

DATED 20 December 2011

MRC PENSION SCHEME

THIRD DEFINITIVE TRUST  
DEED AND RULES



WE HEREBY CERTIFY THIS TO BE A TRUE COPY  
OF THE ORIGINAL

DATE 3 January 2012

SIGNED DLA Piper UK LLP

DLA PIPER UK LLP





2. notwithstanding the provisions of clause 1 of this deed, the Trustee **hereby declares** that it holds the assets of the Scheme, including all contributions and other moneys paid to them and all other moneys to be paid to them (which shall also include but not be limited to the assets transferred by the trustees of the Superannuation Fund of Medical Research Council ("**Superannuation Fund**")), upon trust to apply the same for the following purposes:
  - 2.1 to continue payment of all pensions which became payable to Members on or before the Effective Date;
  - 2.2 to continue payment of all pensions previously payable out of the Superannuation Fund and to pay deferred pensions granted by the trustees of the Superannuation Fund on the same terms and subject to the same legislation relating to taxation as applied under the provisions of the Superannuation Fund;
  - 2.3 to pay benefits, annuities and deferred benefits in accordance with the Rules in force prior to 1 April 2006 to or in respect of a Pensioner Member or Deferred Member who ceased to be in employment prior to that date; and
  - 2.4 subject as aforesaid to apply the assets for the purpose of providing Relevant Benefits in accordance with the Rules from time to time in force;and subject thereto the Trustee shall hold the Fund upon trust to provide benefits in accordance with the Rules from time to time in force;
3. the Rules shall come into force on the Effective Date; and
4. the provisions of this deed may be amended in like manner as the Rules may be amended under Rule 16.5.

**IN WITNESS** whereof these presents have been executed the day and year first before written

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**RULES**  
of  
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## 1. SECTION 1 - INTRODUCTION

### 1.1 Interpretation

All words importing the singular number shall include the plural, and vice versa, and words importing the masculine gender shall include the feminine, unless the context otherwise requires, and words importing persons shall include corporations.

All references to words and expressions defined in appendix 2 to the Rules shall, where used in the Rules, have the same meanings as are attributed thereto in that appendix.

All references to any enactment, other than a reference to any definition contained in any enactment, shall be deemed to include a reference to any statutory modification or re-enactment thereof for the time being in force.

In these Rules the words and expressions following shall unless inconsistent with the subject or context have the following meanings:

**"1989 Act Member"** has the meaning ascribed to that expression in rule 10.2;

**"Accounting Date"** means 31 December in each year (or such other date as the Trustees with the consent of the Administrator may from time to time decide);

**"Actuarial Advice"** means advice obtained from an actuary who is:

- (a) appointed to advise either generally or in any particular case by the Trustees;
- (b) a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries in Scotland; and
- (c) where required under relevant legislation, the Actuary;

**"Actuarially Reduced Retirement"** excludes Compulsory Retirement, Flexible Retirement and Approved Retirement but, subject thereto, means retirement before at or over the Minimum Pension Age but before Normal Retiring Age with at least two years' Reckonable Service at the request of the employee of which at least six months' notice in writing has been given;

**"Actuary"** means the actuary qualified to give Actuarial Advice for the time being appointed by the Trustees pursuant to section 47 of the Pensions Act to give Actuarial Advice for all or any purposes of the Rules in accordance with rule 15.7;

**"Administrator"** means the person appointed to act as administrator of the Scheme under the provisions of rule 15.6;

**"Alternative Benefits"** means either:

- (a) the state earnings related benefit payable under part II of the Pension Schemes Act; or
- (b) an appropriate personal pension which meets the requirements of section 2 of part I of the Social Security Act 1986 and the regulations made thereunder;

**"Alternative Benefits Service"** means a period of employment as an employee during which Alternative Benefits have accrued or are accruing to or in respect of him;

**"Approval"** means approval of the Scheme by HMRC as an exempt approved scheme for the purposes of section 592 of the Taxes Act, as would have applied at 5 April 2006;

**"Authorised Payment"** has the same meaning as in section 177 of the Finance Act;

**"Approved Retirement"** excludes Compulsory Retirement and Flexible Retirement but subject thereto means retirement before Normal Retiring Age at the request of the employee either:

- (a) in response to a call by the Employer for volunteers for early retirement from employees who have reached or exceeded their Minimum Pension Age and have at least five years' Reckonable Service; or
- (b) if the employee is aged 55 or over and has at least 25 years' Reckonable Service;

subject in each case to the approval of the Employer;

**"AVCs"** means additional voluntary contributions paid in accordance with rule 4.6 and appendix 3;

**"AVC Scheme"** means the arrangements referred to in rule 4.6 and set out in appendix 3 or, where appropriate, an AVC Scheme maintained as part of a Transfer Scheme;

**"Compulsory Retirement"** means retirement at or over the Minimum Pension Age but before Normal Retiring Age without the consent of the Member on the grounds of restructure or redundancy and redundancy shall have the same meaning as in the Employment Rights Act 1996 but for the avoidance of doubt shall include the termination of the employment of those employees who cannot be relocated or redeployed from any unit of the Employer which is to close or from any research team within a unit or within an ESS team which is to be discontinued;

**"Contracted-Out Scheme"** means, in relation to a Member or potential Member, a scheme (including the Scheme) which is for the time being holding a contracting-out certificate pursuant to part III of the Pension Schemes Act which covers, has covered or will cover his employment, and "Contracted-Out" and "Contracted-Out Service" have corresponding meanings;

**"Dependants"** means, in relation to any Member, any individuals (whether or not Relatives) who, in the opinion of the Trustees, are or were at the time of such Member's death wholly or partly financially dependent upon such Member;

**"Discretionary Trusts"** means that, in regard to any sum directed to be held thereon in respect of a deceased Member:

- (a) the Trustees shall have power, at their discretion, to pay or apply the whole or any part of that sum to or for the benefit of all or any of the Relatives, Dependants, personal representatives or nominated beneficiaries or statutory

next of kin of such deceased Member or any beneficiary of the deceased person (other than the Crown or the Duchy of Lancaster or the Duchy of Cornwall) in such shares and proportions as the Trustees shall in their absolute discretion decide but so that, if the Member shall not leave any Relative or Dependant, the Trustees may elect to retain all or any part of the sum as part of the Fund.

Without prejudice to the generality of the foregoing power, the Trustees shall have power to declare in respect of any sum or part thereof such separate trusts terms and limitations including such provisions for maintenance, education, advancement and accumulation of income during a minority, and including such discretionary trusts and powers, as the Trustees shall from time to time by deed revocable or irrevocable appoint, but without infringing the rule against perpetuities. The Trustees shall have power:

- (i) to appoint as trustees of such fund any two persons or a trust corporation as the Trustees shall in their absolute discretion decide; and
  - (ii) to remove any of such trustees and appoint any other trustee in place of any one so removed;
- (b) if or to the extent that the Trustees shall not exercise the powers contained in paragraph (a) hereof within two years of the death of a Member, the Trustees shall hold such sum as a separate fund from the Fund constituted hereunder upon trust for the personal representatives of the deceased Member or, if there are none, the statutory next of kin of the deceased Member;
  - (c) the Trustees may, but without being in any way bound to do so, have regard to any document signed by the Member concerned expressing his wishes relating to the disposal of any sum to be held upon the Discretionary Trusts, and may issue forms to Members for the purpose; any person named in an expression of wish shall, if not already a dependant or relative, become a nominated beneficiary for the purposes of paragraph (a) of this definition; and
  - (d) notwithstanding the provisions of this definition the Trustees shall be entitled to recover out of any payment to which this definition applies any sums due to the Trustees by way of arrears of contribution at the date of death;

**"Early Retirement"** means retirement before Normal Retiring Age by reason of Compulsory Retirement, Flexible Retirement, Approved Retirement or Actuarially Reduced Retirement;

**"Eligible Child"** has the meaning assigned to that expression in rule 7.10;

**"Employer"** means the Principal Employer or other employer which is participating in the Scheme having complied with the provisions of rule 1.4 and which in relation to a Member is his employer for the time being and **"Employers"** has a corresponding meaning;

**"Ex-Spouse"** means an individual to whom Pension Credit Rights have been or are to be credited following a Pension Sharing Order, agreement or equivalent provision;

**"Ex-Spouse Participant"** means an Ex-Spouse who participates in the Scheme. For this purpose the Ex-Spouse Participant must participate in the Scheme, either:

- (a) solely for the provision of a Pension Credit Benefit; or
- (b) for the wholly separate provision of a Pension Credit Benefit, where benefits accrue or have accrued to the Ex-Spouse under the Scheme for any other reason.

An Ex-Spouse Participant will not be treated as a prescribed person for the purposes of section 50(1) of the Pensions Act;

**"Finance Act"** means the Finance Act 2004;

**"Flexible Retirement"** excludes Compulsory Retirement but subject thereto means retirement at or over the Minimum Pension Age but before Normal Retiring Age with the consent of the employee where retirement is requested by the Employer on the grounds of re-structure or limited efficiency. This category includes employees who are Members of teams which a Director has, prior to a unit review, identified as being unlikely to retain support;

**"FSAVC"** means a retirement benefits scheme to which a Member makes or is to make AVCs and which is a Registered Scheme;

**"Fund"** means the fund established under the Rules;

**"Fund Manager"** means the individual partnership or company appointed from time to time under rule 15.8;

**"Guaranteed Minimum Pension"** means a guaranteed minimum pension as defined in the Pension Schemes Act to which a Member or his spouse is entitled under the Scheme by virtue of the Pension Schemes Act;

**"HMRC"** means HM Revenue & Customs;

**"Index"** means the General Index of Retail Prices (all items) referred to in section 833(2) of the Taxes Act;

**"Insurance Company"** means a United Kingdom branch of an insurance company which complies with the provisions of section 275 of the Finance Act;

**"Lifetime Allowance"** has the same meaning as under section 218 of the Finance Act;

**"Lifetime Allowance Charge"** has the same meaning as under section 214 of the Finance Act;

**"Long Service Benefits"** shall have the meaning ascribed to that expression in rule 9.2;

**"MRC Supplementation Scheme"** means the scheme referred to in the MRC establishment code being a scheme for the supplementation of pension benefits payable under the Federated Superannuation System for Universities, the Federated

Superannuation System for Nurses and Hospital Officers (Contributory) and the Old Fund;

**"Maximum Contribution"** in relation to a Member, means such annual contribution as, when aggregated with all other annual contributions of the Member to the Scheme is equal to 15% of his taxable earnings in each relevant Tax Year in which such contributions are paid (being from and including 6 April to and including the following 5 April), over and above the contributions required under rule 4.1, unless the Principal Employer imposes a different limitation from time to time;

**"Member"** means an employee who is for the time being a Member of the Scheme under rule 2.3 and a former employee or a former Member for the limited purposes set out in rule 2.4;

**"Minimum Pension Age"** means the Member's 50th birthday (or his 55th birthday on or after 6 April 2010 unless he has a continuing right to receive his pension at an age less than 55 in accordance with part 3 of schedule 36 to the Finance Act);

**"National Insurance Modification"** means as the case may require either or both of the modification in contributions to take account of the National Insurance contributions referred to in rule 4.1 and the reduction in benefits to take account of the National Insurance benefits referred to in rule 6.3;

**"NHSSS"** means National Health Service Superannuation Scheme;

**"Normal Retiring Age"** means the age of 65 for all Members, except for:

- (a) Members holding appointments in a tropical country for whom the Normal Retiring Age shall be:
  - (i) the age of 60, for those in Service prior to 1 March 2006; and
  - (ii) the age of 65, for those who commence Service on and after 1 March 2006;
- (b) Members who did not elect to have a Normal Retiring Age of 65 when given the choice in 1997, whose Normal Retiring Age shall be 60;

**"Old Fund"** means the Superannuation Fund of Medical Research Council established by interim trust deed dated 29 May 1959 and made between the Employer of the one part and the Earl of Limerick and others of the other part and a deed of declaration of trust dated 28 May 1960 and made between the same parties as were parties to the said interim trust deed;

**"Pensionable Salary"** means whichever is the higher of:

- (a) the highest Salary received in any year during the last three years; or
- (b) the highest yearly average of the Member's Salary for any three consecutive years ending in the last ten years;

before retirement leaving the service or death, whichever first occurs; but so that:

- (i) the Principal Employer shall have power, where Salary increases to which there was a commitment on the part of the Employer have been withheld to comply with Government policy, to declare that a notional higher Salary to include such increases shall be substituted for the Salary for any period of twelve months payable to any particular Member or group of Members or Members generally, as the Employer with the like consent shall decide;
- (ii) in the case of a Member in part-time service immediately prior to the calculation of Pensionable Salary, the calculation shall be made by reference to the corresponding Salary he would have been receiving had he been in full-time service, except for the purpose of calculating the lump sum death benefit payable under rule 7.1.2 where the calculation shall be made by reference to actual salary; and
- (iii) in cases where the Member is on sick leave at retirement, he shall be deemed to be in receipt of the Salary which he would have been receiving in the post he held immediately prior to going on sick leave;

**"Pension Credit"** means a credit under section 29(1)(b) of the 1999 Act;

**"Pension Credit Rights"** means rights to future benefits under a scheme which are attributable (directly or indirectly) to a Pension Credit;

**"Pensioner"** means a person who is for the time being receiving a pension out of the Fund;

**"Pensions Act"** means the Pensions Act 1995 and, where appropriate, the regulations made under it;

**"Pension Schemes Act"** means the Pension Schemes Act 1993 and, where appropriate, the regulations made under it;

**"Pension Sharing Order"** means any order or provision as is mentioned in section 28(1) of the 1999 Act;

**"Permitted Maximum"** means the permitted maximum as defined in section 590C of the Taxes Act as if that section had not been repealed and HM Treasury had made the orders required by that section (subject to the provisions below). At any time when no such orders are made, therefore, the permitted maximum:

- (a) for tax years (being a period beginning on 6 April and ending on the following 5 April) up to and including the tax year 2005/2006, will have the meaning given in section 590C(2) of the Taxes Act over that period; and
- (b) for tax years after that, will mean the figure which would have been arrived at if section 590C(2) of the Taxes Act had remained in force on or after 6 April 2006, calculated as set out below, unless the Principal Employer and the Trustees agree that the figure should be calculated in some other way but not so as to arrive at a figure which is lower than the figure for the previous tax year;



The figure for the permitted maximum for the tax year 2005/2006 is £105,600. In each subsequent tax year:

- (i) if the Index for the month of September before the tax year in question is higher than it was for the previous September, the permitted maximum for that tax year shall be an amount arrived at by:
    - (A) increasing the figure for the previous tax year by the same percentage as the percentage increase in the Index; and
    - (B) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple;
  - (ii) if the Index for the month of September preceding the tax year in question is not higher than it was for the previous September, the figure for that tax year shall be the same as the figure for the previous tax year; and
- (c) the Principal Employer may increase or dis-apply the Permitted Maximum in respect of:
- (i) any Member or group of Members from time to time; and/or
  - (ii) pension from different periods of Reckonable Service;

with the prior written consent of the Trustees, and in providing such consent, the Trustees shall have discretion to require such terms of payment of additional contributions, whether by way of lump sum or periodical payment, and either by the Employer or the Member or both of them, as the Trustees upon Actuarial Advice shall decide;

**"Perpetuity Period"** means the period of 80 years from 1 June 1975 plus such further period (if any) as may be lawful including any period during which the trusts of the Scheme may be exempt for whatever reason from the application of the rule against perpetuities;

**"Pre-1989 Act Member"** has the meaning ascribed to that expression in rule 10.2;

**"Prescribed Date"** means 1 June 1975;

**"Principal Employer"** means Medical Research Council;

**"Qualifying Recognised Overseas Pension Scheme"** has the same meaning as in section 169(2) of the Finance Act;

**"Qualifying Service"** means the aggregate of:

- (a) actual service whilst a Member of the Scheme and any additional periods which count as Reckonable Service and which do not fall within paragraphs (b) and (c) below;
- (b) actual periods of service in any previous employment during which the Member was a member of any Transfer Scheme and in respect of which the

Trustees have received or are in a position to receive a transfer payment under rule 3.7. (This will not necessarily be the same period of Reckonable Service which is credited to a Member pursuant to the provisions of rule 3.7 on the receipt of a transfer payment); and

- (c) such other period or periods as the Trustees, with the consent of the Principal Employer, may allow either generally or in any particular case;

**"Recognised Transfer"** has the same meaning as in section 169 of the Finance Act;

**"Reckonable Service"** means the period of Service (not exceeding 40 years at Normal Retiring Age and 45 years in total however late retirement takes place) which is credited to the Member under the Rules for the purpose of calculating his pension;

**"Registered Scheme"** means a retirement benefits scheme which is a registered scheme within the meaning of the Finance Act;

