trustees

- 60 At all meetings of the trustees not less than three of them shall constitute a quorum in all matters.

Committees of trustees

- 61 The trustees may appoint committees of their number and convenors of such committees and may confer on such committees all such powers and give them such instructions as may appear to the trustees expedient and shall fix the quorum of each such committee.

Proceedings of trustees not to be invalidated by vacancies, etc

- 62 Proceedings of the trustees or of any committee of the trustees shall not be invalidated in consequence of there being any vacancy in their membership at the time of such proceedings or in respect of any informality in the constitution or election of any of them.

Widows' fund to be managed and administered by trustees

- 63 The widows' fund shall be held, managed, administered and applied by the trustees in the following manner:—
- (a) for payment of the expenses of management of the widows' fund (including payments authorised under section 50 (Contributors may provide pensions, etc., for officials) of this Order);
 - (b) for payment of annuities to the widows of contributors;
 - (c) for payment of annuities or benefits to such new class or classes of beneficiaries as may be created in pursuance of section 83 (Power to introduce new classes of beneficiaries) of this Order;
 - (d) for refund of payments in pursuance of section 71 (Contributors may refund payments) of this Order;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (e) for refund of payments made by female contributors who, at the commencement of this Order, were married to a contributor; and
- (f) for the purchase of annuities for existing annuitants.

Distribution of widows' fund

64 The trustees may distribute the remainder of the widows' fund (after deducting outstanding expenses and liabilities of whatever kind) among the contributors for the time being pro rata to the level of their contributions, or in some such other equitable manner as shall be decided at his sole discretion by the actuary:

Provided that such distribution has been sanctioned by a resolution passed by at least two-thirds of the contributors present and voting at a general meeting or special general meeting of the contributors.

Accounts of widows' fund to be kept by trustees and audited

- 65
- (1) The trustees shall keep accounts of the widows' fund showing the income and expenditure and assets and liabilities thereof, to be made up each year to 1st September.
 - (2) The said accounts shall be audited by a registered auditor on behalf of the contributors and shall thereafter be examined by the trustees, and shall be laid before the contributors at the general meeting of the contributors held on the second Thursday of November or such other date as the contributors may prescribe.
 - (3) A copy of the abstract of the accounts of the widows' fund shall be sent each year to each contributor resident in Great Britain.

D. Payments, etc., by contributors

Payment of annual contributions

- 66
- (1) The annual contributions of all existing contributors shall continue to be payable in accordance with the existing provisions.
 - (2) Any contributor may elect to cease to make contributions in which case he, or any widow left by him, shall (without the need for any declarator) forfeit all right, interest and benefit in the widows' fund:

Provided that all the rights, interest and benefit of any widow shall be reinstated if she shall pay up the arrears due by her husband together with all interest thereon at the rate of five per cent over the Bank of Scotland plc's base rate from the time each payment fell due and any costs that may have been incurred in recovering the same.

Payment of half-yearly contributions and annuities by instalments

- 67 The contributors may permit the half-yearly contributions to the widows' fund, and the half-yearly payments of annuities to be paid in such instalments at such times and on such conditions as the actuary may recommend.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Contributors may alter amount of half-yearly contributions

- 68 (1) The contributors, after an investigation by the actuary into the state of the widows' fund, may alter the amount of the half-yearly contributions payable to the widows' fund:

Provided that such alteration is sanctioned by a resolution passed by a majority of the contributors present and voting at a special general meeting of the contributors called for the purpose.

- (2) Any alterations made by the contributors under this section may be wholly in respect of the half-yearly contributions or may be in the number of contributions or partly by all or any of such methods and in such proportions as the contributors may deem most expedient.

Redemption of half-yearly contributions

- 69 Every contributor may at any term of Whitsunday or Martinmas, having given one month's notice in writing to the secretary, redeem in whole or in part the half-yearly contributions payable by him, or such part thereof as may then remain unpaid, by making payment to the widows' fund of such sum as may be fixed by the actuary.

Half-yearly contributions not to be payable after death of married contributors

- 70 The half-yearly contributions of a contributor who is married and who dies before having paid all his contributions to the widows' fund, which would, but for the provisions of this section, fall due subsequent to the date of death of such contributor shall not be payable.

Contributors may refund payments

- 71 The contributors may resolve to refund in whole or in part to the representatives of deceased contributors any payments made by such contributors to the widows' fund.

