

SCHEDULES

SCHEDULE 5

Section 109

THE BOARD OF THE PENSION PROTECTION FUND

PART 1

MEMBERS OF THE BOARD

Appointment of chairman

- 1 The chairman of the Board is to be appointed by the Secretary of State.

Appointment of ordinary members

- 2 (1) The appointments of the first five ordinary members are to be made by the Secretary of State.
- (2) Subsequent appointments of ordinary members are to be made by the Board, subject to sub-paragraph (4).
- (3) In making any appointment by virtue of sub-paragraph (2) the Board must act in accordance with any procedure for making such appointments that may be prescribed.
- (4) If, at any time, there are less than five ordinary members, the Secretary of State must appoint such number of ordinary members as is required to bring the number of ordinary members to five.

Terms of appointment

- 3 (1) The chairman and the ordinary members appointed by the Secretary of State are to be appointed on such terms and conditions as are determined by the Secretary of State.
- (2) The ordinary members appointed by the Board are to be appointed on such terms and conditions as are determined—
- (a) in the case of a non-executive member, by the chairman with the approval of the Secretary of State, and
 - (b) in the case of an executive member, by the Chief Executive.
- (3) This paragraph is subject to paragraph 7 (remuneration of members).

Tenure of members

- 4 (1) Subject to the following provisions, the chairman and any ordinary member—
- (a) is to hold and vacate office in accordance with the terms and conditions of his appointment, and

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(b) may resign or be removed from office in accordance with those terms and conditions.

(2) A person must cease to be a member of the Board where—

- (a) in the case of the chairman, he ceases to hold that office or becomes a member of the staff of the Board;
- (b) in the case of any other non-executive member, he becomes a member of the staff of the Board;
- (c) in the case of an ordinary member who is an executive member, he ceases to be a member of the staff of the Board.

5 Where a person ceases to be employed as Chief Executive, he ceases to be a member of the Board.

6 No person is to be prevented from being a member of the Board (whether as chairman or otherwise) merely because he has previously been such a member.

Remuneration etc of members

7 The Board may pay, or make provision for paying, its non-executive members such remuneration as the Secretary of State may determine.

8 The Board may—

- (a) pay to or in respect of any person who is or has been a non-executive member such pension, allowances or gratuities as the Secretary of State may determine, or
- (b) make such payments as the Secretary of State may determine towards provision for the payment of a pension, allowance or gratuity to or in respect of such a person.

9 Where—

- (a) a non-executive member ceases to be a member otherwise than on the expiry of his term of office, and
- (b) it appears to the Secretary of State that there are circumstances which make it right for that person to receive compensation,

the Board may make a payment to that person of such amount as the Secretary of State may determine.

Interpretation of Part 1

10 In this Part “ordinary member” has the same meaning as in section 108.

PART 2

STAFF OF THE BOARD

The staff

11 (1) The staff of the Board consists of—

- (a) the Chief Executive of the Board appointed under paragraph 12,
- (b) the other employees of the Board appointed under paragraph 13, and

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- (c) any additional staff made available by the Secretary of State under paragraph 14.
- (2) No member of the Regulator, or of the Determinations Panel established by the Regulator under section 9, is eligible for appointment as a member of the staff of the Board.

The Chief Executive

- 12
- (1) The Board is to employ a person as its Chief Executive.
 - (2) The Chief Executive's main function is to be responsible for securing that the functions of the Board are exercised efficiently and effectively.
 - (3) The first appointment of a Chief Executive—
 - (a) is to be made by the Secretary of State, and
 - (b) is to be on such terms and conditions as to remuneration and other matters as are determined by the Secretary of State.
 - (4) Subsequent appointments of a Chief Executive are to be made by the Board with the approval of the Secretary of State.
 - (5) Appointments under sub-paragraph (4) are to be—
 - (a) on such terms and conditions as to remuneration as may be determined by the Board with the approval of the Secretary of State, and
 - (b) on such other terms and conditions as may be determined by the Secretary of State.
 - (6) By virtue of subsection (2) of section 112 (non-executive functions), the function conferred on the Board by sub-paragraph (5)(a) is exercisable on its behalf by the committee established under that section.

Other employees

- 13
- (1) Other employees of the Board may be appointed by the Board with the approval of the Secretary of State as to numbers.
 - (2) Subject to sub-paragraph (3), an appointment under sub-paragraph (1) is to be on such terms and conditions as may be determined by the Chief Executive.
 - (3) The terms and conditions relating to remuneration are—
 - (a) in the case of an appointment of an employee who is also to be an executive member of the Board, to be determined by the Board with the approval of the Secretary of State,
 - (b) in the case of an appointment of an employee of a prescribed description, to be determined by the Board.
 - (4) By virtue of subsection (2) of section 112 (non-executive functions), the functions conferred on the Board by sub-paragraph (3)(a) and (b) are exercisable on its behalf by the committee established under that section.