**"Relatives"** means and includes in relation to any deceased Member:

- (a) the widow or widower of the Member or the person who was Civil Partner to the Member on his or her death;
- (b) the father or mother (whether lawful or adoptive) of the Member and the widow or widower of such father or mother;
- (c) any person (except such Member) who is the child or remoter issue (whether lawful or adoptive) of such father or mother, and the spouse or widow or widower of any such person, and any step-child of the Member; or
- (d) any person who has been the wife, husband or Civil Partner of the Member;

**"Relevant Benefits"** has the same meaning as in section 612 of the Taxes Act as at 5 April 2006, as if that section had not been repealed;

**"Relevant Date"** means the Member's date of retirement, death or leaving the Scheme, whichever is the earliest;

**"Rules"** means these rules or such other rules as are for the time being in force, having regard to any alterations made therein, including any appendices hereto;

**"Salary"** means the total fixed salary (disregarding any temporary abatement) plus any allowance for London weighting, responsibility (including merit awards), contracted extra duties and permanent additions as a result of attainment of qualifications provided that:

- (a) unless the Employer either generally or in any particular case otherwise decides, Salary shall not include any overtime and other emoluments;
- (b) in the case of a Member to whom rule 3.11 applies his sick pay (before abatement for national insurance benefits) shall be his Salary for the purposes of rule 4.1 but his Salary for the purpose of calculating Pensionable Salary shall be the salary of which he was in receipt immediately before becoming entitled to sick pay increased in the same manner and to the same extent as salaries in the same or an equivalent grade have been increased;

- (c) remuneration received whilst in Alternative Benefit Service and in respect of that service shall not be treated as Salary for any of the purposes of this definition or of the Scheme;
- (d) in the case of a 1989 Act Member Salary shall exclude all remuneration in excess of the Permitted Maximum; and
- (e) in the case of a Member who is paid on an hourly basis his Salary shall be the aggregate of the earnings he has received in the twelve months immediately preceding the last Accounting Date and if such Member shall not have been in service for those twelve months his Salary shall be calculated on a pro rata basis as if he had been in service for those twelve months;

"Scheme" means the scheme governed by the Rules and known as "MRC Pension Scheme";

"Scheme Chargeable Payment" has the same meaning as in section 241 of the Finance Act;

"Scheme Service" means the aggregate of:

- (a) Reckonable Service of the Member calculated at the date of his retirement under rules 6.5 or (if he is still in the service) the date of his death but excluding any added years deemed to be credited to or in respect of him under rule 6.5 or rule 7.3; and
- (b) the number of years remaining between the date of his retirement under rule 6.5 or death (as the case may be) and the date when he would have attained Normal Retiring Age;

but so that Scheme Service shall not exceed 40 years;

"Service" means employment with an Employer;

"Short Service Benefits" shall have the meaning ascribed to that expression in rule 9.2;

"Spouse" means:

- (a) any individual who was legally married or a registered civil partner to the Member at the date of the Member's death; or
- (c) where the Member was not married or did not have a registered civil partner at the date of death, any individual who, in the opinion of the Trustees:
  - (i) satisfies the criteria of HMRC from time to time as to eligibility as a dependant;
  - (ii) has been nominated by the Member to the Trustees in writing;
  - (iii) has completed, together with the Member, a joint declaration of partnership; and

- (iv) at the time of death of the Member, was:
  - (A) living with the Member in an exclusive committed long term relationship;
  - (B) free to marry (or would have been free to marry if they were not of the same sex as the Member); and
  - (C) financially dependent upon the Member, wholly or in part;

**"State Pension Age"** means the age of 65 in the case of a male Member and 60 in the case of a female Member or such other age as may from time to time be prescribed under the Pensions Act;

**"Supplementary Scheme"** means the scheme known as "MRC Supplementary Benefits Scheme" established and constituted by an Interim Trust Deed dated 8 July 1975 and a Definitive Trust Deed dated 19 December 1978 made between the Principal Employer and the Trustees (as from time to time amended) which scheme was merged on 1 April 1988 with the Scheme by the Fifth Deed of Amendment dated 30 March 1988;

**"Taxes Act"** means the Income and Corporation Taxes Act 1988;

**"Total Remuneration"** has the meaning ascribed to that expression in rule 10.6;

**"Transfer Scheme"** means:

- (a) a Registered Scheme; and
- (b) a Qualifying Recognised Overseas Pension Scheme;

and where the context so requires or admits shall include reference to the trustees or administrators of such a scheme;

**"Trivial Amount"** means a value of less than 1% of the Member's Lifetime Allowance or such other amount as may for the time being be prescribed by HMRC or under the provisions of the Finance Act;

**"Trustees"** means the trustees or trustee for the time being of the Scheme unless the context otherwise requires;

**"Unauthorised Payment"** has the same meaning as in section 160(5) of the Finance Act;

**"Year"** shall include a fraction of a year calculated by reference to the number of days in the fraction of the year in question divided by 365;

**"1999 Act"** means the Welfare Reform and Pensions Act 1999; and

**"2004 Act"** means the Pensions Act 2004.

## **1.2 Commencement**

The Scheme was brought into operation by an interim trust deed dated 8 July 1975 made between the Principal Employer and the Trustees and was deemed to come into effect in respect of certain Members on 1 June 1975. A definitive deed was completed dated 19 December 1978 which included the rules of the Scheme, which have, since that date, been amended. The Rules replace entirely the provisions of the definitive deed (as amended) with effect from the Effective Date.

## **1.3 Constitution of the Fund**

The investments, cash and other assets held by the Trustees for the purposes of the Scheme constitute the Fund and shall include:

- 1.3.1 investments, cash and other assets transferred by the trustees of any fund pursuant to rule 3.7;
- 1.3.2 all contributions by Members pursuant to the Rules;
- 1.3.3 all amounts contributed or paid by the Employer to the Trustees; and
- 1.3.4 the interest dividends and income of the Fund and any donations legacies or other exceptional receipt.

## **1.4 Participation by Employers**

Every employer which:

- 1.4.1 is a subsidiary company of or is so closely associated with the Principal Employer that its participation in the Scheme will not prejudice it being a Registered Scheme;
- 1.4.2 has employees who would be eligible for Membership on participation in the Scheme; and
- 1.4.3 is approved for participation in the Scheme by the Principal Employer and the Trustees;

shall be entitled to participate on entering into a deed of covenant with the Principal Employer and the Trustees to abide by and comply with the Scheme and the Rules (and such other terms as the Principal Employer and the Trustees may impose) so far as they relate to it and its employees who become Members.

## **1.5 Special provisions on first participation**

Notwithstanding the provisions of rule 1.4, an Employer on first participating in the Scheme may by deed, and with the consent of the Principal Employer and the Trustees who shall act if necessary on Actuarial Advice:

- 1.5.1 exclude from eligibility for Membership any class of eligible employee whatsoever, whether on the grounds of age, status, type of employment or otherwise;

- 1.5.2 in relation to employees then in its service who are eligible for Membership exclude, vary or modify any provision of the Scheme contained in the Rules and substitute or add any other provision to the Scheme in respect of those eligible employees;
- 1.5.3 provide for the payment of pensions to former employees of such Employer who have rights to benefit under any existing scheme of such Employer which is to be merged with or the assets of which are to be transferred to the Scheme whether or not such benefits are in payment or deferred; and
- 1.5.4 accept a block transfer payment from the trustees of any scheme in which such Employer has participated.

#### **1.6 Change of Principal Employer**

Any Employer or holding company may agree with the Trustees to become the Principal Employer, unless this would prejudice the Scheme being a Registered Scheme. The consent of the previous Principal Employer shall be necessary unless a resolution has been passed that that company should be wound up.

#### **1.7 Employer ceasing to participate**

The Principal Employer, with the consent of the Trustees, may by deed declare that any Employer which has been participating in the Scheme shall forthwith cease to participate and if such Employer still has employees who are Members the provisions of rule 17.2 shall come into operation.

#### **1.8 Adjustments to Pensionable Salary**

1.8.1 Where there is a non-standard increase in a Member's emoluments then for the purpose of calculating such Member's Pensionable Salary the Principal Employer shall have the following powers:

1.8.1.1 the Principal Employer may disallow as Salary any non-standard increase or part of a non-standard increase in the Member's emoluments which appears to the Principal Employer to have as its main object, or one of its main objects, the enhancement of benefits under the Scheme for such Member;

1.8.1.2 the Principal Employer may determine in cases where it is not appropriate to exercise the powers under paragraph 1.8.1.1 above that such non-standard increase shall be treated as Salary for the purposes of calculating Pensionable Salary but the Member's Pensionable Salary shall be calculated under paragraph (b) of the definition of Pensionable Salary to the exclusion of paragraph (a) of that definition; and

1.8.1.3 the Principal Employer may require as a condition of accepting that any non-standard increase in a Member's emoluments will be treated as part of the Member's Pensionable Salary that the Employer and the Member, or either of them, shall make such additional contributions to

the Fund of such amount or amounts as the Trustees, acting on Actuarial Advice, shall determine to be the cost of the increase in benefits payable to such Member by reason of the non-standard increase in emoluments being treated as Salary for the purpose of calculating Pensionable Salary.

- 1.8.2 An increase in emoluments shall be treated as a standard increase in emoluments which is not subject to paragraph 1.8.1 above:
- 1.8.2.1 where the calculation of Pensionable Salary falls to be made on the death of a Member in Service;
  - 1.8.2.2 where the increase in emoluments arises out of a pay settlement and is not made or received in contemplation of retirement; or
  - 1.8.2.3 where the increase, although not the result of a pay settlement arises out of a new appointment which is permanent or a promotion, regrading or regular review of Salary not made or received in contemplation of retirement.
- 1.8.3 The Principal Employer may at the request of the Employer or the Member confirm in writing whether or not it will treat a particular increase in emoluments payable to a Member as a standard increase and, if it confirms that the increase will be treated as a standard increase, the powers of the Principal Employer under paragraphs 1.8.1 and 1.8.2 above in respect of that increase shall lapse.

## **1.9 Employees opting for Alternative Benefits**

The provisions of appendix 2 shall apply to existing Members, new Members and entrants in respect of their right to opt for Alternative Benefits and to the conditions on which such persons may opt for Alternative Benefits or elect to join or rejoin the Scheme.

## **1.10 Pension sharing**

- 1.10.1 On receipt by the Trustees of a Pension Sharing Order the provisions contained in appendix 4 will apply and shall override any other provisions of the Rules which are inconsistent with them.
- 1.10.2 The Trustees shall discharge their liability to the Ex-Spouse under section 29(1)(b) of the 1999 Act in accordance with the mode of discharge contained in paragraph 1(3) of schedule 5 of the 1999 Act, unless one of the circumstances in rule 1.10.3 arise, in which case the Trustees shall discharge their liability to the Ex-Spouse in accordance with the mode of discharge contained in paragraph 1(2) of schedule 5 of the 1999 Act.
- 1.10.3 The circumstances referred to in rule 1.10.2 are:
- 1.10.3.1 the Trustees are required by statute or any regulation to discharge their liability to the Ex-Spouse in accordance with paragraph 1(2) of schedule 5 of the 1999 Act;

- 1.10.3.2 the Trustees have not received consent from the Ex-Spouse to discharge their liability in accordance with paragraph 1(3) of schedule 5 of the 1999 Act and are not legally able to or if so able decide that they do not wish to discharge their liability to the Ex-Spouse under paragraph 1(3) of schedule 5 of the 1999 Act in accordance with regulation 7(2) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000; and
- 1.10.3.3 the Ex-Spouse is a Member and has not elected to have the Trustees' liability in respect of him discharged in accordance with paragraph 1(3) of schedule 5 of the 1999 Act.



## 2. SECTION 2 - ELIGIBILITY AND MEMBERSHIP

### 2.1 Basic eligibility conditions

2.1.1 Subject to rule 2.2 employees of the Employer who are eligible for Membership are those who are not excluded under rule 2.1.2 below and who are:

2.1.1.1 over the age of 18 and are not within two years of Normal Retiring Age; and

2.1.1.2 employed full time (either by the Employer or in aggregate with other employment approved for the purpose by the Employer) or are employed part time;

2.1.2 The following employees are excluded from Membership:

2.1.2.1 employees appointed on international appointment terms;

2.1.2.2 locally appointed overseas employees;

2.1.2.3 employees in employment on the Prescribed Date who did not elect to join the Scheme; and

2.1.2.4 employees seconded to the Employer who are members of another pension scheme established by the Employer by whom they are seconded.

### 2.2 Further eligibility conditions

2.2.1 An employee who fulfils the basic eligibility conditions set out in rule 2.1 is eligible to become a Member if:

2.2.1.1 the employee has not had any prior period of Reckonable Service or if he has had a prior period of Reckonable Service has not had Alternative Benefits Service;

2.2.1.2 if he has had a prior period of Alternative Benefits Service and he is being re-employed by the Employer after a break in employment of at least one month;

2.2.1.3 the employee has a prior period of Alternative Benefits Service and has complied with the requirements as to eligibility set out in paragraph 6.2 of appendix 2; and

2.2.2 the Employer and the Trustees shall have power to waive any of the eligibility conditions laid down in rule 2.1 and this rule 2.2 in any particular case such as that of a Member who joins the Service within two years of Normal Retiring Age but who procures a transfer payment to be made in respect of him from a Transfer Scheme which will enable him to obtain five or more years' Reckonable Service by the time he reaches Normal Retiring Age. Any such waiver shall not amount to unlawful discrimination.

## **2.3 Membership**

The Members for the time being shall be employees who fall within one of the following categories:

- 2.3.1 each existing Member subject to the right to withdraw in accordance with the provisions of rule 2.5 and appendix 2;
- 2.3.2 an employee who fulfils the conditions for Membership in rule 2.2.1 shall automatically become a Member on becoming an employee subject to his right to cancel his Membership in accordance with paragraphs 3 and 4 of appendix 2; and
- 2.3.3 an employee to whom paragraph 2.2.2 of rule 2.2 applies and who has been accepted for Membership by the Trustees in accordance with paragraph 6.2 of appendix 2.

## **2.4 Limited Membership**

A former employee or a former Member who has opted for Alternative Benefits and who remains entitled either as a Pensioner or as a deferred pensioner prospectively entitled under section 9 (including but not limited to an Ex-Spouse Participant who is a Pensioner or a deferred Pensioner prospectively entitled under section 9) shall be deemed to be a Member for the purposes of those Rules in respect of which he, and those entitled in respect of his Membership, retain such rights to benefit whether immediately or prospectively and any Rules affecting those benefits or consequent thereon but not for any other purposes of the Rules.

## **2.5 Withdrawal from Membership**

Members shall have the right to withdraw from Membership of the Scheme in the following circumstances:

- 2.5.1 Members shall have the right to withdraw in accordance with but subject to the provisions of appendix 2;
- 2.5.2 if the continued Membership of the Scheme by an employee would prejudice the status of the Scheme as a Registered Scheme in which case he shall become entitled to benefit under section 9; and
- 2.5.3 in any other circumstances approved by the Employer and the Trustees.

## **2.6 Application for Membership**

Every employee who elects in accordance with paragraph 6 of appendix 2 shall be bound to sign a written application for Membership in such form as the Trustees shall from time to time prescribe.

### **3. SECTION 3 - CALCULATION OF RECKONABLE SERVICE**

#### **3.1 Reckonable Service while a Member of the Old Fund**

Where a member of the Old Fund who was in the Service on the Prescribed Date elected to join the Scheme on or before 30 September 1976 the period of Service which he is entitled to count as a period of Reckonable Service prior to the Prescribed Date shall be the period of Reckonable Service up to the Prescribed Date which would have counted for the purposes of the MRC Supplementation Scheme had he remained a member of the Old Fund until he became entitled to retire.

#### **3.2 Reckonable Service of a Member formerly in FSSU**

Where an employee, who was in the Service on the Prescribed Date and was a Member of the Scheme established under the Federated Superannuation System for Universities ("FSSU"), elects to join the Scheme in accordance with rule 2.3.1, the period of Service which he is entitled to count as a period of Reckonable Service prior to the date of transfer shall be the period of Reckonable Service prior to that date which would have counted for the purposes of the MRC Supplementation Scheme had he remained in the Service and a Member of FSSU until he became entitled to retire, subject to the transfer of all his FSSU assets to the Trustees.

#### **3.3 Reckonable Service of a Member formerly in FSSN**

Where a member of Federated Superannuation Scheme for Nurses and Hospital Officers (Contributory) ("FSSN") who was in the Service on the Prescribed Date elects to join the Scheme in accordance with rule 2.3.1 he shall, if he can procure a transfer to the Trustees of the policies taken out for his benefit under FSSN or the proceeds thereof, be entitled to count as a period of Reckonable Service the Service which would have counted for the purposes of the MRC Supplementation Scheme had he remained in the Service and a Member of FSSN until he became entitled to retire.