Contributor may discontinue payment of half-yearly contributions on death of wife

- 72 (1) A contributor who is married may, in the event of his wife predeceasing him, elect to continue to pay his half-yearly contributions, but in the event of his remarriage, he shall pay in respect of such marriage, any marriage tax prescribed by this Order with the half-yearly contribution which falls to be paid at the first term of Whitsunday or Martinmas following upon his remarriage.
- (2) A contributor who is married may, in the event of his wife predeceasing him before he has paid all the half-yearly contributions due by him, suspend the payment of his half-yearly contributions to the widows' fund; but in the event of his remarriage if he wishes to benefit from the widows' fund, he shall—
- (a) pay in respect of such marriage the following:—
 - (i) any marriage tax prescribed by this Order; and
 - (ii) all accumulated arrears of half-yearly contributions from the date of such suspension, with compound interest at such rate as may be fixed by the actuary; and
 - (b) thereafter resume payment of half-yearly contributions in the sum calculated by the actuary as being appropriate to his age at his next birthday until he has made two half-yearly payments for the number of years equal to the

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

difference between his age at his next birthday following the resumption of payment and the age of 65 or such other date as may have been fixed by the contributors prior to the resumption of payment.

Marriage tax payable on marriage after election

- 73 Every contributor who marries or remarries, and whose age exceeds that of his wife by more than five years, shall pay to the widows' fund in respect of each such marriage, the marriage tax appropriate to his age at his next birthday following such marriage calculated by the actuary.

Times of payment of marriage tax

- 74 The marriage tax shall in the case of contributors who marry or remarry be payable at the first term of Whitsunday or Martinmas after their respective marriages.

Alterations of marriage tax

- 75 No alteration shall be made to the amount of the marriage tax payable to the widows' fund unless such alteration has been prepared by the actuary and approved by the contributors.

Particulars of marriage, etc., to be provided by contributors

- 76 (1) Every contributor who marries shall, within three months after such marriage, provide the secretary with such evidence of marriage and birth as may be satisfactory to the trustees.
- (2) If any contributor dies before having provided the secretary with such evidence of his marriage the widow of such contributor shall have no right or title to any benefit from the widows' fund:

Provided that the contributors may at any general meeting of the contributors grant to such widow such relief as they shall think fit.

Penalty for failure to pay half-yearly contributions

- 77 If any contributor allows any of the half-yearly contributions payable by him to fall into arrear for three years after the same first became due, he or any widow left by him shall (without the necessity for any declarator) forfeit all right, interest and benefit in the widows' fund:

Provided that the contributors may at any general meeting of the contributors reinstate any such contributor or his widow subject (in the case of a contributor) to his paying up the arrears due by him together with all interest thereon at the rate of five per cent over the Bank of Scotland plc's base rate from the time each payment falls due and any costs that may have been incurred in recovering the same or (in the case of a widow) to payment of the said arrears and other moneys due in accordance with the provisions of this Order.

Interest on payments in arrear

- 78 All payments to the widows' fund and all penalties imposed by this Order (if incurred) shall subject to the provisions of this Order bear interest at the rate of

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

five per cent over the Bank of Scotland plc's base rate from time to time from the respective dates on which they are due until paid.

As to payment of half-yearly contributions, etc., of deceased contributors

- 79 (1) If any contributor dies owing any money to the widows' fund, his widow shall not be entitled to receive an annuity until the sums owing together with interest have been paid:

Provided that the trustees may accept payment by deducting such sums and interest owing from the annuity by such instalments and at such times as they may think fit.

- (2) The trustees (or the widow of such contributor who pays the sums owing) may take all competent legal action for recovering the same out of the estate of such contributor.

E. Payment of annuities

Payment of annuities to widows

- 80 (1) There shall be paid out of the widows' fund to every existing widow who is entitled to an annuity, and to the widow of every contributor who, at the time of his death, may have an interest in the widows' fund and be entitled to the benefit thereof for his widow, such annuity as may from time to time be fixed by the contributors in pursuance of the provisions of this Order.
- (2) The said annuities shall be paid at the terms of Whitsunday and Martinmas in equal portions.
- (3) In the case of any annuity accruing to a widow after the commencement of this Order payment shall be made, at the first term of Whitsunday or Martinmas after her husband's death, of the proportion of the annuity corresponding to the time from the death of the husband to the first date of payment.
- (4) The annuity of every widow entitled to an annuity shall continue to be paid during all her life, whether she remains a widow or marries again, and such proportion of the annuity as may be due at her death shall be paid to her legal representatives.

More than one annuity payable to widows

- 81 If the widow of any contributor marries another contributor and afterwards again becomes a widow she shall be entitled to an annuity in respect of each such marriage subject to the provisions of this Order.

Annuities to be alimentary

- 82 The annuities payable in accordance with the provisions of this Order shall be deemed to be alimentary and shall not be assignable by them or liable to be arrested or otherwise affected or attached by their creditors but shall be payable to each widow entitled to the same upon her own receipt, notwithstanding any assignation, arrestment or attachment, and such receipt shall sufficiently exonerate the trustees.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Power to introduce new classes of beneficiaries

- 83 The contributors may after a report by the actuary following an actuarial investigation, resolve to introduce a new class or classes of beneficiaries consisting of the minor orphan children of contributors or of certain classes of such children and may make such rules regarding such new classes of beneficiaries (including the amount of benefit which such beneficiaries may receive) as they deem necessary and such rules shall, unless and until altered by the contributors, have the same force and effect as if they had been enacted by this Order.