Additional staff etc

- 14
- (1) The Secretary of State may make available to the Board such additional staff and such other facilities as he considers appropriate.

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- (2) The availability of such staff and facilities may be on such terms as to payment by the Board as the Secretary of State may determine.

PART 3

PROCEEDINGS AND DELEGATION ETC

Committees

- 15 (1) The Board may establish committees for any purpose.
- (2) Any committee established by the Board may establish sub-committees.
- (3) The members of such committees or sub-committees may include persons who are not members of the Board.
- (4) The members of a sub-committee may include persons who are not members of the committee.
- (5) Sub-paragraphs (3) and (4) do not apply to the committee established under section 112 or any of its sub-committees.

Procedure

- 16 The Board may determine—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of any of its committees or sub-committees.

Delegation

- 17 (1) The Board may authorise—
- (a) any executive member of the Board,
 - (b) any other member of its staff, or
 - (c) any of its committees or sub-committees (other than the committee established under section 112 or any of its sub-committees),
- to exercise on behalf of the Board, such of its functions, in such circumstances, as the Board may determine.
- (2) But sub-paragraph (1) does not apply to the non-executive functions of the Board (which must, by virtue of subsection (2) of section 112, be discharged by the committee established under that section).
- 18 (1) The Board may make arrangements for any of its functions mentioned in sub-paragraph (2) to be exercised, in accordance with those arrangements, by a person on behalf of the Board.
- (2) The functions are those conferred by or by virtue of—
- (a) the pension compensation provisions (see section 162);
 - (b) section 163 (adjustments to be made where Board assumes responsibility for a scheme);

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- (c) section 165 (duty to notify Inland Revenue in relation to guaranteed minimum pensions);
 - (d) section 166 (duty to pay scheme benefits unpaid at assessment date);
 - (e) sections 169 and 170 (discharge of liabilities in respect of compensation or money purchase benefits);
 - (f) section 191 (notices requiring provision of information);
 - (g) section 203(1)(a) (provision of information to members of schemes etc);
 - (h) section 111 (supplementary powers), so far as that section relates to any function conferred by or by virtue of any provision mentioned in paragraphs (a) to (g).
- (3) Where arrangements are made under this paragraph for any functions of the Board to be exercised by another person on its behalf—
- (a) section 195(1)(b) (offence of providing false or misleading information to the Board) and section 196 (use of information) apply in relation to that person and any functions of the Board exercised by him as they apply in relation to the Board and its functions;
 - (b) subject to paragraph (c), sections 197 to 202 and 203(2) to (6) (disclosure of information) apply in relation to that person and any information obtained by him in the exercise of the Board’s function as they apply in relation to the Board and information obtained by it in the exercise of its functions;
 - (c) nothing in paragraph (b) authorises any person to determine on behalf of the Board under section 201(1) whether the disclosure of any restricted information is desirable or expedient in the interests of members of occupational pension schemes or in the public interest.
- 19 (1) Where the Board makes arrangements under paragraph 18(1) for any of its functions to be exercised by a person on its behalf, those arrangements may also provide for that person to exercise on behalf of the Board any delegable review function.
- (2) Where the Regulator is required to or may exercise any function on behalf of the Board by virtue of—
- (a) section 181(4) or 189(8) (administrative functions relating to levies),
 - (b) section 181(7)(b) or 189(10)(b) (recovery of levies), or
 - (c) regulations under section 181(8) or 189(11) (collection, recovery and waiver of levies),
- the Board may also require the Regulator to exercise on behalf of the Board any delegable review function.
- (3) In this paragraph, “delegable review function”, in relation to a delegated function, means—
- (a) any function, by virtue of section 207(1)(a) or (3)(a), to give a review decision in respect of any reviewable matter arising from the exercise of the delegated function;
 - (b) in relation to any function exercisable by virtue of paragraph (a) above, any other function under regulations under section 207(1) in connection with the giving of a review decision;
 - (c) any function conferred by section 111 (supplementary powers), so far as that section relates to any function mentioned in paragraph (a) or (b).
- (4) In sub-paragraph (3)—

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“delegated function” means a function which is exercisable on behalf of the Board as mentioned in sub-paragraph (1) or (2);

“review decision” has the meaning given by section 207(1).