#### **3.4 Reckonable Service of a Member formerly in NHSSS**

Where a member of NHSSS who was in the Service on the Prescribed Date elects to join the Scheme in accordance with rule 2.3.2 on or before 29 February 1976, all periods of Service which would have been reckonable for the purposes of calculating benefits arising under NHSSS up to that date, on the assumption that the employee had remained a member of NHSSS until he was entitled to retire, shall be treated as the same period of Reckonable Service for the purposes of the Scheme but, subject to rule 4.4, shall only qualify for the same scale of benefit as would have been payable if he had remained a member of NHSSS (the effect of this provision is to limit the lump sum retirement benefit to one eightieth of Pensionable Salary for each year of Reckonable Service prior to 25 March 1972 where the Member is married at retirement or death, even though he marries after joining the Scheme).

#### **3.5 Reckonable Service in normal cases**

All Service from the date of joining the Scheme up to the date of retirement or the date upon which his contributions cease to be payable, if earlier, shall be treated as Reckonable Service provided that the total Reckonable Service is limited to a maximum of 40 years at Normal Retiring Age and 45 years in total.

### **3.6 Part-time service**

3.6.1 Subject to rule 3.6.2, where a Member has a period of Service which is part-time service from time to time his Reckonable Service shall be reduced for the calculation of benefits by multiplying the number of years of part-time service by that fraction which the time devoted to his part-time service bears to the corresponding period of full-time service, which fraction shall be determined by the Employer in its absolute discretion. Where the fraction of part-time service changes, a separate calculation of the Reckonable Service shall be made for the period up to the date of change and the new part-time service fraction shall apply only to the period of employment thereafter.

3.6.2 The reduction set out in rule 3.6.1 shall not apply where the term Reckonable Service is being used as an eligibility requirement for the payment of a benefit under the Rules, and for such purposes, the Reckonable Service of a Member who was a member of any Transfer Scheme in respect of which the Trustees have received or are in a position to receive a further payment under rule 3.7 shall include the Member's actual periods of Service in any previous employment during which he was a member of that Transfer Scheme.

### **3.7 Transfers**

A Member may request the Trustees to accept a transfer payment in respect of him in accordance with the following provisions of this rule 3.7:

3.7.1 the Trustees shall be entitled in their absolute discretion to receive a transfer payment and hold it as part of the Fund and such transfer payment may be received from:

3.7.1.1 a Transfer Scheme;

3.7.1.2 an Insurance Company in respect of any policy to which section 19(4) of the Pension Schemes Act applies;

3.7.1.3 a scheme approved under section 620 or 621 of the Taxes Act; and

3.7.1.4 an FSAVC Scheme;

3.7.2 the Trustees shall be required to obtain a certificate from the administrator or trustees of the Transfer Scheme of the amount in respect of the Member's contributions and interest included in the transfer payment and only the amount so certified shall be treated as Member's contributions to the Fund;

3.7.3 the benefits to be provided by the Scheme for a Member inclusive of the benefits in respect of the transfer payments payable from the Transfer Scheme shall not exceed the appropriate limits laid down in section 10;

3.7.4 the Trustees shall credit such Member with such number of years of Reckonable Service as the Trustees acting on Actuarial Advice shall decide, except that, in cases where the Trustees have entered into

reciprocal transfer arrangements, the Trustees shall, on such transfer and notwithstanding anything herein contained, give effect to those transfer arrangements; and

- 3.7.5 where a transfer payment includes a sum in respect of Guaranteed Minimum Pensions or protected rights, the Scheme shall comply with the requirements of the Pension Schemes Act, together with any regulations made thereunder.

### **3.8 Additional Reckonable Service for overseas staff**

A Member who has a period of Service in the overseas territories specified in appendix 1 whilst holding a tropical appointment counts that period as Reckonable Service equal to 1.5 times the length of the actual Service subject to the following further conditions:

- 3.8.1 such additional Service does not count as Qualifying Service;
- 3.8.2 absences from the territory in the United Kingdom or absences or leave of more than one month in any period of twelve months shall not qualify for enhancement;
- 3.8.3 this rule 3.8 shall not apply where the overseas appointment commenced after 1 December 1974 and shall not apply to any Member who has elected to take the higher foreign service allowance; and
- 3.8.4 for each completed year of actual Service to which this rule 3.8 applies, the Normal Retiring Age of the Member in question shall be reduced by three months but not so as to reduce it by more than five years.

### **3.9 Additional Reckonable Service in special cases**

In exceptional circumstances the Trustees with the consent of the Employer may credit a Member joining the Scheme with additional Reckonable Service in such manner and upon such terms as the Trustees, acting on Actuarial Advice, may decide, which terms may include provisions for the additional Reckonable Service to accrue over the period of the Member's Membership.

### **3.10 Additional "bought" Service**

The Trustees will grant added years of Reckonable Service to a Member who elects to make additional contributions pursuant to rule 4.2 subject to the limits which are referred to in that rule.

### **3.11 Maternity, Adoption, Parental and Paternity leave**

- 3.11.1 This rule 3.11 applies to a Member who is absent from work (either by law or by agreement with her Employer):
- 3.11.1.1 due to her pregnancy or confinement and who has a right to receive maternity pay during such absence or, who does not have such a right but who is entitled by law to a period of maternity leave;

- 3.11.1.2 due to the Member having been matched with a child for adoption on or after 6 April 2003 and who has a right to receive pay during such absence or, who does not have such a right but who is entitled by law to a period of adoption leave;
- 3.11.1.3 due to the Member being entitled to take paternity leave; or
- 3.11.1.4 due to the Member having started periods of parental leave on or after 6 April 2003.

3.11.2 During any period of:

- 3.11.2.1 ordinary maternity leave;
- 3.11.2.2 ordinary adoption leave;
- 3.11.2.3 paternity leave;
- 3.11.2.4 parental leave;
- 3.11.2.5 additional maternity leave during which the Member has received earnings (either by law or by agreement with the Member's Employer) or not receiving earnings, where determined by the Member's Employer; or
- 3.11.2.6 additional adoption leave during which the Member has received earnings (either by law or by agreement with the Member's Employer);

the Member's Salary and Pensionable Salary for benefit purposes shall be deemed to be not less than the Salary and Pensionable Salary the Member would have received if he or she had continued to work in the same capacity and for the same contractual hours as the Member had worked immediately prior to such period of leave ("**normal work**"). Employer contributions during such period of absence shall continue to relate to the Salary and Pensionable Salary the Member would have received if he or she had continued in normal work. However, Member contributions shall relate to actual Salary (including but not limited to maternity pay, adoption pay or paternity pay).

3.11.3 During any period of:

- 3.11.3.1 additional adoption leave during which the Member has received earnings by agreement with the Member's Employer; or
- 3.11.3.2 paid parental leave during which the Member has received earnings by agreement with the Member's Employer;

the Member's Salary and Pensionable Salary for benefit purposes shall relate to the actual Salary and Pensionable Salary (including adoption pay or parental pay) during such period of absence. Employer and Member contributions during such period of absence shall relate to the actual Salary

the Member receives during the period of leave referred to in 3.11.3.1 and 3.11.3.2 above.

- 3.11.4 If the Member returns to work in exercise of any right the Member has to do so, periods of absence shall count as Reckonable Service if:
- 3.11.4.1 the Member has received earnings for them (either by law or by agreement with the Member's Employer);
  - 3.11.4.2 the Member did not receive earnings but it is a period of ordinary maternity leave or ordinary adoption leave or parental leave or paternity leave; or
  - 3.11.4.3 the Principal Employer so directs;
- but (subject to 3.11.5) not otherwise. Periods of Reckonable Service immediately before, during and immediately after the absence shall be added together.
- 3.11.5 If the Member returns to work in exercise of any right he or she has to do so, periods of absence which do not count as Reckonable Service under Rules 3.11.1 to 3.11.4 (inclusive) may, with the consent of the Trustees, count as Reckonable Service if the Member on his or her return to work pays contributions in respect of them of an amount and on terms as agreed with the Trustees.
- 3.11.6 If the Member does not return to work in exercise of any right he or she has to do so, then unless the Principal Employer and the Trustees otherwise determine the Member shall be deemed to have left Reckonable Service:
- 3.11.6.1 at the end of the period for which the Member received earnings (either by law or by agreement with the Member's Employer); or
  - 3.11.6.2 if the Member did not receive earnings, at the end of the period of her ordinary maternity leave or his or her ordinary adoption leave; or paternity leave or parental leave; or
  - 3.11.6.3 at the end of such additional period as directed by the Principal Employer.
- 3.11.7 If the Member dies during absence whilst receiving earnings or having a right to return which has not been lost or if the Member dies during a period of ordinary maternity leave, ordinary adoption leave or paternity leave or parental leave, rule 7 (death in service) will apply as appropriate and for this purpose the Member's Salary and Pensionable Salary shall be deemed to be not less than the Salary and Pensionable Salary respectively that the Member would have received (in the opinion of the Trustees in consultation with the Principal Employer) if the Member had continued in normal work.

3.11.8 In this rule 3.11 the words defined below shall have the following respective meanings:

"**additional adoption leave**" is the period designated as additional adoption leave under section 75B of the Employment Rights Act 1996;

"**additional maternity leave**" is the period designated as additional maternity leave under section 73 of the Employment Rights Act 1996;

"**adoption leave**" is the period designated as adoption leave under sections 75A and 75B of the Employment Rights Act 1996;

"**ordinary adoption leave**" is the period designated as ordinary adoption leave under section 75A of the Employment Rights Act 1996;

"**ordinary maternity leave**" is the period designated as ordinary maternity leave under section 71 of the Employment Rights Act 1996;

"**maternity leave**" is the period designated as maternity leave under sections 71 to 73 of the Employment Rights Act 1996;

"**parental leave**" is the period designated as parental leave under sections 76 to 79 of the Employment Rights Act 1996; and

"**paternity leave**" means the period designated as paternity leave under sections 80A to 80C of the Employment Rights Act 1996.

### **3.12 Reckonable Service in cases of ill-health**

In the case of absence from work due to illness or any other incapacity:

- 3.12.1 during such period of absence as the Member shall be in receipt of any remuneration from the Employer, other than at pension rate, he shall continue to make the appropriate contributions pursuant to rule 4.1 and his Reckonable Service shall not cease to accrue; for the purposes of this paragraph "pension rate" means such remuneration as the Employer may agree to pay during continued absence through sickness after termination of official sick leave;
- 3.12.2 after the end of such period as is mentioned in paragraph 3.12.1 above, the Reckonable Service of the Member shall cease to accrue until such time as he is again making contributions to the Scheme under rule 4.1;
- 3.12.3 notwithstanding that Reckonable Service has ceased to accrue pursuant to paragraph 3.12.2 above, the Member shall remain a Member of the Scheme so long as he is not deemed to have left the service of the Employer; and
- 3.12.4 in the event of the retirement or death of any Member whose Reckonable Service has ceased to accrue under this rule 3.12 or rule 3.13 the benefits payable on his retirement or death shall be calculated as if he had retired or died on the day before his Reckonable Service ceased to accrue.



### 3.13 Reckonable Service in other cases of absence including secondment

In the event of the absence of an employee from the service for any of the reasons specified in paragraph 3.13.1 below, the absence shall not be treated as a withdrawal from the service qualifying for benefits in accordance with section 9, with the result that the Member shall retain his Membership for the periods specified in paragraph 3.13.2 below and such periods or any part thereof may accrue as Reckonable Service if contributions are paid in respect of him in accordance with paragraph 3.13.3 below:

- 3.13.1 periods of absence approved by the Employer are:
  - 3.13.1.1 a period of absence to enable the Member to take up work of national importance;
  - 3.13.1.2 a period of absence on or after 1 July 1947 in respect of a Member who has been called up for compulsory national service. A person who accepted an appointment (to a post which was open to applicants below the age of 18) with the Employer but who was prevented by compulsory national service from taking up such appointment until later, may count his national service as a period of Reckonable Service provided that his national service began on or after 1 January 1946;
  - 3.13.1.3 a period of absence to take a course of study or training which the Member applies to have approved within three months of starting the course and the application is granted;
  - 3.13.1.4 a period of absence in order to take up employment abroad where no transfer value can be paid to a scheme maintained by the overseas Employer provided that the Member has applied within twelve months of leaving the service of the Employer to have the employment approved and the application is granted; and
  - 3.13.1.5 a period during which the Member is granted leave of absence or seconded to another Employer;
- 3.13.2 a period of absence may be unlimited in a case to which paragraph 3.13.1.1 or paragraph 3.13.1.2 of paragraph 3.13.1 above applies, and in other cases shall not exceed three years or such longer period as the Employer, with the consent of HMRC, may be prepared to agree; and
- 3.13.3 the Employer may at its discretion arrange for the Member to continue his contributions and shall include therein a sum on account of the Employer's contributions as may be specified by the Trustees, acting on Actuarial Advice. Contributions shall not, however, be payable if the Member becomes a member of another pension scheme during a period of absence.

### **3.14 Reckonable Service and Alternative Benefits Service**

Where a Member has had a period of Alternative Benefits Service the following further Rules shall apply to the calculation of his Reckonable Service:

- 3.14.1 where the Member has had a prior period of Reckonable Service in respect of which he became and remains entitled to benefits under section 9 such benefits shall continue to remain payable and rule 6.12 shall not apply to him;
- 3.14.2 no period of Alternative Benefits Service shall count as a period of Reckonable Service but without prejudice to the right of the Member to transfer any assets arising from his Alternative Benefits as if it were a transfer payment under rule 3.7; and
- 3.14.3 Salary received during a period of Alternative Benefits Service shall not be treated as Salary for the purposes of the Scheme.

#### 4. SECTION 4 - MEMBERS' CONTRIBUTIONS

##### 4.1 Ordinary annual contributions

Members shall contribute the following percentages of their Salary for the time being:

- 4.1.1 Members whose Normal Retiring Age is 65 - 6.5%;
- 4.1.2 Members who have a Normal Retiring Age other than 65 - 6.25%;
- 4.1.3 Members in the maintenance staff category who were Supplementary Contributing Members on 31 March 2006 - 5.25%;
- 4.1.4 Members in the maintenance staff category who were not Supplementary Contributing Members on 31 March 2006- 5%; and
- 4.1.5 all other Members - 6%;

such contributions will cease on the Member ceasing to be in employment, attaining the age of 70 or completing 45 years Reckonable Service whichever first occurs.

##### 4.2 Additional voluntary contributions

Rules 4.3 to 4.6 and appendix 3 are subject to this rule 4.2, which provides that the total contributions paid by a Member to the Scheme (including AVCs) are limited to the Maximum Contributions.

##### 4.3 Additional voluntary contributions to buy added years

If a Member wishes to add to his years of Reckonable Service by buying a number of years of additional Reckonable Service, the Member in question shall elect to make additional voluntary contributions to the Fund, in accordance with tables approved from time to time by the Trustees, acting on Actuarial Advice; and on such election the following provisions shall apply:

- 4.3.1 no Member shall elect while he is absent from the Service through sickness or under notice of premature retirement and every such application shall be accompanied by a declaration that the Member has no reason to believe that his health may prevent him from continuing in the employment of the Employer until his Normal Retiring Age;
- 4.3.2 the added years shall reckon as full-time service whether or not he is in part-time service and shall not be liable for the National Insurance Modification in rule 6.3. If a Member is in part-time service the contributions shall be calculated by reference to the Salary for full-time employment;
- 4.3.3 if a Member has elected to purchase a number of years of additional Reckonable Service which brings his total potential Reckonable Service to more than 39 but less than 40 years, he may elect, subject to paragraph 4.3.8 hereof, to pay a lump sum which will enable his total potential Reckonable Service to equal 40 years exactly;

- 4.3.4 subject to paragraph 4.3.3 of this rule the additional voluntary contributions can be in the form of a lump sum or periodic contributions but a Member may only elect to make a lump sum contribution within 12 months of joining the Scheme;
- 4.3.5 the lump sum must be paid within three months of the election and periodic contributions shall commence on the birthday following the date of election and shall continue if the Member remains in the employment until Normal Retiring Age;
- 4.3.6 no periodic contribution shall cause contributions to exceed the Maximum Contribution;
- 4.3.7 if the Member who has elected to pay additional voluntary contributions dies or retires on the grounds of ill-health he will be credited with the number of years of additional Reckonable Service which he elected to buy and any outstanding contributions will be cancelled;
- 4.3.8 if he leaves the service for reasons other than retirement on the grounds of ill-health or death, he will be credited with the number of years which he elected to buy if he has made a lump sum payment under this rule 4.3, but, if he was making periodical contributions, he shall be credited with that proportion of the number of additional years of Reckonable Service which he elected to buy, which the period over which he has paid contributions bears to the total period over which he would have paid contributions, had he remained in the service until the contributions would have ceased in accordance with paragraph 4.3.4 of this rule or the Trustees, acting on Actuarial Advice, may agree that the Member may complete his purchase with a lump sum payment;
- 4.3.9 no additional contribution shall be made which would enable the Member to be credited with more than 40 years' Reckonable Service at Normal Retiring Age; and
- 4.3.10 contributions under this rule 4.3 may only be refunded when the benefit payable to a Member under the Rules is a refund of contributions.

