

SCHEDULES

SCHEDULE 2

Section 6.

MONEY PURCHASE CONTRACTED-OUT SCHEMES

- 1 The Social Security Pensions Act 1975 shall be amended as follows.
- 2 In subsection (1) of section 26 (contracting-out of full contributions and benefits) after the word " provides " there shall be inserted the words " or falls to be treated as providing " .
- 3 In section 29 (contracted-out rates of benefit) the following subsections shall be inserted after subsection (2)—
- “(2A) Subject to subsection (2B) below, where for any period minimum payments have been made in respect of an earner to an occupational pension scheme which, in relation to the earner's employment, is a money purchase contracted-out scheme, then, for the purposes of this section and sections 16(2B), 28(7A) and 59(1A) of the principal Act—
- (a) the earner shall be treated, as from the date on which he reaches pensionable age, as if he were entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period in that employment; and
 - (b) in prescribed circumstances, in relation to any widow or widower of the earner—
 - (i) if the earner died after reaching pensionable age, any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a rate equal to one-half of the rate prescribed under paragraph (a) above ; and
 - (ii) if the earner died before reaching pensionable age, any widow or widower of the earner shall be treated as entitled to a guaranteed minimum pension at a prescribed weekly rate arising from that period.
- (2B) Where the earner is a married woman or widow, subsection (2A) above shall not have effect in relation to any period during which an election that her liability in respect of primary Class 1 contributions shall be a liability to contribute at a reduced rate is operative.
- (2C) The power to prescribe a rate conferred by subsection (2A)(a) above includes power to prescribe a nil rate.”.
- 4 In section 30 (contracted-out employment)—
- (a) in subsection (1)(a), after the word " scheme" there shall be inserted the words " or his employer makes minimum payments in respect of the earner's employment to a money purchase contracted-out scheme " ;
 - (b) the following subsections shall be inserted after subsection (1)—

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- “(1A) The minimum payment in respect of an earner for any tax week shall be the rebate percentage of so much of the earnings paid to or for the benefit of the earner as exceeds the lower earnings limit for the tax week but does not exceed the upper earnings limit for it; and in this subsection " rebate percentage " means the percentage arrived at by adding—
- (a) the percentage by which for the time being under section 27(2) above the contracted-out percentage of primary Class 1 contributions is less than the normal percentage ; and
 - (b) the percentage by which for the time being under that subsection the contracted-out percentage of secondary Class 1 contributions is less than the normal percentage.
- (1B) The references to the upper and lower earnings limits in subsection (1A) above are references, in the case of an earner who is paid otherwise than weekly, to their prescribed equivalents under section 4(2) and (6) of the principal Act.
- (1C) Regulations may make provision—
- (a) for the manner in which, and time at which or period within which, minimum payments are to be made;
 - (b) for the recovery by employers of amounts in respect of the whole or part of minimum payments by deduction from earnings;
 - (c) for calculating the amounts payable according to a scale prepared from time to time by the Secretary of State or otherwise adjusting them so as to avoid fractional amounts or otherwise facilitate computation;
 - (d) for requiring that the liability in respect of a payment made in a tax week, in so far as the liability depends on any conditions as to a person's age on retirement, shall be determined as at the beginning of the week or as at the end of it;
 - (e) for securing that liability is not avoided or reduced by a person following in the payment of earnings any practice which is abnormal for the employment in respect of which the earnings are paid;
 - (f) without prejudice to sub-paragraph (e) above, for enabling the Secretary of State, where he is satisfied as to the existence of any practice in respect of the payment of earnings whereby the incidence of minimum payments is avoided or reduced by means of irregular or unequal payments of earnings, to give directions for securing that minimum payments are payable as if that practice were not followed ;
 - (g) for the intervals at which, for the purposes of minimum payments, payments of earnings are to be treated as made ; and

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- (h) for this section to have effect, in prescribed cases, as if for any reference to a tax week there were substituted a reference to a prescribed period.”.

5 In section 32 (contracted-out schemes)—

- (a) in subsection (2), the words " or it satisfies subsection (2A) below." shall be inserted after paragraph (b) (but not as part of it);
- (b) the following subsections shall be inserted after that subsection—

“(2A) An occupational pension scheme satisfies this subsection only if—

- (a) the requirements imposed by or by virtue of Schedule 1 to the Social Security Act 1986, modified under subsection (2B) below, are satisfied in its case ;
- (b) it complies with section 40(1) below; and
- (c) the rules of the scheme applying to protected rights are framed so as to comply with the requirements of any regulations prescribing the form and content of rules of contracted-out schemes and with such other requirements as to form and content (not inconsistent with regulations) as may be imposed by the Occupational Pensions Board as a condition of contracting-out, either generally or in relation to a particular scheme.

