

## SCH. 5

- (a) for conferring power on the Secretary of State or any other prescribed person to appoint trustees of the existing scheme or for requiring trustees to be appointed only in such manner and in such circumstances, or with the approval of the Secretary of State or such other person, as may be prescribed;
  - (b) for enabling a person who is entitled to appoint trustees of the existing scheme to remove trustees of the scheme from office;
  - (c) for requiring or enabling powers or duties of any person under the existing scheme to be exercisable or performed by or in accordance with the directions of such persons or in such circumstances, or to be exercisable or performed only in such manner or with the consent of such persons, as may be prescribed;
  - (d) for providing that persons who have become entitled in respect of any period of employment to be participants in another prescribed scheme are not, as from such time as may be determined in accordance with the regulations, to be entitled in respect of that period of employment to be participants in the existing scheme;
  - (e) for facilitating the transfer in prescribed circumstances to another scheme of—
    - (i) rights and liabilities under the existing scheme of any participant in the existing scheme who becomes a participant in the other scheme; or
    - (ii) the benefit of any arrangements under which participants in the existing scheme are relieved from any obligation to make contributions;
  - (f) for the apportionment and allocation to particular rights and liabilities of assets of the existing scheme and for the transfer of assets to other schemes in connection with any provision made by virtue of this Schedule;
  - (g) for restricting the persons who are to be able on and after the restructuring date to become participants in the existing scheme;
  - (h) for enabling expenses incurred in or in connection with the management or other administration of the existing scheme to be met out of the assets of the scheme;
  - (i) for securing that the existing scheme continues to be approved for the purposes of the relevant enactments;
  - (j) for enabling the existing scheme to be wound up (in whole or in part) in such circumstances as may be prescribed.
- (4) The modifications of an existing scheme that may be made by regulations under this paragraph shall include modifications making such provision as the Secretary of State considers appropriate for cases where either—
- (a) there are assets of the scheme representing a relevant surplus, or
  - (b) the assets of the scheme are insufficient for meeting pension obligations under the scheme.
- (5) The modifications mentioned in sub-paragraph (4) above may contain—
- (a) provision for a relevant surplus, and the assets representing it, to be apportioned between—
    - (i) the part (if any) of the surplus which is to be retained in a reserve (“an investment reserve”) as an asset of the scheme, and
    - (ii) the remainder (“the distributable part”) of the surplus;
  - (b) provision for the management of assets representing an investment reserve and for the manner in which any such assets are to be applied;
  - (c) provision for income accruing in respect of assets representing an investment reserve to be added to the reserve;

- (d) provision for the manner in which assets representing the distributable part of a relevant surplus are to be applied; and
- (e) provision, for the purposes of any provision under paragraphs (a) to (d) above, for modifying any decisions as to the way in which relevant surpluses determined as at times before the restructuring date, and the assets representing any such surpluses, are to be treated.
- (6) The provision as to the apportionment of any surplus or assets to an investment reserve that may be contained in modifications made by virtue of sub-paragraph (4) above shall not include any provision authorising the allocation to such a reserve of any part of a surplus determined as at a time after 31st March 1994, or of any assets representing any part of such a surplus, except where the allocation is made for making good amounts which (apart from any entitlement for which provision is made by virtue of sub-paragraph (7) below) would have been comprised in the value of the reserve if assets representing any part of it had not been applied from the reserve in meeting a deficiency that arose as at any time by reason of the other assets of the scheme having been insufficient as at that time for meeting pension obligations under the scheme.
- (7) The provision as to the application of assets representing an investment reserve that may be contained in modifications made by virtue of sub-paragraph (4) above shall include provision for the Secretary of State to become entitled where—
- (a) any such arrangements as are mentioned in sub-paragraph (9) below have been entered into in relation to pension obligations under the scheme in question, and
  - (b) the value of the assets representing the reserve exceeds the aggregate amount required for the purposes for which the reserve has been retained,
- to assets of the scheme representing the amount of the excess or, where those purposes have ceased, the value of the reserve.
- (8) The provision as to the application of assets representing the distributable part of a relevant surplus that may be contained in modifications made by virtue of sub-paragraph (4) above shall include provision for the Secretary of State to become entitled where—
- (a) the surplus is one determined as at a time on or after 31st March 1994, and
  - (b) any such arrangements as are mentioned in sub-paragraph (9) below have been entered into in relation to pension obligations under the scheme in question,
- to assets of the scheme representing no more than one half of the distributable part of that surplus.
- (9) The Secretary of State may, with the consent of the Treasury, enter into such arrangements as he may consider appropriate for guaranteeing or otherwise securing, in relation to any existing scheme, that the assets of the scheme are at all times sufficient for meeting the principal pension obligations and such other pension obligations under the scheme as are obligations to which he considers such arrangements should apply.
- (10) Sums required by the Secretary of State for making any payment in pursuance of any arrangements entered into by him under sub-paragraph (9) above shall be paid out of money provided by Parliament; and any sums received by him by virtue of sub-paragraph (7) or (8) above shall be paid into the Consolidated Fund.
- (11) Regulations under this paragraph may provide for—
- (a) any such apportionments or allocations as are mentioned in the preceding sub-paragraphs,