**4.4 AVCs by a former member of NHSSS to buy increased lump sum retiring allowance**

A married male Member with Service counting as Reckonable Service in accordance with rule 3.4 may elect to make additional voluntary contributions in accordance with the provisions of NHSSS in order that his service in NHSSS prior to 25 March 1972 shall qualify for lump sum benefits at 3/80ths of Pensionable Salary. An election shall be made by 31 May 1976 in the case of a Member who is married on joining the Scheme or within three months of marriage, if later.

**4.5 Additional voluntary contributions to buy pensions for an invalid child**

A Member who has an invalid child, as defined in this rule 4.5, shall be entitled at any time to elect to pay additional voluntary contributions in order to provide the benefit for that invalid child payable under rule 7.11 and in relation to any such election:

- 4.5.1 the minimum contribution shall be 2% of Salary for the time being payable to the Member;
- 4.5.2 the Member shall be bound to pay contributions equal to 2% of Salary at the time of payment of contributions for each year of Reckonable Service (before any enhancement but including added years) so that, unless he has commenced contributions at the time when his Reckonable Service commenced, he may elect either to pay a lump sum or to make additional periodic contributions in multiples of 2% of Salary as he shall decide, such additional amounts of contributions to continue until he shall have made contributions in respect of all his past Reckonable Service or until he shall leave the service or retire on pension;
- 4.5.3 if, at the date of death or retirement or leaving employment, a Member shall not have made the appropriate contributions in respect of his past Reckonable Service, there shall be due and payable to the Fund out of any lump sum payable to him or arising on his death a sum calculated at the rate of 2/80ths of his Pensionable Salary for each year of past Reckonable Service for which the Trustees have not received contributions due under this rule 4.5;
- 4.5.4 the periodic contributions payable under this rule 4.5 shall not cause contributions to exceed the Maximum Contribution;
- 4.5.5 if the Member leaves the service and the transfer value is paid in respect of him under rule 9.11 the contributions which he has paid under this rule 4.5 shall be repaid to him with interest calculated in accordance with rule 9.10 but subject to the deduction of the appropriate tax under rule 14.5;
- 4.5.6 any election shall be cancelled and the nomination revoked:
- 4.5.6.1 at the option of the Member; or
  - 4.5.6.2 if the invalid child ceases to be permanently incapacitated; or
  - 4.5.6.3 if the invalid child ceases to be dependent on the Member; or
  - 4.5.6.4 if the invalid child dies;
- 4.5.7 on revocation, the Member shall not be entitled to any return of contributions, and shall be liable for any periodical contributions then in arrear, and on leaving the service the Member shall not be entitled to any benefit in respect of his contributions whether or not nomination has been revoked prior to leaving;
- 4.5.8 for the purposes of this rule 4.5, an invalid child is a child nominated by the Member who would qualify by relationship to the Member as an Eligible Child, and who:
- 4.5.8.1 is, or is likely to be, permanently incapacitated; and
  - 4.5.8.2 is wholly or mainly dependent on the Member.

**4.6 AVC Scheme**

If a Member wishes to buy added benefits on a money purchase basis he may elect to make AVCs to the Fund in accordance with the provisions of appendix 3.

**4.7 Deduction of contributions**

Periodic contributions shall be deductible by the Employer from earnings becoming payable to the Member.

## 5. SECTION 5 - EMPLOYER'S CONTRIBUTIONS

### 5.1 Ordinary annual contributions

- 5.1.1 Each of the Employers shall contribute such amounts to the Scheme as may be determined by agreement with the Trustees, acting on Actuarial Advice, to be necessary, having regard to the assets and liabilities of the Scheme.
- 5.1.2 The rates of contribution determined by the Employers and Trustees under rule 5.1.1 shall not be less than such rates as in the opinion of the Principal Employer and Trustees are adequate for the purposes of section 221 to 233 of the 2004 Act.

### 5.2 Additional special contributions

- 5.2.1 The Employer may at any time, and from time to time, pay any single or periodic sum or sums by way of special contribution, and on paying such sum or sums shall state the purpose (which shall not be inconsistent with the purpose of the Scheme in providing benefits that may be paid under a Registered Scheme) for which such payment is being made, and this may be either in augmentation of the Fund for the general purposes of the Scheme or otherwise, and without prejudice to the generality of the foregoing any such payment may include the provision of benefits in exceptional circumstances for an employee or former employee, not qualified by age and service to receive a benefit under the Scheme, or may be to increase the amount of any benefit payable pursuant to the Scheme (including the addition of added years of Reckonable Service in respect of any particular Member or Members), and in any such case the Trustees, acting on Actuarial Advice, shall determine the amount of benefit or increased benefit provided by such payment which shall not exceed the appropriate limit specified in section 10.
- 5.2.2 Without prejudice to the obligations of the Employers under sections 221 to 233 of the 2004 Act, the Principal Employer may determine at any time, or in anticipation of any of the circumstances for which rule 17.3 provides, on Actuarial Advice, and whether or not the most recent actuarial valuation carried out in accordance with rule 15.24 discloses a deficit in the Scheme, to pay a special contribution or series of special contributions to the Trustees and may request the Trustees to give, prior written confirmation as a condition of receipt of any such contribution that it will be applied by them in increasing the amount of any benefit payable in such circumstances (including, without limitation, by way of increase in any amount to be transferred pursuant to rule 17.8).

### 5.3 Payment of contributions

Contributions (including Members' contributions payable under section 4) shall become a debt due from the Employer to the Trustees in accordance with the schedule of contributions in force from time to time pursuant to section 227 of the 2004 Act, and for any period when no such schedule is in force or in respect of contributions payable to which the schedule applies on the 19th day of the month following the month in respect of which they become payable.

## **6. SECTION 6 - BENEFITS ON RETIREMENT**

### **6.1 Entitlement to benefit**

- 6.1.1 Each Member who ceases to be an employee and thereupon retires from the Service on or after Normal Retiring Age and a Member ceasing to be an employee and retiring in accordance with rule 6.5 or rule 6.6, shall be entitled during his life to an annual pension commencing from actual retirement in accordance with this section.
- 6.1.2 Except in relation to retirement under rule 6.5 to 6.8 and subject to paragraphs 6.2 and 6.3, and to the consent of the Principal Employer, a Member who remains in the Service after reaching Minimum Pension Age, shall be entitled to receive his retirement benefits from the Scheme in accordance with the provisions of rule 6.2 and 6.8. The Member must take all of the retirement benefits payable to him at such time and shall not be permitted to continue to accrue benefits under the Scheme.
- 6.1.3 Rule 6.1.2 above shall not apply in respect of Pre-1989 Act Members who already have the entitlement to receive benefits and continue in employment, and who will continue to have such an entitlement under the Scheme.
- 6.1.4 On attaining the age of 70 a Member shall be deemed to have retired notwithstanding that his employment continues.

### **6.2 Retirement at or after Normal Retiring Age**

The benefits payable to a Member on his retirement with entitlement to immediate pension will consist of:

- 6.2.1 an annual pension calculated at the rate of 1/80th of his Pensionable Salary at the date of retirement for each year of his Reckonable Service, not exceeding 40 years' Reckonable Service at Normal Retiring Age and 45 years in total; and
- 6.2.2 a lump sum calculated at the rate of 3/80ths of the same Pensionable Salary for each year of Reckonable Service, not exceeding 40 years' Reckonable Service at Normal Retiring Age and 45 years in total, but so that the amount of the lump sum payment shall be reduced in those cases to which the provisions of rule 3.4 apply except in those cases where the former member of NHSSS has elected to pay additional contributions pursuant to rule 4.4.

### **6.3 National Insurance Modification**

There shall be deducted from the pension payable to each Member who has attained pensionable age under the Social Security Acts an amount equal to £1.70 for each year of Reckonable Service accrued prior to 1 April 1980 with a maximum deduction of £67.75 per annum and for the purposes of this rule 6.3 the following shall be deemed not to be Reckonable Service accrued prior to 1 April 1980:

- 6.3.1 Reckonable Service credited to the Member under rule 3.7.4;



6.3.2 Reckonable Service referred to in rule 4.3; and

6.3.3 Reckonable Service credited to a Member under rule 6.5.

#### **6.4 Option for level pension**

A Member retiring at or after Normal Retiring Age but before State Pension Age shall be entitled to elect in accordance with this rule 6.4 that a higher pension shall be payable to State Pension Age in consideration of a reduction in the pension payable after State Pension Age so that the terms and conditions upon which the Member may so elect are as follows:

- (a) any election in accordance with this rule 6.4 shall be in writing addressed to the Trustees and shall be accompanied by a statement of health in such form as shall be approved by the Employer from time to time;
- (b) if the statement of health is not satisfactory to the Trustees they shall be entitled to request the Member to be examined by a medical practitioner of the Trustees' choice but at the expense of the Member and the Trustees shall be entitled to reject the Member's election if the report of the medical practitioner does not reveal the Member's state of health to be normal or better than normal;
- (c) the amount of pension to be surrendered after State Pension Age and the amount of additional pension to be paid up to State Pension Age shall be in accordance with tables from time to time adopted by the Trustees acting on Actuarial Advice and so that they shall be certified as reasonable by the Actuary;
- (d) no Member may elect to receive a pension at retirement which will exceed the pension payable after State Pension Age by more than the rate taken at the date of retirement, of the basic state pension payable to a single person;
- (e) the amount of pension to be foregone from State Pension Age shall not be such as will in the opinion of the Actuary prejudice the payment of the Guaranteed Minimum Pension from State Pension Age; and
- (f) the amount of pension payable from State Pension Age to the Member shall not be less than the amount which would be payable to the Member's spouse if the Member died on the day before the date of retirement.

#### **6.5 Early retirement on the grounds of ill-health**

A Member who:

6.5.1 in the opinion of:

6.5.1.1 the Principal Employer has become incapable of discharging his duties by reason of permanent ill-health or incapacity; and

6.5.1.2 the Trustees, having received evidence of such registered medical practitioner as the Trustees consider appropriate, has physical or mental deterioration of health to a degree which

prevents the Member, and shall continue to prevent the Member, from following his occupation;

- 6.5.2 retires from the Service in consequence thereof;
- 6.5.3 shall be entitled on retirement to a pension and lump sum calculated in the manner described in rule 6.2.1 and rule 6.2.2 but with: his Reckonable Service equalling his Scheme Service; and
- 6.5.4 in the case of Members who were Supplementary Contributing Members on 31 March 2006, an additional lump sum retirement benefit equal to 0.3/80ths of Pensionable Salary for each year of Scheme Service provided that if the lump sum benefit payable under this rule 6.5.4 is in excess of the limits laid down in section 10 any amount by which the lump sum otherwise payable under this paragraph has to be restricted shall be applied in the provision of additional pension benefits for the Member not exceeding the appropriate limits on pension benefits set out in section 10.

The Trustees may, in any case where any Member under Normal Retiring Age shall have been granted a pension under this rule 6.5, withdraw, suspend or reduce such pension if there shall have been an improvement in the Member's health or if for any reason he is able to carry on remunerative employment, whether with the Employer or otherwise; but so that, on the Member retiring or attaining Normal Retiring Age, the pension payable hereunder shall be restored to either the original award or, having regard to the period of suspension or reduction, such other amount as the Trustees, acting on Actuarial Advice, may think fit.

#### **6.6 Compulsory Retirement and Flexible Retirement**

A Member who has at least five years' Reckonable Service and who is subject to Compulsory Retirement or Flexible Retirement on or after attaining the Minimum Pension Age shall become entitled to benefits in accordance with any structured agreement for the enhancement of benefits on premature retirement which has been adopted by the Employer with the agreement of the Trustees for the purposes of this rule 6.6 provided that the total benefits to be provided by the Scheme in respect of a Member shall not exceed any of the appropriate limits set out in section 10.

#### **6.7 Approved Retirement**

Where the Member's retirement is Approved Retirement the Member shall become entitled to the following benefits:

- 6.7.1 the immediate payment of a lump sum at the rate of 3/80ths of Pensionable Salary for each year of Reckonable Service; and
- 6.7.2 the immediate payment of a pension at the rate of 1/80th of Pensionable Salary for each year of Reckonable Service.

#### **6.8 Actuarially Reduced Retirement**

A Member whose retirement is Actuarially Reduced Retirement shall become entitled (but only on and after their Minimum Pension Age) to the immediate payment of a lump sum and pension calculated in accordance with rule 6.7 but then actuarially

reduced to take account of early retirement by such amount as the Trustees, acting on Actuarial Advice, shall determine provided that the reduction shall not be such as to reduce the pension below the Guaranteed Minimum Pension payable at State Pension Age.

#### **6.9 Pension after reduction in Salary**

Where a Member has suffered a reduction in Salary, then the Member may elect at retirement to have his benefits calculated in accordance with whichever is appropriate to his circumstances of paragraphs 6.9.1 and 6.9.2 below:

6.9.1 where a Member's appointment is changed to one with a lower Salary prior to retirement, the Member may, if it produces a larger pension, be deemed upon retirement to have resigned at the date of the change of appointment and taken preserved benefits calculated in accordance with rules 9.2 and 9.3 in respect of the period of service prior to the date of change, based on his Pensionable Salary at the date of change, which pension shall then be increased in accordance with the provisions of section 11, and he will be deemed to have earned additional benefits in respect of the Reckonable Service subsequent to the down-grading based on his Pensionable Salary at final retirement; and

6.9.2 a Member down-graded with a change of responsibilities to meet the requirements of the Employer may, instead of having his pension calculated in accordance with paragraph 6.9.1 above, calculate his benefits by reference to a Pensionable Salary, being the highest average Salary in any period of three consecutive years ending in the last ten years, but so that the Salary in respect of any of the three years (unless it is the last year before the date of retirement) shall be increased, in proportion to increases in the Index, from the last day of each such year up to the date of retirement, but not so as to make it greater than it would have been if the down-grading had not occurred.

#### **6.10 Re-employment of Pensioner**

If a Member receiving a pension under the Rules is before having attained the age of 70 re-employed full-time by the Employer in a grade the same as, or higher than his grade on retirement, the whole of the pension will be suspended. If he is re-employed in a lower grade, or in a part-time capacity, the pension in payment to him (including pensions increase applicable thereto which has become payable under section 11) will be reduced to the amount by which his Salary on the last day of his earlier service as increased in the same proportion as the increase in pension as aforesaid exceeds his Salary on the first day of re-employment. While he remains re-employed that part of the pension (if any) in payment will attract pensions increase and will not be adjusted on account of ordinary pay increases in his grade but if, on the other hand, he changes his grade or changes from full-time to part-time employment, the amount of abatement will be increased or decreased, as the case may be, by the amount of increase or decrease in his annual rate of Salary resulting from the change. On final retirement or on attainment of age 70, if earlier, the pension and lump sum award will be determined either by aggregating the subsequent service with the earlier service and having regard to the Pensionable Salary on the second retirement or by adding to the initial award (including all pensions increases applicable thereto as if it had never been suspended) an additional pension and lump sum based only on subsequent service, whichever gives the greater benefit. If any lump sum benefit has already

been paid it will not be duplicated (In the latter case earlier service will count as Qualifying Service).

**6.11 Re-employment of ill-health Pensioner**

If a Member who is receiving an ill-health pension under the provisions of rule 6.5 is re-employed by the Employer, his pension, if not suspended under rule 6.5 will be reduced to exclude the element of enhancement under "Scheme Service" as envisaged under that rule and rule 6.10 will apply to the reduced pension.

**6.12 Re-employment of deferred pensioner**

If a person who has been awarded a preserved pension under rule 9.2 is re-employed by the Employer before attaining Normal Retiring Age he may opt, immediately on re-employment if the pension is already in payment, or, if the pension is not in payment, at a time when the pension is due to come into payment or at the end of his re-employment (whichever is the earlier), to be treated in one of two ways:

6.12.1 to cancel his preserved pension and lump sum from the date of re-employment and to count his previous Reckonable Service with his service during re-employment for a single pension award based on Pensionable Salary at final retirement and the aggregate period of Reckonable Service provided that if the preserved pension had already been brought into payment the lump sum already received will be deducted from the lump sum payable at final retirement; or

6.12.2 to retain his preserved pension and lump sum, which shall remain subject to pension increase, and his service during re-employment counts towards a second pension and lump sum with his earlier service counting as Qualifying Service for the second period.

This rule 6.12 shall not apply in a case to which rule 3.14 applies.

**6.13 AVC benefits**

Any Member who has paid AVCs pursuant to rule 4.6 and appendix 3 shall be entitled to such additional benefits on retirement as are secured thereby.