(2B) The modifications of Schedule 1 are—

- (a) that for the references to a personal pension scheme there shall be substituted references to an occupational pension scheme ;
- (b) that for the references in paragraph 5 to minimum contributions there shall be substituted references to minimum payments and any payments by the Secretary of State under section 7 of the Social Security Act 1986 ;
- (c) that for paragraph 7(2) there shall be substituted—

“(2) The rules of the scheme may provide that a member's protected rights are his rights under the scheme which derive from the payment of minimum payments (within the meaning of the Social Security Pensions Act 1975) together with any payments by the Secretary of State to the scheme under section 7 of this Act in respect of the member and any rights of the member to money purchase benefits which derive from protected rights (within the meaning of the Social Security Pensions Act 1975) under another occupational pension scheme or protected rights under a personal pension scheme which have been the subject of a transfer payment and such other rights as may be prescribed. ”;”;

- (d) that in paragraph 9—
 - (i) for the reference to an occupational pension scheme there shall be substituted a reference to a personal pension scheme; and

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- (ii) for the reference to a personal pension protected rights premium there shall be substituted a reference to a contracted-out protected rights premium ; and
 - (e) that paragraph 10 shall not apply to public service pension schemes.
- (2C) A contracting-out certificate shall state whether the scheme is contracted-out by virtue of subsection (2) or subsection (2A) above ; and where a scheme satisfies both of those subsections the employers, in their application for a certificate, shall specify one of the subsections as the subsection by virtue of which they desire the scheme to be contracted-out.
- (2D) A scheme which has been contracted-out by virtue of one of those subsections may not become contracted-out by reason of the other, except in prescribed circumstances.”
- 6 (1) The words " which is not a money purchase contracted-out scheme" shall be inserted after the words " occupational pension scheme " in—
- (a) section 33(1);
 - (b) section 36(1);
 - (c) section 40(3) and (4) ;
 - (d) section 41A(1);
 - (e) section 42(1);
 - (f) section 44(1);
 - (g) section 44A(1);
 - (h) section 45(1);
 - (j) section 51;
 - (k) paragraph 4(1) and (2) of Schedule 2.
- (2) If section 9 above comes into force after this paragraph, the amendment to section 36(1) made by sub-paragraph (1) above shall be made in the subsection both as amended by section 9 above and as unamended.
- (3) The words " or a money purchase contracted-out scheme" shall be inserted after the words " public service pension scheme " in—
- (a) section 40(2);
 - (b) section 41(1);
 - (c) section 41E(1).
- 7 The following section shall be inserted after section 44—

“44ZA Money purchase schemes: contracted-out protected rights premium.

- (1) In the case of a scheme which is or has been a money purchase contracted-out scheme the Occupational Pensions Board may, for the event of, or in connection with, its ceasing to be contracted-out, approve any arrangements made or to be made in relation to the scheme, or for its purposes, for the preservation or transfer of protected rights under the scheme.
- (2) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise) and the Occupational Pensions Board either—

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- (a) have withdrawn their approval of previously approved arrangements relating to it; or
 - (b) have declined to approve arrangements relating to it,
- the Board may issue a certificate to that effect.
- (3) A certificate issued under subsection (2)(a) or (b) above shall be cancelled by the Board if they subsequently approve the arrangements.
 - (4) If the scheme ceases to be a contracted-out scheme (whether by being wound up or otherwise), a state scheme premium shall be payable, except in prescribed circumstances.—
 - (a) in respect of each earner whose protected rights under the scheme are not subject to approved arrangements and have not been disposed of so as to discharge the trustees or managers of the scheme under section 52C of or paragraph 16 of Schedule IA to this Act; and
 - (b) in respect of each person who has become entitled to receive a pension under the scheme giving effect to protected rights which are not subject to approved arrangements.
 - (5) A premium under subsection (4) above may be referred to as a "contracted-out protected rights premium"
 - (6) A contracted-out protected rights premium shall be paid by the prescribed person, within the prescribed period, to the Secretary of State.
 - (7) The amount of a contracted-out protected rights premium payable in respect of any person shall be the cash equivalent of the protected rights in question, calculated and verified in the prescribed manner.
 - (8) Where a contracted-out protected rights premium is paid in respect of a person—
 - (a) the rights whose cash equivalent is included in the premium shall be extinguished ; and
 - (b) section 29(2) and (2A) above and section 4 of the Social Security Act 1986 shall have effect in relation to that person and a widow or widower of that person as if any guaranteed minimum pension to which that person or any such widow or widower is treated as entitled under those provisions and which derives from the minimum payments, minimum contributions (within the meaning of the Social Security Act 1986) or transfer payment or payments from which those rights derive were reduced by the appropriate percentage.
 - (9) In subsection (8) above "the appropriate percentage" means, subject to the following provisions of this section,

$$\frac{X}{Y} \times 100$$

, where—

- (a) X = the amount of the premium together with, if the person in respect of whom it falls to be paid gives notice to the prescribed person within the prescribed period—
 - (i) the cash equivalent, calculated and verified in the prescribed manner, and paid to the Secretary of State within the

