SCHEDULES

SCHEDULE 30

Section 179

REGISTERED PENSION SCHEMES: EMPLOYER LOANS

Definitions

Charge of adequate value

1 (1) A charge is of adequate value if it meets conditions A, B and C.

(2) Condition A is that, at the time the charge is given, the market value of the assets subject to the charge—

(a) in the case of the first charge to secure the loan, is at least equal to the amount owing (including interest), and

(b) in any other case, is at least equal to the lower of that amount and the market value of the assets subject to the previous charge.

(3) Condition B is that if, at any time after the charge is given, the market value of the assets charged is less than would be required under condition A if the charge were given at that time, the reduction in value is not attributable to any step taken by the pension scheme, the sponsoring employer or a person connected with the sponsoring employer.

(4) Condition C is that the charge takes priority over any other charge over the assets.

Loan repayment date

2 (1) "Loan repayment date" means the date by which the total amount owing (including interest) must be paid.

(2) A standard loan repayment date is a loan repayment date before the end of the period of five years beginning with the date on which the loan is made.

Loan year

3 (1) "Loan year" means—

(a) the period of 12 months beginning with the date on which the loan is made, and

(b) each succeeding period of 12 months.

(2) But in the period of 12 months in which the loan repayment date falls, the loan year ends on the loan repayment date (and that loan year is the last loan year).

Required amount

4 "The required amount", in relation to a period beginning with the date on which the loan is made and ending with the last day of a loan year, is—

$$\frac{L - TIP}{TLY} \times NLY$$

where—

L is the amount of the loan,

TIP is the total interest payable on the loan,

TLY is the total number of loan years, and

NLY is the number of loan years in the period.

Amount of unauthorised payment

Loan does not comply with section 179(1) when made

5 (1) If a loan does not comply with section 179 (1) (authorised employer loan) when it is made, there is an unauthorised payment of an amount equal to the largest of such of amounts 1, 2, A, B, and C as arise in relation to the loan.

(2) Paragraphs 12 to 16 explain amounts 1, 2, A, B and C.

Loan ceases to be secured by charge of adequate value

6 If at any time after a loan is made the loan ceases to be secured by a charge of adequate value, there is an unauthorised payment equal to amount 2 (see paragraph 13).

Further reduction in value of charge which is not of adequate value

7 (1) If at any time after a loan is made—

(a) the loan is secured by a charge which is not of adequate value, and

(b) an event mentioned in sub-paragraph (2) occurs,

there is an unauthorised payment.

(2) The events are—

(a) the loan ceasing to be secured by a charge,

(b) a charge being given which does not comply with conditions A or C,

(c) a reduction in the value of the assets charged which does not comply with condition B, and

(d) the charge ceasing to comply with condition C.

(3) The amount of the unauthorised payment is—

$$AAE - ABE$$

where—

AAE is amount 2 (see paragraph 13) calculated after the event, and

ABE is amount 2 (see paragraph 13) calculated before the event.

(4) Paragraph 1 defines conditions A, B and C.

Loan ceases to comply with repayment terms

8 (1) If at any time after a loan is made—

(a) there is an alteration in the repayment terms, and

(b) as a result the repayment terms cease to comply with one or more paragraphs of section 179(2) (authorised repayment terms),

there is an unauthorised payment of an amount equal to the larger of such of amounts A, B, and C (see paragraphs 14 to 16) as arise when that paragraph or those paragraphs are not complied with.

Increase in extent to which loan does not comply with repayment terms

9 (1) If at any time after a loan is made—

(a) there is an alteration in the repayment terms, and

(b) as a result the deterioration condition is met in relation to one or more paragraphs of section 179(2) (authorised repayment terms) which were not complied with before the alteration,

there is an unauthorised payment of an amount calculated in accordance with sub-paragraphs (3) and (4).

(2) The deterioration condition is met in relation to a paragraph if—

$$AAA > ABA$$

(3) For each paragraph in relation to which the deterioration condition is met, calculate—

$$AAA - ABA$$

(4) There is an unauthorised payment of an amount equal to the largest of the amounts calculated under sub-paragraph (3).

(5) In this paragraph—

AAA, in relation to a paragraph of section 179(2) which was not complied with before the alteration in the repayment terms, is the amount arising when that paragraph is not complied with, calculated after the alteration in the repayment terms, and

ABA, in relation to such a paragraph, is the amount arising when that paragraph is not complied with, calculated before the alteration in the repayment terms.

Prevention of double charging

10 (1) This paragraph applies if on any date there is an unauthorised payment under more than one of paragraphs 6 to 9.

(2) There is a single unauthorised payment.

(3) The amount of the unauthorised payment is an amount equal to the amount of the greater or greatest of the unauthorised payments under those paragraphs.

Total unauthorised payments not to exceed amount of loan

11 If the aggregate amount of the unauthorised payments in relation to a loan under paragraphs 5 to 10 exceeds the amount of the loan when it was made, the excess is to be treated as not being an unauthorised payment.

Amount 1

12 (1) Amount 1 arises if paragraph (a) of section 179 (1) (amount of loan must not exceed 50% of pension scheme assets) is not complied with.

(2) Amount 1 is—

$$\frac{\left(\frac{AL}{VA} \times 100\right) \quad 100}{100} \times VA$$

where—

AL is the amount of the loan, and

VA is an amount equal to 50% of the aggregate of the amount of the sums, and the market value of the assets, held for the purposes of the pension scheme before the loan is made.

Amount 2

13 (1) Amount 2 arises if paragraph (b) of section 179 (1) (loan must be secured by charge of adequate value) is not complied with.

(2) Amount 2 is—

$$AO - VA$$

where—

AO is the amount owing (including interest) at the relevant time, and

VA is the market value at that time of the assets charged but if the loan is not secured by a charge, or is secured by a charge which does not meet condition C (as defined in paragraph 1), is nil.

Amount A

14 (1) Amount A arises if paragraph (a) of section 179(2) (interest rate to be not less than prescribed amount) is not complied with.

(2) Amount A is—

$$\frac{100 - \left(\frac{IR}{PIR} \times 100\right)}{100} \times AO$$

where—

IR is the rate of interest payable at the relevant time,

PIR is the rate of interest prescribed by regulations under that paragraph, and

AO is the amount owing (not including interest) at the relevant time.

Amount B

15 (1) Amount B arises if paragraph (b) of section 179(2) (loan repayment date to be within five years unless postponed) is not complied with.

(2) Amount B is—

$$\frac{\left(\frac{DLRP}{DFY} \times 100\right) - 100}{100} \times AO$$

where—

DLRP is the number of days in the period which begins with the date on which the loan is made and ends with the loan repayment date,

DFY is the number of days in the period which begins with the date on which the loan is made and ends five years after that date, and

AO is the amount owing (including interest) at the relevant time.

(3) But if the amount produced by the fraction in sub-paragraph (2) is greater than 1, amount B is the amount owing (including interest) at the relevant time.

(4) If the loan repayment date has been postponed under section 179(3), sub-paragraph (2) applies as if references to the date on which the loan is made were to the standard loan repayment date on which the loan repayment date was postponed.

Amount C

16 (1) Amount C arises if paragraph (c) of section 179(2) (amount payable for a period to be not less than required amount) is not complied with and is calculated as follows.

(2) In relation to each period beginning with the date on which the loan is made and ending with the last day of a loan year, calculate—

$$RA - AP$$

where—

RA is the required amount in relation to that period, and

AP is the amount payable during that period.

(3) If an amount calculated under sub-paragraph (2) is negative, treat that amount as nil.

(4) Amount C is the largest of the amounts calculated under sub-paragraph (2).