**6.14 Commutation**

6.14.1 Any Member who retires from Reckonable Service on or after 6 April 2006 and who is under age 75 and whose Lifetime Allowance is available (wholly or in part) may, upon receipt of his pension under the Scheme, commute such part of his pension up to the value of the maximum lump sum set out in paragraphs 31 to 34 of part 3 of schedule 36 of the Finance Act and any regulations made under it, taking into account the lump sum payable under rule 6.2.2, or such higher amount as permitted by the Principal Employer and the Trustees in writing, subject to section 13.

6.14.2 Subject to rule 6.14.1:

6.14.2.1 the Member shall be entitled to elect by notice in writing to the Trustees to take a lump sum in exchange for a reduction in his pension by such amount as shall be considered

appropriate, having regard to the lump sum payable, by the Trustees, acting on Actuarial Advice; and

6.14.2.2 the benefits to which a Member is entitled in respect of any AVCs paid to the Fund may be taken by way of a lump sum, rather than in the form of pension, except that a Member who elected to pay AVCs before 8 April 1987 and who already had an entitlement to receive AVCs by way of a lump sum shall continue to have such an entitlement under the Scheme.

6.14.3 If a Member has exchanged part of his pension for a lump sum before 6 April 2006 and chooses to defer receipt of all or part of his pension to which the lump sum relates, then he is not able to commute any further part of that pension for a lump sum.

## **7. SECTION 7 - BENEFITS ON DEATH**

### **7.1 Lump sum benefits on death in Service**

Where a Member dies in Service, there will be raised out of the Fund, and held upon the Discretionary Trusts, a sum equal to whichever is the greatest of:

- 7.1.1 the contributions of the Member to the Fund with compound interest thereon calculated at the rate of 4% per annum (or such other rate of interest as the Trustees, acting on Actuarial Advice, may decide) on the amount for the time being standing to the credit of such Member, with annual rests, such rests to be made on the Accounting Date (or such other date as the Trustees shall in their absolute discretion so decide) in each year, no interest being allowed for part of a year on intermediate payments of contributions;
- 7.1.2 four year's Pensionable Salary calculated as at the date of death or in accordance with rule 3.12.4; and
- 7.1.3 the lump sum which the Member would have received if he had retired on medical grounds on the day before the day of his death.

### **7.2 Lump sum benefit on death after retirement**

- 7.2.1 Where a Pensioner dies and the actual amount paid by way of pension and lump sum retirement benefits is less than the greater of five times the annual rate of pension in payment to him at the date of death (including any increase under the Pensions (Increase) Act 1971, as amended) the Trustees shall raise the balance out of the Fund and hold it upon the Discretionary Trusts.
- 7.2.2 On the death of a Pensioner who is in receipt of benefits pursuant to rule 6.5 and who does not leave a surviving Spouse or Dependant entitled to benefit under rule 7.4 or 7.6 the Trustees shall raise out of the Fund an amount determined by them acting on Actuarial Advice to be equal in value to the pension which would have been payable if the Member had left a surviving Spouse of the same age as the Member less the pension that would have been payable had the member not retired pursuant to rule 6.5. The amount so raised shall be held by the Trustees upon the Discretionary Trusts.

### **7.3 Surviving Spouse's pension on death in Service**

Subject to the overriding provisions of section 10, the surviving Spouse of a Member who dies in the Service shall be entitled to receive a pension equal to the Member's Pensionable Salary for the period of three months from the date of his death and thereafter an annual pension equal to one-half of the amount of pension that would have been payable to the Member if the Member had retired on pension on the grounds of ill-health or incapacity under rule 6.5 on the day immediately preceding the date of death.

#### **7.4 Surviving Spouse's pension on death after retirement**

Subject to the provisions of section 10, the surviving Spouse of a Pensioner in receipt of a pension shall be entitled to receive a pension equal to the Pensioner's own pension payable at the rate in force immediately prior to the date of death for a period of three months from the date of death and thereafter an annual pension equal to one-half of the amount of the annual pension payable to the Pensioner at the rate in force immediately prior to the date of death increased by the amount of the reduction of the Pensioner's pension under rule 6.3 or section 8 and any pensions increases which would have been added if one or both of those reductions had not been made.

#### **7.5 Provisions applicable to all surviving Spouse's pensions**

7.5.1 Any pension payable under rule 7.3, 7.4 or 7.6 shall be payable to the surviving Spouse for life or unless and until the surviving Spouse remarries or co-habits with another person as a spouse.

7.5.2 The Trustees may, if in their absolute discretion they think fit to do so, continue or revive for the duration of the life of the surviving Spouse (in a case to which paragraph 7.5.1 of this rule applies) the whole or any part of the pension which ceases or has ceased to be payable under the provisions of this rule 7.5 if there are compassionate grounds for doing so or if the second marriage comes to an end or if the surviving Spouse ceases to live with another person as a spouse.

7.5.3 A pension payable to a Spouse (other than the legal spouse or registered civil partner of a Member in membership on or before 1 April 2006) shall be reduced in cases where the Spouse is more than ten years younger than the Member by such amount as the Trustees shall decide to be appropriate, on the advice of the Actuary; provided that this paragraph 7.5.3 shall not apply so as to reduce the pension payable to a legal spouse or registered civil partner to less than the Guaranteed Minimum Pension payable under rule 13.3.

#### **7.6 Pension for adult Dependant**

On the death of a Member or Pensioner other than a Member or Pensioner who has a Spouse, the Trustees may pay by way of pension an annuity, not exceeding the amount which would have been payable under whichever would have been the appropriate rule if the Member or Pensioner had been married, to any other adult person who would qualify as a Dependant of the Member or Pensioner and, in exercising the discretion vested in them by this paragraph, the Trustees shall have regard to, but shall not be bound by, any wishes of the Member or Pensioner expressed in writing.

#### **7.7 Children's benefits**

On the death of a Member while employed by the Employer or having retired on the grounds of ill-health under rule 6.5 or on the death of a Pensioner, in each case leaving an Eligible Child or Children then, subject to the overriding provisions of section 10, an annuity shall become payable out of the Fund for the benefit of the Eligible Child or Children, for so long as there is an Eligible Child, in accordance with the following provisions of this rule 7.7:

- 7.7.1 in the case of the death of a Pensioner, the annuity shall be equal to a fraction (calculated in accordance with paragraph 7.7.4, 7.7.5 or 7.7.6 below) of the pension payable to the Pensioner (after adding back any reduction under rule 6.3 and any pensions increase which would have been added if that reduction had not taken place) and so that on the death of a Pensioner who was in receipt of a pension based on less than ten years' Reckonable Service his pension shall be recalculated if it gives a higher figure to a pension based on the lesser of ten years' Reckonable Service or what would have been his Reckonable Service had he stayed employed in a full time capacity until he had attained the age of 65;
- 7.7.2 in the case of a Member who dies while still in the employment of the Employer, the annuity shall be equal to a fraction (calculated in accordance with paragraph 7.7.4, 7.7.5 or 7.7.6 below) of the pension which would have been payable to the Member if he had retired on the day immediately preceding the day of his death and, in the case of a death before Normal Retiring Age, on the grounds of ill-health (and so that the provisions of paragraph 7.7.3 below shall apply in appropriate cases);
- 7.7.3 in the case of a Member who has retired on the grounds of ill-health under rule 6.5 or would have been entitled to benefit under those Rules if he had retired on the date of his death, the annuity shall be based on the fraction of the pension which would have been payable if he had been entitled to benefit under rule 6.5, or, if greater, the pension which would have been payable on the basis of ten years' Reckonable Service;
- 7.7.4 where the Eligible Children are in the care of a surviving parent, the fraction shall be one-quarter of the pension if there is one Eligible Child and one-half of the pension if there are two or more Eligible Children;
- 7.7.5 if the Eligible Children are in the care of some other person the fraction shall be one-third of the pension if there is one Eligible Child and two-thirds of the pension if there are two or more Eligible Children; and
- 7.7.6 in cases where the fraction is calculated under paragraph 7.7.4 above and the surviving parent dies, the annuity then payable in respect of the Eligible Child or Children shall be increased by one-third.

Notwithstanding the provisions of rule 7.7.1 to 7.7.6 above, where a higher pension is payable, the Member's or Pensioner Member's Reckonable Service shall be his Scheme Service.

## **7.8 Duration and payment of children's annuities**

The annuity payable under rule 7.7:

- 7.8.1 shall commence on the death of the Member, if there is no surviving Spouse's pension payable or six months after the death of the Member or on the earlier death of the surviving Spouse if such a surviving Spouse's pension is payable;
- 7.8.2 may be divided into parts and may be paid, at the discretion of the Trustees, to any person or persons approved of by them who undertakes to apply the annuity or part of the annuity for the maintenance or benefit



of all or any one or more of the Eligible Children, and the Trustees shall not be under any obligation to see to the application of any such annuity or part of the annuity payable in respect of such Eligible Child or Children and paid to such person or persons as aforesaid; and

7.8.3 shall be reduced as appropriate when the number of Eligible Children falls to one.

#### **7.9 Duplication of children's annuities**

Where a child qualifies as an Eligible Child of more than one Member he shall be entitled to an annuity, in accordance with rule 7.7 in respect of each Member.

#### **7.10 Meaning of Eligible Child**

For the purposes of rule 7.7 "Child" means the child of a Member (including legally adopted children, step-children and illegitimate children) and the child (inclusive as aforesaid) of a deceased brother or sister of the Member or a brother or sister of the Member and "Eligible Child" means a child, as defined, who was wholly or partly dependent on the Member or conceived at the time of the Member's death (or at the date of retirement, if death occurs after retirement) and:

7.10.1 is under 17 years of age;

7.10.2 is and has been continuously since attaining the age of 17 receiving full-time education or undergoing full-time training of at least two years' duration for any trade profession or vocation, the remuneration for which is not more than the maximum allowable remuneration as from time to time specified by the Employer; or

7.10.3 although not complying with paragraph 7.10.2 above is receiving full-time education or undergoing full-time training approved of by the Trustees;

save that a pension payable under rule 7.7 will be paid to an Eligible Child until age 23 or continue to be paid to the persons and in the circumstances referred to in paragraph 15 (2) of schedule 28 of the Finance Act, as modified by article 34 of The Taxation of Pension Schemes (Transitional Provisions) Order 2006 if, prior to 6 April 2006, such a pension would have been payable under the Scheme.

#### **7.11 Purchased pension for invalid child**

When a Member who has elected to make contributions pursuant to rule 4.5 dies, whether before or after retirement, there shall become payable out of the Fund a pension in accordance with the following provisions:

7.11.1 the pension shall be payable to or for the benefit of the nominated invalid child (and not any other invalid child);

7.11.2 the pension shall be of an amount equal to one-half of the pension which the Member was receiving at the date of his death (increased by the reduction for National Insurance Modification under rule 6.3 and any pensions increase which would have been added if that reduction had not been made), or, if he was then in the service, would have been receiving

if he had retired on the grounds of ill-health on the day before the date of his death;

7.11.3 if the invalid child is, at the date of the Member's death, an Eligible Child the pension shall not commence until the child ceases to be an Eligible Child at age 17;

7.11.4 once in payment, the pension shall continue for the life of the invalid child or until he ceases to be permanently incapacitated, which fact shall be determined by the Trustees acting on appropriate medical advice; and

7.11.5 the pension payable under this rule 7.11 shall be paid to the invalid child unless the Trustees in their absolute discretion decide to pay the pension to any person or persons approved of by the Trustees who has the care of the invalid child and who undertakes to apply the annuity for the maintenance or benefit of him, and the Trustees shall not be under any obligation to see to the application of any such annuity paid to such person as aforesaid.

## **7.12 AVC death benefits**

Any benefits for the Dependants of a Member payable on his death which are secured by AVCs payable under rule 4.6 and appendix 3 are additional to the benefits provided under this section.

## **8. SECTION 8 - ALLOCATION**

### **8.1 Beneficiaries**

In this section "beneficiary" means a person in whose favour an allocation is made by the Member, being either the Spouse of the Member or other person who is dependent on the Member (not being an Eligible Child).

### **8.2 Time of allocation**

An allocation may be made by a Member at one of the following times but not at more than one of those times, that is to say:

8.2.1 at the time the pension comes into payment or, if the Member retires before Normal Retiring Age with entitlement to Short Service Benefits, at such earlier age as the Trustees in their absolute discretion may allow; or

8.2.2 at any time after retirement and so that this rule 8.2 shall apply to any Pensioner who has not made an allocation on or prior to his retirement whenever such Pensioner retired.

### **8.3 Entitlement to make allocation**

Any Member may make an allocation except a Member who is granted a pension on the grounds of ill-health or incapacity and a Member the medical examination of whom does not indicate that he has the normal expectation of life.

### **8.4 Type of annuity**

When an allocation is made under this section, a pension will be paid to the beneficiary nominated by the Member so that the pension to be paid to the beneficiary will commence on the date of the Member's death and continue until the date of the beneficiary's death.

### **8.5 Amount of allocation and pension**

Depending on the Member's allocation, the annual amount of the annuity to be paid to the beneficiary or the amount of pension payable to the Member which is allocated to the provision of the pension for the beneficiary will be determined by the Trustees having regard to Actuarial Advice and having regard also to the age and sex of the Member and of the beneficiary, so that the amount of pension allocated by the Member is actuarially equivalent to the amount of pension secured for the beneficiary.

### **8.6 Restrictions on allocation**

The annual amount of pension allocated by the Member under rule 8.5 must be an exact number of pounds and may not exceed:

8.6.1 one-third of the Member's pension prior to allocation; or

8.6.2 an amount which would have the effect of making the pension payable to the beneficiary greater than the remaining pension payable to the Member.

**8.7 Number of allocations**

A Member may make a number of allocations in favour of different beneficiaries provided that the total of all allocations and the total of all pensions payable to the beneficiaries shall not exceed the limits set out respectively in paragraphs 8.6.1 and 8.6.2 of rule 8.6.

**8.8 Death of beneficiary**

The pension payable to a Member shall be permanently reduced by any allocation made under this section even in the event of the death of the beneficiary before the Member.

**8.9 Medical report**

The Trustees shall in all cases obtain a medical report into the state of health of the Member at the time when his application for an allocation is made under this section, and shall, in the event of the medical report being adverse to the extent that the Member does not have the normal expectation of life, refuse to accept the application.

**8.10 Administrative arrangements**

The Trustees may, in their absolute discretion, make such administrative arrangements and issue such regulations for the effective operation of this section as they shall think fit.

## 9. SECTION 9 - PRESERVATION OF BENEFITS ON LEAVING THE SERVICE

### 9.1 Application of this section

This section shall apply to a Member who (otherwise than by death) leaves the Service, or opts out of the Scheme, before attaining Normal Retiring Age, whether voluntarily or involuntarily, without an immediate pension becoming payable to him.

### 9.2 Entitlement to Short Service Benefits

Subject as hereinafter provided, a Member to whom this section applies and who at the time of leaving the service has completed two years' Qualifying Service shall be entitled to those benefits (hereinafter called "Short Service Benefits") whose descriptions (whether pension, annuity, lump sum or otherwise and including any option to substitute the one for the other, either in whole or in part) correspond to the benefits (hereinafter called "Long Service Benefits") which, in accordance with the Rules in force at the time of the Member's leaving the service, would fall to be paid to or in respect of all or any of the Member, his surviving spouse, Dependants and personal representatives if he remained in service until, and retired upon, attaining Normal Retiring Age or State Pension Age, in the case of a former female employee with a Normal Retiring Age of 65.

### 9.3 Amount of Short Service Benefits

Short Service Benefits shall be computed on the same bases as the corresponding Long Service Benefits, but by reference to the Member's Reckonable Service and Pensionable Salary at the time of his ceasing to be a Member (or in the case to which rule 9.11.8 applies by reference to his Reckonable Service before 6 April 1988) provided that in any case where alternatives to Short Service Benefits are provided under any of the provisions of the Scheme without the consent of the Member being required the Trustees shall be reasonably satisfied (acting on Actuarial Advice) that the alternatives (whether in the form of pension and lump sum or in the form of payment of a transfer value or partly in one way and partly in another) are in the aggregate equal to or in excess of the value on the dates mentioned in regulation 12(5) to (7) of The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (as amended) of any benefits which have accrued to or in respect of the Member under the provisions of the Scheme.

### 9.4 Additional benefits and credits

Short Service Benefits shall include all additional benefits to which the Member would be entitled as Long Service Benefits, including any additional benefit which:

- 9.4.1 has been granted either at the time Membership commenced or subsequently in respect of service prior to the date of grant;
- 9.4.2 is not related to length of Reckonable Service or the number or amount of contributions paid; or
- 9.4.3 represents a transfer of accrued rights from another scheme;

provided that in the case of:

- 9.4.3.1 an additional benefit to which the Member is to contribute the whole or a part of the cost where such whole or part has not been fully contributed by the time service is terminated; and
- 9.4.3.2 an additional benefit under 9.4.1 or 9.4.2 above to which the Member has not contributed;

Short Service Benefits shall include only such proportion of the additional benefit, as the period of service since the date on which the benefit commenced to accrue bears to the period from such date until Normal Retiring Age but the Trustees may within three months of the termination of service accept a payment, calculated on Actuarial Advice, from the Member in settlement of any contributions outstanding under proviso 9.4.3.1 above.

