

SCHEDULE 4

Regulation 26

TRANSITIONAL PROVISIONS AND SAVINGS

1. In this Schedule—

- (a) “the former provisions” means any provisions which by virtue of these Regulations cease to apply to any person at any time; and
- (b) references to the revocation of any provision shall be taken to include its ceasing to apply to any person or in any situation (and related expressions shall be construed accordingly).

2.—(1) The substitution of the 1998 provisions for the former provisions does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of any of the former provisions has effect, if it could have been done under or for the purposes of the corresponding provision of the 1998 provisions, as if done also under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in the 1998 provisions or any other instrument or document to a provision of the 1998 provisions shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the former provisions has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any provision of the former provisions or in any other instrument or document to a provision of the former provisions shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of the 1998 provisions.

(5) Any document made, served or issued after the 1998 provisions come into force in relation to any person which contains a reference to any of the former provisions shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference, to the corresponding provision of the 1998 provisions.

(6) Where any provision of the former provisions (“the re-enacting provision”) re-enacted, with or without modification, a previous provision revoked by the 1987 Regulations or any other former provision, then, so far as is necessary to prevent the continuity of the law from being affected, any reference in the 1998 provisions or in any other instrument or document to the re-enacting provision shall, so far as the context permits, be construed as including a reference to that previous provision.

3.—(1) Where—

- (a) any provision continues to have effect in relation to any person by virtue of these Regulations; and
- (b) immediately before the commencement date it has effect in relation to him subject to any saving, transitional provision or modification,

nothing in these Regulations affects the operation of that saving, transitional provision or modification.

(2) The revocation by these Regulations of any provision previously revoked subject to savings does not affect the continued operation of those savings, in so far as they remain capable of having effect.

4.—(1) Without prejudice to the generality of the previous provisions of this Schedule, nothing in the 1998 provisions affects the operation of regulations H6, H7 and T6 of the 1987 Regulations (continuation of savings for gratuities and policy schemes) so far as they remain capable of having effect.

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(2) However, nothing in sub-paragraph (1) affects any transfer of responsibilities or anything else which has affected the matters mentioned in those regulations since they came into force.

5. No provision in the 1998 Regulations derived from a provision of the 1987 Regulations, or any provision amending those Regulations, (“the original provision”) shall apply to any person if he duly elected under the old provisions that the original provision should not apply to him.

6. These Regulations do not affect the time before or after which any period of membership is to be treated as falling, except as provided in regulation 9(3).

7. Despite regulation 3(1), regulation E2A(1) of the 1987 Regulations shall continue to apply to a person who is an active member of the Scheme immediately before the commencement date and who continues to be an active member on that date.

8. Despite regulation 4, regulation 92 of the 1998 Regulations shall not apply to any pension payable to any person under the saved provisions.

9.—(1) If any person to whom a relevant benefit is or may become payable would, apart from this paragraph, be placed in a worse position in relation to that benefit than that he would have been in had these Regulations not been made and makes an election under this paragraph, these Regulations shall have effect, in relation to him and to that benefit, as if they had provided for his position to continue without amendment (but see paragraph (4)).

(2) An election under sub-paragraph (1) must be made by notice in writing given to the appropriate administering authority before the expiry of the period of six months beginning with the commencement date.

(3) In this paragraph—

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—

- (a) left an employment in which he was an active member (whether or not he has subsequently become an active member again); or
- (b) died while in such employment; and

“benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.

(4) If an election under sub-paragraph (1) is made in relation to a benefit in respect of a person who is an active member, or subsequently becomes an active member again—

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—

- (i) of periods of membership before he left the employment referred to in paragraph (3)
 - (a) (or, if he left such an employment more than once, the last time he left before the commencement date); or
- (ii) of contributions paid in respect of such periods of membership; and

(b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become an active member again at any time after he so left (but without prejudice to the application of this paragraph);

and these Regulations shall have effect accordingly.