Application of seal and proof of instruments

- 20 (1) The fixing of the common seal of the Board must be authenticated by the signature of a person authorised for that purpose by the Board (whether generally or specifically).
- (2) Sub-paragraph (1) does not apply in relation to any document which is or is to be signed in accordance with the law of Scotland.
- 21 A document purporting to be duly executed under the seal of the Board or purporting to be signed on its behalf—
- (a) is to be received in evidence, and
 - (b) is to be taken to be so executed or signed unless the contrary is proved.

PART 4

ACCOUNTS

Accounts

- 22 (1) The Board must—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) Each statement of accounts must—
- (a) contain an actuarial valuation of the Pension Protection Fund, and
 - (b) comply with any accounting directions given by the Secretary of State with the approval of the Treasury.
- (3) For the purposes of sub-paragraph (2)—
- “actuarial valuation”, with respect to the Fund, means a valuation, prepared and signed by the appointed actuary, of the assets and liabilities of the Fund;
- “accounting direction” means a direction regarding—
- (a) the information to be contained in a statement of accounts and the manner in which it is to be presented;
 - (b) the methods and principles according to which the statement is to be prepared;
 - (c) the additional information (if any) which is to be provided for the information of Parliament.
- (4) In sub-paragraph (3)—
- (a) “the appointed actuary” means a person with prescribed qualifications or experience, or a person approved by the Secretary of State, who is appointed by the Board for the purposes of this paragraph, and
 - (b) the liabilities and assets to be taken into account in preparing the actuarial valuation, and their amount or value, are to be determined, calculated and verified by the appointed actuary in the prescribed manner.

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- (5) The Board must send a copy of each statement of accounts—
- (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General,
- before the end of the month of August next following the financial year to which the statement relates.
- (6) The Comptroller and Auditor General must—
- (a) examine, certify and report on each statement of accounts which he receives under sub-paragraph (5), and
 - (b) lay a copy of each statement and of his report before each House of Parliament.
- (7) In this paragraph “financial year” means—
- (a) the period beginning with the date on which the Board is established and ending with the next following 31st March, and
 - (b) each successive period of 12 months.

Other expenses

- 23 The Board may—
- (a) pay, or make provision for paying, persons attending proceedings of the Board at its request such travelling and other allowances (including compensation for loss of remunerative time) as the Board may determine, and
 - (b) pay, or make provision for paying, persons from whom the Board may decide to seek advice, as being persons considered by the Board to be specially qualified to advise it on particular matters, such fees as the Board may determine.

PART 5

STATUS AND LIABILITY ETC

Status

- 24 (1) The Board is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, privilege or immunity of the Crown.
- (2) Accordingly, the Board’s property is not to be regarded as property of, or held on behalf of, the Crown.

Validity

- 25 The validity of any proceedings of the Board (including any proceedings of any of its committees or sub-committees) is not to be affected by—
- (a) any vacancy among the members of the Board or of any of its committees or sub-committees,
 - (b) any defect in the appointment of any member of the Board or of any of its committees or sub-committees, or

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- (c) any defect in the appointment of the Chief Executive.

Disqualification

- 26 In Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24), in Part 2 (bodies whose members are disqualified), at the appropriate place insert—
- “The Board of the Pension Protection Fund.”
- 27 In Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25), in Part 2 (bodies whose members are disqualified), at the appropriate place insert—
- “The Board of the Pension Protection Fund.”

The Superannuation Act 1972

- 28 (1) The persons to whom section 1 of the Superannuation Act 1972 (c. 11) (persons to or in respect of whom benefits may be provided by schemes under that section) applies are to include—
- the chairman of the Board
the employees of the Board.
- (2) The Board must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of the increase attributable to sub-paragraph (1) in the sums payable out of money provided by Parliament under that Act.

Exemption from liability in damages

- 29 (1) Neither the Board nor any person who is a member of the Board, a member of any of its committees or sub-committees, or a member of its staff is to be liable in damages for anything done or omitted in the exercise or purported exercise of the functions of the Board conferred by, or by virtue of, this or any other enactment.
- (2) Any person who is the Chief Executive of the Board is not to be liable in damages for anything done or omitted in the exercise or purported exercise of any function conferred on the Chief Executive by, or by virtue of, this Act or any provisions in force in Northern Ireland corresponding to this Act.
- (3) Any person who is a member of the committee established under section 112 or of any of its sub-committees is not to be liable in damages for anything done or omitted in the discharge or purported discharge of the duty to prepare a report under subsection (5) of that section on the discharge of the non-executive functions.
- (4) Sub-paragraphs (1) to (3) do not apply—
- (a) if it is shown that the action or omission was in bad faith, or
- (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998 (c. 42).
- (5) This paragraph does not prevent the Board being required to pay compensation on a direction of the PPF Ombudsman by virtue of regulations under section 213(1) or 214 or any provision in force in Northern Ireland corresponding to either of those provisions.