**9.5 Time of payment**

Short Service Benefits shall be payable at the same times, and upon the happening of the same events, as the corresponding Long Service Benefits would be payable.

**9.6 Pensions increases**

Pensions increases shall be added to Short Service Benefits after Normal Retiring Age at the same time and to the same extent as to Long Service Benefits. (Under rule 11.1 notional pensions increases are added to Short Service Benefits not yet in payment).

**9.7 Allocation**

The provisions of section 8 (allocation of annuity for surviving spouse or Dependants) shall apply to a Member entitled to Short Service Benefits.

**9.8 Discretionary powers for Trustees to bring Short Service Benefits into payment**

- 9.8.1 If a person who has been awarded Short Service Benefits falls ill or suffers some other incapacity before reaching the Normal Retiring Age the Short Service Benefits may at his request be brought into payment immediately if it is established that his illness or incapacity would have led to retirement on medical grounds had he remained a Member.
- 9.8.2 Any person who is entitled to Short Service Benefits and has attained Minimum Pension Age may request the Trustees to permit him to retire on pension and, if so permitted by the Trustees, the pension payable to the Member shall be based on his Short Service Benefits but the amount of pension shall then be reduced by such actuarial factors as the Trustees may determine, on Actuarial Advice.
- 9.8.3 No reduction shall reduce the pension from State Pension Age below the amount of the Guaranteed Minimum Pension or such higher amount as the Trustees may from time to time determine.

## **9.9 Death before Short Service Benefits come into payment**

On the death of any Member entitled to Short Service Benefits:

- 9.9.1 there shall be raised out of the Fund and held by the Trustees upon the Discretionary Trusts a sum equal to the lump sum which would have been paid to the Member if he had commenced to draw his pension under rule 9.8 on the day before the date of his death;
- 9.9.2 the Member's surviving Spouse shall be entitled to receive a pension from the date of the Member's death equal to one-half of the pension benefits which would have been paid to the Member if the Member had retired under rule 9.8.2 (save that no reduction to pension for early payment shall be taken into account for the purposes of this rule 9.9.2) on the day before the date of death;
- 9.9.3 the benefits payable in respect of Eligible Children shall be calculated by reference to the Member's notional pension payable under paragraph 9.9.2 above and shall commence on the death of the Member;
- 9.9.4 any pension secured under rules 4.5 and 7.11 for an invalid child shall immediately come into payment; and
- 9.9.5 the amount of the benefits becoming payable under paragraphs 9.9.2 and 9.9.3 above shall be subject to the overriding provisions of section 10.

## **9.10 Refunds of contributions**

- 9.10.1 Where a Member ceases to be in Membership without entitlement to benefits under section 6 or Short Service Benefits under this section 9 he shall be entitled to a refund of his contributions (subject to the restrictions in rule 4.1) but subject to the deductions referred to in rules 13.8 and 14.5 and shall automatically receive such a refund of contribution if:
  - 9.10.1.1 within 183 days of the date of a Member's statement of his benefits and the options he has available under the Scheme on leaving Service or the date of leaving Service if later, the Member has not notified the Trustees in writing that he wishes to exercise his right to transfer under rule 9.11; and
  - 9.10.1.2 within 12 months of the date of receipt of the Member's notification in writing to the Trustees under paragraph 9.10.1.1 above, the Member has not provided all such details as shall be reasonably required by the Trustees to transfer the Member's benefits in accordance with rule 9.11;unless the Trustees in their absolute discretion determine that the Member may continue to exercise his right to transfer under rule 9.11.
- 9.10.2 A Member who leaves employment with an entitlement to Short Service Benefits may elect to receive the contributions paid by him prior to 6 April 1975 subject to the deduction referred to in rule 14.5.

- 9.10.3 Save as aforesaid a Member entitled to Short Service Benefits shall not be entitled to a refund of his own contributions.
- 9.10.4 Any refund of the contributions of a Member entitled to Short Service Benefits shall be an alternative to Short Service Benefits in respect of Service in relation to which such contributions were paid.
- 9.10.5 In this rule 9.10 references to contributions paid by a Member shall include all contributions (whether ordinary additional or voluntary contributions) paid by him to the Fund and to any other scheme or arrangement in which he formerly participated and which have been transferred to the Fund, other than contributions paid under rule 4.5 when his nomination has been revoked prior to leaving the service.
- 9.10.6 A Member entitled to a refund of his contributions as aforesaid shall also be entitled to receive compound interest thereon at the rate of 4% per annum or such other rate as the Trustees may from time to time, in their absolute discretion, decide) on the amount of his contributions for the time being with annual rests such rests being made on the Accounting Date in each year; no interest shall be allowed on intermediate payments of contributions.
- 9.10.7 Save as otherwise stated in this rule 9.10.7, where a Member has at least three months', but less than two years', Qualifying Service he may request a transfer of his benefits under the Scheme in accordance with rule 9.11. A Member who does not choose this option within a reasonable period of leaving Reckonable Service (not to be less than three months after the Member has been provided with a relevant notice of his rights under the Scheme in accordance with statutory requirements) shall be deemed to have requested a refund of his contributions.

**9.11 Transfer values**

Where the Reckonable Service of a Member terminates at least one year before Normal Retiring Age and on the date when it terminates he has accrued rights to benefit under this section he may in lieu of Short Service Benefits or a refund of contributions under rule 9.10 if the Member has complied with the relevant requirements of rule 9.10.1.1 and 9.10.1.2 opt in accordance with section 95 of the Pension Schemes Act for the cash equivalent of any benefits which have accrued to or in respect of him at the date on which his Reckonable Service terminates or at such later date as he makes an application and on making such application those provisions of chapter IV part IV of the Pension Schemes Act ("**chapter IV of part IV**") relating to the calculation and application of the cash equivalent shall apply, the salient points of which are:

- 9.11.1 the amount of the cash equivalent shall be determined in accordance with section 97 of the Pension Schemes Act;
- 9.11.2 the cash equivalent shall be utilised in accordance with section 95 of the Pension Schemes Act:
  - 9.11.2.1 effecting a transfer to a Transfer Scheme in accordance with section 95(2)(a) of the Pension Schemes Act;



- 9.11.2.2 purchasing from one or more insurance companies one or more annuities which satisfy the requirements prescribed by regulations made under section 95(2)(c) of the Pension Schemes Act;
- 9.11.2.3 subscribing to any other pension arrangements as may be so prescribed;
- 9.11.3 a Member may exercise the rights referred to in chapter IV of part IV partly in one way and partly in another so long as the whole of the cash equivalent or that part of it which is not to be applied in protecting his accrued rights to Guaranteed Minimum Pension is so utilised;
- 9.11.4 the rights conferred by chapter IV of part IV may be exercised at any time up to the later of one year before Normal Retiring Age or six months after leaving the Service but may not be exercised if:
  - 9.11.4.1 the Member has received any refund of contributions under rule 9.10;
  - 9.11.4.2 the pension of the Member has been commuted under rule 12.3; or
  - 9.11.4.3 the Scheme is totally wound up or if it is partially wound up and the Member's interest in the Fund becomes subject to the winding up provisions;
- 9.11.5 applications shall be in writing signed by the Member and delivered to the Trustees in accordance with section 95 of the Pension Schemes Act;
- 9.11.6 any application under this rule 9.11 may be withdrawn at any time prior to the Trustees making or becoming bound to make a transfer payment or purchasing or becoming bound to purchase an annuity or subscribing or becoming bound to subscribe to any other pension arrangement as aforesaid;
- 9.11.7 in so far as any of the provisions of this rule 9.11 conflict with the provisions of chapter IV of part IV which have overriding effect then those provisions of chapter IV of part IV shall prevail;
- 9.11.8 notwithstanding anything contained in this rule 9.11, when a Member withdraws under rule 2.5 and appendix 2 hereof his rights to his cash equivalent shall be limited to the cash equivalent of the benefits accrued after 5 April 1988 but without prejudice to the right of the Trustees to increase the amount of the cash equivalent to that which would have been payable if his employment as well as his Reckonable Service had terminated and so that:
  - 9.11.8.1 notwithstanding anything in this paragraph the provision of The Occupational Pension Schemes (Transfer Value) Regulations 1996 (as amended) shall have overriding effect; and

9.11.8.2 entitlement to Short Service Benefits shall remain in respect of the period up to and including 5 April 1988 unless the Trustees exercise their discretion as aforesaid; and

9.11.9 this rule 9.11 shall not apply to any Member who has received any benefit under rule 6.6, 6.7 or 6.8 even though the payment of the pension referred to in those Rules is deferred until Normal Retiring Age.

## **9.12 Buying out Short Service Benefits**

The Trustees may at their absolute discretion and on the written request of the Member concerned buy out the Short Service Benefits to which he is entitled with a sum equal to the amount which would have been payable under rule 9.11 on a transfer by purchasing from an Insurance Company of the Member's choice a policy or annuity contract to which the following provisions and conditions shall apply:

9.12.1 the benefits provided by such a policy or annuity contract may be different from the Member's Short Service Benefits, so long as they shall constitute Authorised Payments;

9.12.2 any policy or contract so purchased shall be purchased in the name or names of the person or persons to whom the benefits purchased are to be paid and, in so far as it relates to any excess over the Guaranteed Minimum Pension, may provide for:

9.12.2.1 at the Member's option for an annuity to be purchased on the open market with the policy proceeds at maturity provided that such proceeds are transferred direct to another Insurance Company and that the new annuity contract contains the same restrictions on commutation and further assignment as are herein mentioned;

9.12.2.2 the Member to surrender it at a later date and the surrender value transferred direct to a Transfer Scheme of a subsequent Employer of which the Member becomes a Member;

9.12.3 any policy or contract so purchased shall permit a lump sum to be paid only to the extent and in the circumstances permitted by these Rules, shall provide for a deduction to be made of any tax due on such lump sum and shall have the aggregate benefits limited as necessary to comply with the requirements of section 10. The policy or contract must be endorsed before it is given to the Member as follows:

9.12.3.1 to ensure that the benefits cannot be assigned;

9.12.3.2 to ensure that the policy or contract cannot be assigned or surrendered except a surrender for the purpose of transferring the value to a Transfer Scheme of a subsequent employer to secure benefits in that scheme subject to the Insurance Company certifying to the administrator of the receiving scheme the maximum amount which can be paid out in lump sum form; and

9.12.3.3 to show the maximum extent in monetary terms to which benefits may be taken in lump sum form either by way of commutation or on death; and

9.12.4 no Member or spouse or dependant or child of a Member on whose behalf any such policy or contract is purchased under the provisions of this rule 9.12 shall thereafter have any claim upon or interest in the Fund and the consent of any such contingent beneficiary (other than the Member) shall not be required to the purchase of such policy or contract or to the extinguishment of his or her rights under the Scheme notwithstanding any express or implied provision to the contrary contained in the Rules.

### **9.13 Transfers to a Transfer Scheme**

Where a payment of the cash equivalent is made to a Transfer Scheme:

9.13.1 it shall be the duty of the Trustees to ascertain from the administrator or Trustees of the Transfer Scheme the section and the act under which the Transfer Scheme is approved by HMRC;

9.13.2 the Trustees shall certify to the Trustees or administrator of the Transfer Scheme the amount included in the cash equivalent which represents the Member's contributions and interest (if any) and may require the administrator or Trustees of the Transfer Scheme to undertake to treat only such amount as employee's contributions in the Transfer Scheme;

9.13.3 the amount of the cash equivalent shall in all circumstances, include any amount representing a former employer's contributions and interest which may have been transferred to the Fund pursuant to rule 3.7, on such Member joining the Scheme; and

9.13.4 notwithstanding the foregoing provisions, in cases where the Trustees have entered into reciprocal transfer arrangements, the Trustees shall give effect to those transfer arrangements in the appropriate cases.

### **9.14 Trustees right to buy-out preserved benefits**

Where benefits are preserved in the Scheme and the Member has less than five years' Reckonable Service at the date of ceasing to be a Member the Trustees shall have the right to purchase a policy which satisfies the requirements of the Pension Schemes Act in order to discharge their liability to and in respect of the Member in accordance with and subject to the provisions of regulation 12(4)(aa) and regulation 12(4A) of the Occupational Pension Schemes (Preservation of Benefits) 1991.

### **9.15 AVC benefits**

If the Member was making AVCs under rule 4.6 and appendix 3 prior to leaving the service:

9.15.1 if a transfer value is paid pursuant to rule 9.11 the amount of benefits payable in accordance with the provisions of appendix 3 may, at the Member's election, be paid to some other AVC Scheme maintained in conjunction with any Transfer Scheme to which a payment is made; and

9.15.2 if paragraph 9.15.1 hereof is not applied the Short Service Benefits to which the Member becomes entitled under this section shall include the benefits secured by the amount of AVCs paid by him up to the date of leaving the service, and the alternatives to Short Service Benefits set out in this section shall apply if they are appropriate.

## 10. SECTION 10 - RULES INCORPORATING INLAND REVENUE REQUIREMENTS

Unless specifically stated elsewhere in the Rules, the limits to benefits set out in this section 10, which reflect the limits of HMRC prior to 6 April 2006, shall continue to apply to the Scheme on and from that date on the basis of the terms applicable immediately prior to that date, and any reference in the Rules to the payment of benefits in excess of such limits being subject to not prejudicing Approval, shall be interpreted after 5 April 2006 as maintaining the same terms for Approval as applied on 5 April 2006, unless the Principal Employer and Trustees determine that such limits shall not apply to any Member or group of Members or different elements of benefits of such Member or group of Members.

### 10.1 General

Notwithstanding anything to the contrary in the Rules:

- 10.1.1 any terms used in the Scheme as a measure of the annual earnings of a 1989 Act Member for the purpose of calculating benefits are to be interpreted as though those earnings are no greater than the permitted maximum as defined in section 590C(2) of the Taxes Act; the benefits so calculated may be augmented up to the maximum limits in 10.1.2 below; and
- 10.1.2 the benefits payable to a Member or to a Member's spouse, Dependants or other beneficiaries in respect of the Member shall not, when aggregated with all benefits payable to the same person and provided under all other schemes established by the Employer or to which the Employer has contributed, exceed the limits set out in this section, except with the approval of HMRC.

### 10.2 Definitions

For the purpose of the limits set out in this section the following terms shall have the meanings ascribed to them:

**"Aggregate Retirement Benefit"** means the aggregate of:

- (a) the Member's pension under this Scheme and any Associated Scheme (before any voluntary reduction in pension to provide additional benefits for spouse or Dependants); and
- (b) the pension equivalent of the Member's lump sum retirement benefit;

but in relation to Rules 10.6 and 10.13 below has the modified meaning contained in those Rules;

**"Associated Employer"** in relation to two or more employers means each such employer if one is controlled by the other or both are controlled by a third party. Control has the meaning set out in section 840 of the Taxes Act, or in the case of a close company, section 416 of the Taxes Act;

**"Associated Employment"** means two or more concurrent employments held by the Member which are associated, that is:

- (a) there is a period during which the Member has held all of them;

- (b) the period counts under the Scheme in the case of all of them as a period in respect of which benefits are payable; and
- (c) during the period all the employers in question are associated;

"Associated Scheme" means either (a) or (b) below as appropriate:

- (a) in respect of a 1989 Act Member any Relevant Scheme which is a Connected Scheme or which provides benefits in respect of service;
- (b) in respect of a pre-1989 Act Member any Relevant Scheme providing benefits in respect of service;

"Connected Scheme" means any Relevant Scheme which is connected with the Scheme in relation to the Member which means that:

- (a) there is a period during which the Member has been the employee of two Associated Employers;
- (b) that period counts under both schemes as a period in respect of which benefits are payable; and
- (c) the period counts under one of those schemes for service with one employer and under the other for service with the other employer;

"Final Remuneration" means:

- (A) in relation to a 1989 Act Member the greater of:
  - (a) the highest total emoluments for any one of the five years preceding the Relevant Date; and
  - (b) the yearly average of the Total Remuneration for any three or more consecutive years ending not earlier than 10 years before the Relevant Date;

Provided that:

- (i) Total Remuneration and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Taxes Act except where the acquisition of such shares interest or right took place before 17 March 1987;
- (ii) in relation to a special director, Final Remuneration shall (subject to proviso (iv) below) be the amount ascertained in accordance with (b) above and (a) above shall not apply;
- (iii) where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's Total Emoluments (as calculated in (a) above) or Total Remuneration (for the purposes

of(b) above) of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date;

- (iv) Final Remuneration and the annual rate of the Member's Total Emoluments and Total Remuneration for the purpose of the calculation of the maximum benefits in accordance with rule 10.5 and paragraph 10.6.3 shall not exceed the permitted maximum as defined in section 590C(2) of the Taxes Act.