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- prescribed period, of any other rights which he has under the scheme and specifies in the notice ; and
- (ii) the amount of any voluntary contribution paid to the Secretary of State within the prescribed period by, or in respect of, the person concerned; and
- (b) Y = the cost of providing any guaranteed minimum pension such as is mentioned in subsection (8) above.
- (10) If the appropriate percentage, as calculated under subsection (9) above would fall between two whole numbers, it is to be taken to be the lower number.
- (11) If it would be over 100, it is to be taken to be 100.
- (12) The remainder after the reduction for which subsection (8) above provides—
- (a) if it would contain a fraction of 1p, is to be treated as the nearest lower whole number of pence ; and
- (b) if it would be less than a prescribed amount, is to be treated as nil.
- (13) The power to make regulations conferred by subsections (7) and (9) above includes power to provide that cash equivalents are to be calculated and verified in such manner as may be approved in particular cases—
- (a) by prescribed persons ;
- (b) by persons with prescribed professional qualifications or experience ; or
- (c) by persons approved by the Secretary of State,
- and power to provide that they shall be calculated and verified in accordance with guidance prepared by a prescribed body.
- (14) The cost of providing the appropriate percentage of the guaranteed minimum pension shall be certified by the Secretary of State, and in calculating and certifying it the Secretary of State—
- (a) shall apply whichever of the prescribed actuarial tables (as in force at the time when the scheme ceases to be appropriate) is applicable in accordance with the regulations prescribing the tables ; and
- (b) may make such adjustments as he thinks necessary for avoiding fractional amounts.”.
- 8 In section 48 (guaranteed minimum pensions to be inalienable)—
- (a) in subsection (1)—
- (i) after the word " scheme ", in the first place where it occurs, there shall be inserted the words " or to payments giving effect to protected rights under such a scheme " ; and
- (ii) after the word " pension ", where it occurs in paragraphs (a) and (b), there shall be inserted the words " or those payments " ; and
- (b) in subsection (3), for the words from " any ", in the first place where it occurs, to " not" there shall be substituted the words " nothing whose assignment is or would be made void by that subsection shall "
- 9 In section 49 (supervision of schemes which have ceased to be contracted-out)—
- (a) the following paragraph shall be substituted for subsection (1)(b)—
- “(b) there has not been a payment—
- (i) of a premium under section 44 above in respect of each person entitled to receive, or having accrued

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- rights to, guaranteed minimum pensions under the scheme ; or
- (ii) of a premium under section 44ZA above in respect of each person who has protected rights under it or is entitled to any benefit giving effect to protected rights under it;”;
- (b) in subsection (2)(a), after the word " above " there shall be inserted the words " or, by virtue of subsections (2A) and (2B) of section 32 above, paragraph 10(1) of Schedule 1 to the Social Security Act 1986 " ; and
- (c) in subsection (5), " 32 " shall be substituted for " 33 " .
- 10 At the end of subsection (3) of section 50 (alteration of rules of contracted-out schemes) there shall be added the words " or any person has protected rights under it or is entitled to any benefit giving effect to protected rights under it " .
- 11 In section 66(1) (interpretation)—
- (a) the following definition shall be inserted before the definition of " guaranteed minimum pension "—
- “" average salary benefits" means benefits the rate or amount of which is calculated by reference to a member's average salary over the period of service on which the benefits are based ;”;
- (b) the following definitions shall be inserted after the definition of " long-term benefit "—
- “" minimum payments " shall be construed in accordance with section 30 above;
- " money purchase benefits " in relation to an occupational pension scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by a member of the scheme or by any other person in respect of a member, other than average salary benefits;
- " money purchase contracted-out scheme" means an occupational pension scheme which is contracted-out by virtue of satisfying section 32(2A) above ;”;
- (c) the following definition shall be inserted after the definition of " the principal Act "—
- “" protected rights " has the meaning given by Schedule 1 to the Social Security Act 1986 with the substitution made by section 32(2B) above.”.
- 12 In paragraph 2 of Schedule 3 (priority in bankruptcy etc).—
- (a) the following sub-paragraph shall be inserted after sub-paragraph (1)—
- “(1A) This Schedule applies to any sum owed on account of an employer's minimum payments to a contracted-out scheme falling to be made in the period of twelve months immediately preceding the relevant date.”; and
- (b) in sub-paragraph (2)—
- (i) the words " or payments " shall be inserted after the word " contributions " ; and
- (ii) the words " or (1A) " shall be inserted after the words " sub-paragraph (1) " .