Rate of annuity to continue until altered

- 84 In the event of an alteration being made in the rate of the annuity payable under the provisions of this Order, the rate of annuity as so altered shall be and shall continue to be from and after the date of such alteration and until the rate of annuity is again altered (if any such further alteration be deemed necessary or expedient) the rate of payment of all the annuities payable out of the widows' fund.

F. Alteration of amount of annuities

Periodical investigation of widows' fund

- 85 (1) The actuary shall make periodical investigations into the state of the widows' fund and its adequacy for payment of the annuities charged and that may become charged thereon and the circumstances connected therewith.
- (2) The first investigation to be made under this Order shall be made at such date as shall be fixed by the contributors not being later than 1st September 1997 notwithstanding the date of the commencement of this Order and such investigations shall thereafter be made at such intervals as shall be fixed by the contributors from time to time but not more than 7 years shall elapse between any two investigations.

Contributors may alter amount of annuity

- 86 The contributors may after any investigation into the state of the widows' fund resolve, subject to the provisions of this Order, that the amount of annuity which may be payable should for the time being—
- (a) not be altered; or
 - (b) be increased; or
 - (c) be reduced;
- and the contributors shall fix the amount of any such increase or reduction.

Conditions of increase of annuity

- 87 Subject to the provisions of this Order, an increase of the amount of annuity shall not be made unless—
- (a) the actuary certifies that the value of the annuities at the increased rate payable to the widows then on the widows' fund, and which may become payable to the widows of the then existing contributors, together with an allowance for expenses and other liabilities, does not exceed the amount of the fund in hand (including any sums transferred or agreed to be transferred to the widows' fund from the general fund under the provisions of this

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Order) together with the value of the future contributions of the then existing contributors; and

- (b) the increase is sanctioned by a resolution passed by a majority of the contributors present and voting at a special general meeting of the contributors called for that purpose.

Conditions of reduction of annuity

88 Subject to the provisions of this Order, a reduction of the amount of annuity shall not be made unless—

- (a) the actuary reports that the amount of the fund in hand (including any sums transferred or agreed to be transferred to the widows' fund from the general fund under the provisions of this Order) together with the value of the future contributions of the then existing contributors is less than the value of the annuities payable to widows then on the widows' fund, and which may become payable to the widows of the then existing contributors, together with an allowance for expenses and other liabilities; and
- (b) the actuary certifies that the amount of the reduction which is proposed to be made is necessary to place the widows' fund in a state of solvency; and
- (c) the reduction is sanctioned by a resolution passed by a majority of the contributors present at a special general meeting of the contributors called for that purpose.

G. Dissolution of widows' fund

Purchase of annuities

89 (1) At any time the trustees may, subject to a resolution passed by at least two-thirds of the contributors present and voting at a general meeting or special general meeting of the contributors, (but when there are less than 20 surviving annuitants the trustees shall)—

- (a) purchase annuities for such surviving annuitants as the actuary shall in his sole discretion recommend; and
- (b) out of the widows' fund, purchase from a life assurance company (being a member of the Association of British Insurers) and hold in respect of spouses of existing contributors a deferred annuity so that the income may be paid to the surviving spouse on the death of the contributor.

(2) A deferred annuity purchased in respect of any contributor shall be in such sum as the actuary shall in his sole discretion recommend.

Application of residue of widows' fund

90 (1) After they have fulfilled all their obligations under this Order or otherwise, the trustees may at any time in their absolute discretion invest the residue of the widows' fund or any part thereof (not being moneys forming part of any annuity or deferred annuity purchased by them) or pay the same or any part thereof to the endowments trust or such other charitable trust managed by the Company as the trustees in their absolute discretion shall determine.

(2) Upon the death of the last annuitant, and provided that at that date no person may yet come to be an annuitant, or upon it subsequently appearing that no person may yet

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

come to be an annuitant, the trustees shall transfer the residue of the widows' fund to the endowments trust or such other charitable trust managed by the Company as shall be determined by the Company at a general meeting.

Widows' fund to be dissolved

- 91 (1) Upon completion of the transfer of the residue of the fund in pursuance of section 90 (Application of residue of widows' fund) of this Order the widows' fund shall be dissolved:

Provided that such dissolution has been sanctioned by a resolution passed by a majority of the trustees.

- (2) Notice of the passing of such resolution and of the date therein specified shall, as soon as may be after the passing thereof, be advertised in the Edinburgh Gazette.