(B) in relation to a pre-1989 Act Member:

- (a) the highest Total Emoluments for any one of the five years preceding the Relevant Date; and
- (b) the yearly average of the Total Remuneration for any three or more consecutive years ending not earlier than ten years before the Relevant Date;

Provided that:

- (i) Total Remuneration and Total Emoluments do not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Taxes Act except where the acquisition of such shares interest or right took place before 17 March 1987;
- (ii) in relation to a special director or any other Member whose Total Remuneration in any year subsequent to 5 April 1987 used for the purpose of calculating benefits has exceeded £100,000 or such other figure as may be prescribed in an order made by the Treasury, Final Remuneration shall (subject to proviso (iv) below) be the amount ascertained in accordance with (b) above and (a) above shall not apply;
- (iii) where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's Total Emoluments (as calculated in (a) above) or Total Remuneration (for the purposes of (b) above) of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date;
- (iv) in the case of a Member who joined the Scheme on or after 17 March 1987 for the purposes of the calculation of the maximum lump sum retirement benefit in accordance with rule 10.11 Final Remuneration shall not in any event exceed £100,000 or such other sum as may be specified in an order made by the Treasury.

**"Lump Sum Retirement Benefit"** means the total value of all retirement benefits payable on retirement in any form other than non-commutable pension under this and any Associated Scheme;

**"Relevant Scheme"** means any other scheme approved or seeking approval under chapter I of part XIV of the Taxes Act;

**"Service"** shall have the meaning ascribed to it in rule 1.1 and for the purposes of this section 10 only for a 1989 Act Member shall additionally include a period which counts as service or employment in respect of any Associated Employment or any Connected Scheme.

**"Total Emoluments"** means in relation to any Member the aggregate of:

- (a) the actual fixed amount payable for the year ending on the date of calculation of total emoluments to a Member by way of annual basic pay or Salary without any deduction; and
- (b) the Member's average annual earnings by way of commissions, other fluctuating emoluments and other benefits charged to tax under Schedule E (but not falling within paragraph (a) above or the further proviso below) during the period of three or more consecutive years before the date of such calculation, provided that the commissions, fluctuating emoluments and other benefits of a year other than the year ending on the date of calculation may be increased in proportion to any increase in the Index from the last day of that year up to the date of calculation.

Total Emoluments shall not include any salary or other emoluments in respect of which separate pension benefits are being secured for the Member except under the provision of a scheme which is supplementary to this Scheme;

**"Total Remuneration"** means in relation to any Member and to any year:

- (a) as regards a 1989 Act Member the aggregate of the Total Emoluments for the year in question:
  - (i) from the employer; and
  - (ii) in respect of any Associated Employment or any Connected Scheme;which are assessable to income tax under Schedule E provided that in arriving at such emoluments there shall be disregarded any emoluments in excess of the permitted maximum as defined in section 590C(2) of the Taxes Act;
- (b) as regards a pre-1989 Act Member Total Emoluments from the Employer in the year in question which are assessable to income tax under Schedule E;

but so that there shall be excluded from the emoluments referred to in paragraphs (a) and (b) above any amounts which arise from the acquisition or disposal of shares or an interest in shares or a right to acquire shares or anything in respect of which tax is charged by virtue of section 148 of the Taxes Act unless the acquisition of such shares interest or right took place before 17 March 1987; and



**1989 ACT MEMBER** means any Member other than a pre-1989 Act Member, who joins the Scheme on and any pre-1989 Act Member who has elected in accordance with rule 0 to be treated as a 1989 Act Member with effect from 1 June 1989.

## **1989 ACT MEMBERS**

### **10.3 1989 Act Member's Aggregate Retirement Benefit - limits**

A 1989 Act Member's Aggregate Retirement Benefit shall not exceed:

- 10.3.1 on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retiring Age on grounds of ill-health under rule 6.5, a pension of 1/60th of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
- 10.3.2 on retirement at any time before Normal Retiring Age on grounds of ill-health under rule 6.5 a pension of the amount which could have been provided at Normal Retiring Age in accordance with paragraph 10.3.1 above, Final Remuneration being computed as at the actual date of retirement;
- 10.3.3 on leaving pensionable service before attaining age 75, a pension of 1/60th of Final Remuneration for each year of that Service (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased either by 5% for each complete year or in proportion to any increase in the Index which has occurred between the date of termination of pensionable service and the date on which the pension begins to be payable. Any further increase necessary to comply with the requirements of the Department for Work and Pensions is also allowable.

### **10.4 1989 Act Member's Lump Sum Retirement Benefit - limits**

A 1989 Act Member's Lump Sum Retirement Benefit shall not exceed:

- 10.4.1 on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retiring Age on grounds of ill-health under rule 6.5, 3/80ths of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
- 10.4.2 on retirement at any time before Normal Retiring Age on grounds of ill-health under rule 6.5 the amount which could have been provided at Normal Retiring Age in accordance with paragraph 10.4.1 above Final Remuneration being computed as at the actual date of retirement;
- 10.4.3 on leaving pensionable service before attaining age 75, a lump sum of 3/80ths of Final Remuneration for each year of that Service (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the

date of termination of pensionable service and the date on which the pension begins to be payable.

#### **10.5 1989 Act Member's lump sum death benefits - limits**

The lump sum benefit (exclusive of any refund of the Member's own contributions and any interest thereon) payable on the death of a 1989 Act Member while in Service or (having left Service with a deferred pension) before the commencement of his pension shall not, when aggregated with all like benefits under Associated Schemes, exceed the greatest of:

10.5.1 £5,000; and

10.5.2 four times the Member's Final Remuneration (but excluding proviso (i) of that definition) less:

10.5.2.1 any lump sum (other than a refund of his own contributions and any interest thereon) payable on the death of the Member under all Relevant Schemes in respect of Service with previous employers; and

10.5.2.2 any lump sum life assurance benefit payable on the death of the Member under a retirement annuity contract or trust scheme approved under chapter III of part XIV of the Taxes Act, or a personal pension scheme approved under chapter IV of part XIV of the Taxes Act;

if the aggregate of such lump sum exceeds £1,000; and

10.5.3 such higher amount as will not prejudice Approval.

#### **10.6 1989 Act Member's spouse's and dependant's pension - limits**

Any pension for a spouse or dependant of a 1989 Act Member, when aggregated with the pensions (other than those provided by surrender of the Member's own pension) payable to that spouse or dependant under all Associated Schemes, shall not exceed an amount equal to two thirds of the Aggregate Retirement Benefit:

10.6.1 being paid to the Member at the date of his death (including any pension increases); or

10.6.2 being a deferred benefit payable to the Member at any time between attaining age 50 and attaining age 75; or

10.6.3 prospectively payable to the Member who dies in Service had he remained in Service up to the Normal Retiring Age at the rate of pay in force immediately before his death; or

10.6.4 prospectively payable to the Member who dies in Service after Normal Retiring Age on the basis that he had retired on the day before he died;

or such greater amount as will not prejudice Approval.

If pensions are payable to more than one of a Member's spouse and dependants, the aggregate of all spouse's and dependants' pensions payable in respect of him under this and all Associated Schemes shall not exceed the full amount of whichever is the appropriate Aggregate Retirement Benefit under 10.6.1, 10.6.2, 10.6.3 or 10.6.4 above or such greater sum as will not prejudice Approval.

#### **10.7 Pension increases for 1989 Act Members - limits**

The maximum amount of a pension payable to a 1989 Act Member ascertained in accordance with this section less any pension which has been commuted for a lump sum or surrendered to provide a dependant's pension may be increased by the greater of:

- 10.7.1 5% or such other amount as may be prescribed for each complete year; and
- 10.7.2 the percentage increase in the Index which has occurred since the pension commenced to be paid.

#### **10.8 1989 Act Members who are special directors or controlling directors**

Rules 10.3 to 10.7 shall be modified in their application to a 1989 Act Member who is or has been a special director or controlling director as follows:

- 10.8.1 the amount of the maximum Aggregate Retirement Benefit in rule 10.3 and of the maximum Lump Sum Retirement Benefit in rule 10.4 shall be reduced, where necessary for Approval, so as to take account of any corresponding benefits under either a retirement annuity contract or trust scheme approved under chapter III part XIV of the Taxes Act or a personal pension scheme approved under chapter IV part XIV of the Taxes Act;
- 10.8.2 the definition of "Discretionary Trusts" in rule 1.1 shall be modified by adding the following paragraph at the end thereof:

"(e) in the case of a Member who is or has been a special director or controlling director as defined in rule 10.2 and who dies in employment with an Employer on or after his 75 birthday the Trustees shall, notwithstanding the provisions of paragraphs (a), (b), (c) and (d) above, hold any sum directed to be held on Discretionary Trusts upon trust for the Member's spouse or in the absence of any surviving spouse upon trust for the Member's legal personal representatives".

#### **10.9 Payment of benefits**

The Scheme provisions shall have effect (notwithstanding anything in them to the contrary) as if they provided:

- 10.9.1 that a 1989 Act Member's retirement benefit shall be paid no later than the date on which he attains age 75; and
- 10.9.2 subject to 10.9.1 above that no part of a 1989 Act Member's retirement benefit shall be paid in advance of actual retirement or leaving service

except to the extent necessary to comply with Department for Work and Pensions requirements.

## **PRE-1989 ACT MEMBERS**

### **10.10 Pre-1989 Act Member's Aggregate Retirement Benefit - limits**

A pre-1989 Act Member's Aggregate Retirement Benefit shall not exceed:

- 10.10.1 on retirement at or before Normal Retiring Age, a pension of 1/60th of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount (not exceeding two-thirds of Final Remuneration) as will not prejudice Approval; or
- 10.10.2 on retirement after Normal Retiring Age, a pension of the greatest of:
  - 10.10.2.1 the amount calculated in accordance with paragraph 10.10.1 above on the basis that the actual date of retirement was the Member's Normal Retiring Age; and
  - 10.10.2.2 the amount which could have been provided at Normal Retiring Age in accordance with paragraph 10.10.1 above increased either actuarially in respect of the period of deferment or in proportion to any increase in the Index during that period; and
  - 10.10.2.3 where the Member's total Service has exceeded 40 years, the aggregate of 1/60th of Final remuneration for each year of Service before Normal Retiring Age (not exceeding 40 such years) and of a further 1/60th of Final Remuneration for each year of Service after Normal Retiring Age, with an overall maximum of 45 reckonable years;Final Remuneration being computed in respect of 10.11.2.1 and 10.11.2.3 above as at the actual date of retirement, but subject always to Rules 10.15 and 10.16;
- 10.10.3 on leaving pensionable service before Normal Retiring Age, a pension of 1/60th of Final Remuneration for each year of that Service (not exceeding 40 years) or of such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased by either 5% for each complete year, or the percentage increase in the Index which has occurred, between the date of termination of Service and the date on which the pension begins to be payable. Any further increase necessary to comply with requirements of the Department for Work and Pensions is also allowable.

## **10.11 Pre-1989 Act Member's Lump Sum Retirement Benefit - limits**

A pre-1989 Act Member's lump sum retirement benefit shall not exceed:

- 10.11.1 on retirement at or before Normal Retiring Age, 3/80ths of Final Remuneration for each year of Service with the Employer (not exceeding 40 years) or such greater amount as will not prejudice Approval;
- 10.11.2 on retirement after Normal Retiring Age, the greatest of:
  - 10.11.2.1 the amount calculated in accordance with paragraph 10.11.1 above on the basis that the actual date of retirement was the Normal Retiring Age;
  - 10.11.2.2 the amount which could have been provided at Normal Retiring Age in accordance with paragraph 10.11.1 above together with an amount representing interest thereon determined by the Trustees, acting on Actuarial Advice; and
  - 10.11.2.3 where the Member's total Service has exceeded 40 years, the aggregate of 3/80ths of Final Remuneration for each year of Service before Normal Retiring Age (not exceeding 40 such years) and of a further 3/80ths of Final Remuneration for each year of Service after Normal Retiring Age, with an overall maximum of 40 reckonable years;Final Remuneration being computed in respect of 10.11.2.1 and 10.11.2.3 above as at the actual date of retirement, but subject always to the provisions of Rules 10.15 and 10.16;
- 10.11.3 on leaving pensionable service before Normal Retiring Age, a lump sum of 3/80ths of Final Remuneration for each year of that Service (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased by any increase in the Index which has occurred between the date of termination of service and the date on which the pension begins to be payable.

## **10.12 Pre-1989 Act Member's lump sum death benefits - limits**

The lump sum benefit (exclusive of any refund of the Member's own contributions and any interest thereon) payable on the death of a pre-1989 Act Member while in service or (having left Service with a deferred pension) before the commencement of his pension shall not, when aggregated with all like benefits under Associated Schemes, exceed the greatest of:

- 10.12.1 £5,000; and
- 10.12.2 four times the Member's Final Remuneration (but excluding proviso (i) of that definition) less:
  - 10.12.2.1 any lump sum (other than a refund of his own contributions and any interest thereon) payable on the death of the Member

under all Relevant Schemes in respect of service with previous employers; and

- 10.12.2.2 any lump sum life assurance benefit payable on the death of the Member under a retirement annuity contract or trust scheme approved under chapter III of part XIV of the Taxes Act, or a personal pension approved under chapter IV of part XIV of the Taxes Act;

if the aggregate of such lump sum exceeds £1,000; and

- 10.12.3 such higher amount as will not prejudice Approval.

### **10.13 Pre-1989 Act Member's spouse's and dependant's pensions - limits**

Any pension for a spouse or dependant of a pre-1989 Act Member, when aggregated with the pensions (other than those provided by surrender of the Member's own pension) payable to that spouse or dependant under all Associated Schemes, shall not exceed an amount equal to two thirds of the Aggregate Retirement Benefit:

- 10.13.1 being paid to the Member at the date of his death (including any pension increases under section 11); or
- 10.13.2 being a deferred benefit payable to the Member at Normal Retiring Age; or
- 10.13.3 prospectively payable to the Member who dies in Service had he remained in Service up to the Normal Retiring Age at the rate of salary in force immediately before his death; or
- 10.13.4 prospectively payable to the Member who dies in Service after Normal Retiring Age on the basis that he had retired on the day before he died;

or such greater amount as will not prejudice Approval.

If pensions are payable to more than one of a Member's spouse and dependants the aggregate of all spouse's and dependants' pensions payable in respect of him under this and all Associated Schemes shall not exceed the full amount of whichever is the appropriate Aggregate Retirement Benefit under paragraphs 10.13.1, 10.13.2, 10.13.3 or 10.13.4 above or such greater sum as will not prejudice Approval.

### **10.14 Pension increases for Pre-1989 Act Members - limits**

The maximum amount of a pension payable to a pre-1989 Act Member ascertained in accordance with this section less any pension which has been commuted for a lump sum or surrendered to provide a dependant's pension may be increased by the greater of:

- 10.14.1 5% or such other amount as may be prescribed for each complete year; and
- 10.14.2 the percentage increase in the Index which has occurred;

since the pension commenced to be paid.

#### **10.15 Pre-1989 Act Member's pension - further limits in certain cases**

If the Rules permit a pre-1989 Act Member to elect under section 6 to take any part of his benefits under this Scheme in advance of actual retirement, the limits set out in Rules 10.10 and 10.11 shall apply as if he had retired at the date of the election as aforesaid, no account being taken of subsequent employment with the employer, save that the maximum amount of any uncommuted pension not commencing immediately may be increased actuarially in respect of the period of deferment or in proportion to any increase in the Index.

#### **10.16 Pre-1989 Act Members who are special directors and controlling directors**

The provisions of Rules 10.10 to 10.15 shall be modified in their application to a pre-1989 Act Member who is or has been a special director or controlling director as set out in paragraphs 10.16.1 and 10.16.2 and in relation to a pre-1989 Act Member who is a special director at his Normal Retiring Age as set out in paragraph 10.16.3:

10.16.1 the amount of the maximum Aggregate Retirement Benefit in rule 10.10 and of the maximum Lump Sum Retirement Benefit in rule 10.11 shall be reduced where necessary for Approval so as to take account of any corresponding benefits under a retirement annuity contract or trust scheme approved under chapter III part XIV of the Taxes Act or a personal pension scheme approved under chapter IV part XIV of the Taxes Act;

10.16.2 the definition of "Discretionary Trusts" in rule 1.1 shall be modified by adding the following paragraph at the end thereof:

"(e) in the case of a Member who is or has been a special director or controlling director as defined in rule 10.2 and who dies in employment with an Employer on or after his 75th birthday the Trustees shall, notwithstanding the provisions of paragraphs (a), (b), (c) and (d) above, hold any sum directed to be held on Discretionary Trusts upon trust for the Member's spouse or in the absence of any spouse upon trust for the Member's legal personal representatives";

10.16.3

10.16.3.1 where retirement takes place after Normal Retiring Age but not later than the Member's 70th birthday, Rules 10.10.2.1, 10.10.2.2 and 10.10.2.3 and 10.11.2.2 and 10.11.2.3 shall not apply, and if retirement is later than the attainment of that age, the said paragraphs shall apply as if the Member's 70 birthday had been specified in the Rules as his Normal Retiring Age, so as not to treat as service after Normal Retiring Age any Service before the Member reaches the age of 70;

10.16.3.2 where rule 10.15 applies to him, the rate of the actuarial increase referred to therein in relation to any period of deferment prior to his attaining age 70 shall not exceed the percentage increase in the Index during that period.

## **OPTION TO ADOPT 1989 ACT LIMITS**

### **10.17 Pre-1989 Act Member becoming a 1989 Act Member**

Any pre-1989 Act Member may give written notice (which shall be irrevocable) before the Relevant Date to the Trustees in such form as the Trustees shall prescribe that with effect from and including 1 June 1989 he is to be treated as a 1989 Act Member and on receipt of such notice he shall be treated accordingly.

## **PROVISIONS APPLICABLE TO ALL MEMBERS**

### **10.18 HMRC approval to higher benefits**

Where in any rule in this section it is stated that a greater amount than that specified in the rule may be provided so long as it will not prejudice Approval or that any limit may not be exceeded without the consent of HMRC, the Trustees shall be empowered to agree such greater amount or to benefits in excess of any limit with the consent of HMRC either generally or in any particular case or cases and, without prejudice to the generality of the foregoing, may agree with HMRC different limits according to whether a Member joined the Scheme either before or on or after 17 March 1987 in accordance with the provisions contained in schedule 23 to the Taxes Act.

### **10.19 Augmentation of benefits**

Where in addition to being a Member of this Scheme the Member is also a Member of an AVC Scheme or a FSAVC Scheme which provides additional benefits to supplement those provided by this Scheme and to which no contributions are made by an employer of his, the provisions of the paragraph that follows shall apply in relation to any augmentation of the benefits provided for him by this Scheme after he has ceased to participate in it.

Any provisions in this Scheme imposing a limit on the amount of a benefit provided for the Member shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the Member by the voluntary scheme.

### **10.20 Return of surplus funds**

Any provisions in the Scheme permitting the Member to make voluntary contributions to secure additional benefits for himself and his spouse and/or dependants shall (notwithstanding anything in them to the contrary) have effect as if the provisions of part III of schedule 6 to the Finance Act 1989 concerning the return of surplus funds applied to the Scheme.



**11. SECTION 11 - PENSIONS INCREASES**

**11.1 Increases in pensions**

Any benefits in pension form currently payable out of the Fund and any deferred benefits coming into payment shall be increased at the same time and with effect from the same date and to the same extent and subject to the same conditions as if such benefits were official pensions and were increased under part I of the Pensions (Increase) Act 1971 as from time to time amended and the regulations made thereunder.

**11.2 Increases in lump sum payments**

Any lump sum becoming payable in respect of the death or retirement of a Member shall be increased to the same extent and subject to the same conditions as if it were a lump sum benefit to which section 9 of the Pensions (Increase) Act 1971 applied.

**11.3 Pensions Act**

Section 59 of the Pensions Act (which amends and is deemed to be incorporated in Part I of the Pensions (Increase) Act 1971) shall have effect in relation to the preceding Rules in this section.

## 12. SECTION 12 - FORFEITURE, COMMUTATION AND ALIENATION

### 12.1 Lien and forfeiture

Notwithstanding anything contained in the Rules, the Employer shall be entitled to a charge or lien on or set off against or to forfeit (as may be appropriate) any benefit to which any person is or may become entitled under the provisions of the Rules (other than benefits attributable to transfer payments referred to in rule 12.1.1), for the purpose of enabling the Employer to obtain the discharge by the Member of some monetary obligation due to the Employer, and arising out of a criminal, negligent or fraudulent act or omission by that person, provided that:

- 12.1.1 in respect of any such obligation, the amount recovered or retained out of the Fund shall be limited to the actuarial value of the Member's actual or prospective benefits at the time of such recovery or retainer (other than the benefits attributable to transfer payments under rule 3.7 but this exclusion shall not extend to a transfer payment made on an occasion when there was no change of employment and the transfer was from a scheme which included a rule to the same effect as this rule 12.1) or the amount of the obligation, whichever shall be less (subject to any different agreement in writing between the Employer and the Member);
- 12.1.2 the Member shall be entitled to a certificate showing the amount retained recovered or forfeited and its effect on his benefits or prospective benefits;
- 12.1.3 in the event of any dispute as to the amount to be retained or recovered, the Employer shall not be entitled to enforce such charge, lien, set off or forfeiture except after the obligation has become enforceable under an order of a competent court, or the award of an arbitrator or in Scotland an arbiter, to be appointed (failing agreement between the parties) by the sheriff. In the event of such dispute the Trustees shall suspend payment of any benefits becoming due until the dispute has been resolved; and
- 12.1.4 the provisions of this rule 12.1 shall not extend so as to confer on any Employer a right of charge lien or set-off against any transfer credits granted by the Trustees in respect of a Member's prior Reckonable Service under any Transfer Scheme save to the extent that this may be permitted by virtue of an order of the Department for Work and Pensions under section 135 of the Pension Schemes Act or by virtue of section 91(5)(d) of the Pensions Act.

Any Employer receiving a payment under this rule 12.1 will indemnify the Trustees in respect of any claims arising because of such payment. This rule 12.1 shall not apply so as to reduce the amount of pension payable to a Member to less than the Guaranteed Minimum Pension.

### 12.2 Restrictions on alienation and forfeiture

Subject as provided for in the Rules and subject further to the restrictions on alienation contained in section 91 of the Pensions Act and (in the case of Guaranteed Minimum Pensions) section 159 of the Pension Schemes Act, no benefit arising under the Scheme shall be capable of being assigned or applied for the benefit of anyone other than the person entitled, or prospectively or contingently entitled, thereto, and:

12.2.1 every assignment of, or charge on, any such benefit and any agreement to assign or charge the same shall be void; and

12.2.2 on the bankruptcy of any such person, such benefit shall not pass to any trustee or other person acting on behalf of the creditors of the person so entitled.

The Trustees shall be entitled (in accordance with section 92(2) of the Pensions Act) to forfeit any benefits (other than Guaranteed Minimum Pensions) which have become the subject of any attempted assignment or charge and shall forfeit such benefits on the happening of the events in 12.2.2 above. Such benefits shall be applied to or for the benefit of all or any of one or more of the Member or any Dependants or Relatives of the Member in such shares and in such proportions as they shall, in their absolute discretion, think fit.

### **12.3 Provision for commutation**

The Trustees may, in respect of any person entitled to benefits under the Scheme, pay any of the following lump sums (within the meaning of the Finance Act) on such terms and calculated in such manner as the Trustees decide consistent with the Finance Act, the Pension Schemes Act and the provisions of the Scheme applying to the commutation of a pension to provide a lump sum at the date a Member's pension is to commence:

12.3.1 a serious ill-health lump sum;

12.3.2 a trivial commutation lump sum;

12.3.3 a trivial commutation lump sum death benefit;

12.3.4 a refund of excess contributions lump sum;

12.3.5 a lifetime allowance excess lump sum;

12.3.6 a winding up lump sum; and

12.3.7 a winding up lump sum death benefit.

### **12.4 Forfeiture of unclaimed benefits**

Any sum which may have become due to a Member or other person entitled to benefit under the Rules shall be forfeited if it has not been claimed during a period of at least six years from the date upon which that sum became due, but the continued right to a pension or annuity shall not be extinguished notwithstanding that instalments thereof which became payable more than six years ago have been forfeited pursuant to this rule 12.4.

### **13. SECTION 13 - CONTRACTING-OUT**

#### **13.1 Application of this section**

13.1.1 The words and expressions used in this section shall where the context so admits have the meanings ascribed to them in the Pensions Act.

13.1.2 In this section:

13.1.2.1 references to a widow or widower include a surviving civil partner in relation to Guaranteed Minimum Pensions attributable to Contracted-out Service on and after 6 April 1988 and all section 9(2B) rights (within the meaning of The Occupational Pension Schemes (Contracting out) Regulations 1996); and

13.1.2.2 for the purposes of the entitlements of surviving civil partners under these provisions:

(a) references to marriage include the formation of a civil partnership; and

(b) references to living together as husband and wife include living together with a person of the same sex as if they were civil partners so that two people are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.

13.1.3 The provisions of this section 13 shall be subject to the easements permitted under sections 282 to 284 of the Finance Act in respect of the commutation of Guaranteed Minimum Pensions and early retirement.

#### **PART 1 - CONTRACTED-OUT EMPLOYMENT BEFORE 6 APRIL 1997**

#### **13.2 Application of part 1 of this section**

This part of this section shall apply if the employment of any Member which constitutes Reckonable Service accrued before 6 April 1997 is Contracted-Out employment by reference to the Scheme and it shall then override any other provision of these Rules which are inconsistent with it except the provisions of rule 12.3.

#### **13.3 Guaranteed Minimum Pensions**

If the Member is a woman and dies on or after 6 April 1989 leaving a surviving spouse the weekly rate of pension provided for him under this Scheme shall not be less than half of that part of the Member's guaranteed minimum which is attributable to earnings for the tax year 1988/89 and subsequent tax years notwithstanding that he might not otherwise qualify for any pension under section 7.

### **13.4 Retirement after State Pension Age**

Where any Member remains in service and does not commence to draw his pension at or after attaining State Pension Age, the payment of the Guaranteed Minimum Pension shall be postponed until whichever is the earlier of actual retirement or the expiration of a further period of five years, but so that, in the event of a Member remaining in the service for more than the further period of five years, the payment of the Guaranteed Minimum Pension may be further postponed with his consent.

### **13.5 Increase in the event of late retirement**

In the event of postponement of payment of the Guaranteed Minimum Pension for more than seven weeks after attaining State Pension Age the Guaranteed Minimum Pension shall, for each complete week of postponement, be increased by 1/7% of the amount thereof calculated at State Pension Age and so that, for the purposes of this rule 13.5:

13.5.1 week means any period of seven consecutive days; and

13.5.2 the period of seven weeks and the percentage of 1/7% shall be automatically varied if the Pension Schemes Act or the regulations made thereunder shall be varied in relation to that period or that percentage.

### **13.6 Modification of specific Rules**

Without prejudice to the generality of the overriding provisions of this section referred to in rule 13.2:

13.6.1 the Trustees shall have power to refuse any transfer payment under rule 3.7 where, in their opinion acting on Actuarial Advice, the amount to be transferred will not secure the Guaranteed Minimum Pension accrued in the Transfer Scheme;

13.6.2 where a surviving spouse becomes entitled to a pension under section 7 or section 9 and the Member had in excess of 40 years' Contracted-Out Service, the pension which is payable to the surviving spouse under the Rules in section 7 or section 9 shall not be less than 1/160th of Pensionable Salary for each year of the Member's Contracted-Out Service;

13.6.3 rule 7.5 which provides for the surviving spouse's pension to cease on re-marriage or if the surviving spouse cohabits with another person as a spouse shall not apply where the surviving spouse is aged 60 or over to such part of the surviving spouse's pension as is equal to the surviving spouse's Guaranteed Minimum Pension;

13.6.4 a Member shall not be entitled to make an allocation under section 8 to the extent that it would reduce his pension to less than the Guaranteed Minimum Pension; and

13.6.5 rule 12.1 shall not apply so as to reduce the amount of pension payable under the Rules to less than the Guaranteed Minimum Pension.

### **13.7 Contributions equivalent premium**

Where any Member (other than a Member to whom rule 9.10.5 applies) leaves the service or dies in the service with less than two years' Qualifying Service then, unless the Member has elected to request that a transfer payment be made in respect of him to a Contracted-Out Scheme, there may be paid at the request of the Employer a contributions equivalent premium in accordance with sections 55(2) and (7) of the Pension Schemes Act and on payment thereof, the Member's or the Member's surviving spouse's right to a Guaranteed Minimum Pension shall be extinguished.

### **13.8 Deduction from return of contributions**

Where a payment of contributions equivalent premium has, or could have, been made under rule 13.7 by the Trustees on behalf of the Employer in respect of a Member who has left the service with a refund of contributions under rule 9.10, the Trustees shall be entitled to reduce the amount of any return of the Member's contributions by an amount not exceeding the amount certifiable by the Secretary of State under section 63(1)(d) of the Pension Schemes Act as being the Member's share of that contributions equivalent premium which has, or could have, been paid in respect of him.

### **13.9 Recovery of state scheme premiums**

Where a state scheme premium in respect of any Contracted-Out Member under sections 55 or 58 (inclusive) of the Pension Schemes Act is paid on behalf of the Employer, the Trustees shall, on the request of the Employer, allow the Employer to reduce future ordinary contributions payable under rule 5.1 by an amount which together with any sum which may be recovered by the Employer pursuant to the Pension Schemes Act in respect of the Member's contributions shall not be greater than the state scheme premium. If the state scheme premium has been paid by the Trustees on behalf of the Employer, the Employer shall, on the next payment of contributions under rule 5.1, reimburse the Trustees for the net amount paid by the Trustees after taking into account the amount recovered from the employee.

### **13.10 Revaluation of Guaranteed Minimum Pensions**

Where a Guaranteed Minimum Pension is preserved in the Fund under section 9, it shall be revalued yearly in accordance with any one of the permitted methods of revaluation in accordance with section of the Pension Schemes Act which the Trustees may from time to time notify to the Department for Work and Pensions and so that the Trustees shall by notice have power to substitute any other of the permitted methods for the one currently in force subject only to notification to the Department for Work and Pensions; and if the Guaranteed Minimum Pension at State Pension Age shall be greater than the preserved pension otherwise payable out of the Fund increased in accordance with rule 11.1, then the higher amount of the Guaranteed Minimum Pension, as so revalued, shall be payable.

### **13.11 Reduction of pension benefits on payment of state scheme premiums**

If a state scheme premium is paid in respect of a Member under section 55(2) (on termination of Membership) or under section 55(1) (on the scheme ceasing to be Contracted-Out or on winding-up) or under section 55(3) (transfer premiums) of the Pension Schemes Act, and the Scheme's liability to provide Guaranteed Minimum Pension benefits in respect of such a Member is thereby cancelled or modified, the

benefits in respect of the Member under the Scheme shall be reduced accordingly, and any ancillary benefits (contingent on death or otherwise), which are related to the amount of the Guaranteed Minimum Pension benefits concerned, shall cease to be payable unless the Trustees in their absolute discretion decide otherwise.

### **13.12 Purchase of annuity**

Any policy or contract purchased under the provisions of rule 17.8 to satisfy any pension arising after 6 April 1978 and which is intended to secure the amount of the Member's Guaranteed Minimum Pension shall comply with the following conditions:

- 13.12.1 the Insurance Company with which the policy is taken out or the annuity contract entered into assumes an obligation to the Member and his spouse to pay the benefits secured by the policy or contract;
- 13.12.2 the policy or contract shall contain or be endorsed with terms so as to secure that:
  - 13.12.2.1 the amount of the annuity is at least equal to the Guaranteed Minimum Pension, certified by the Secretary of State under the provisions of the Pension Schemes Act, as being prospectively due to the Member at State Pension Age, and the amount of the annuity payable to his spouse after his death will be at least equal to the Guaranteed Minimum Pension prospectively due to the spouse in the event of the Member's death, subject in both cases to any required revaluation in accordance with rule 13.11;
  - 13.12.2.2 at least to the extent of the Guaranteed Minimum Pension, the annuity is non-commutable (except as provided for in rule 12.3) and non-assignable; and
- 13.12.3 the policy or contract shall be endorsed with a statement of the total length of the period or periods of service which gave rise to the benefits secured by the policy or contract, or where the total length exceeds two years, a statement to that effect.

## **PART II - CONTRACTED-OUT EMPLOYMENT AFTER 5 APRIL 1997**

### **13.13 Application of part II of this section**

This part shall apply if the employment of any Member which constitutes Reckonable Service on or after 6 April 1997 is Contracted-Out employment by reference to the Scheme and it shall then override any other provisions of these Rules which are inconsistent with it other than rule 12.3, subject to compliance with the Contracting-out Regulations referred to in rule 13.14, and section 10.

### **13.14 General**

The Scheme shall comply with the provisions of section 9(2B) of the Pension Schemes Act and The Occupational Pension Schemes (Contracting-out) Regulations 1996 ("Contracting-out Regulations") which in general provided that a scheme:

- 13.14.1 satisfy the requirements of sections 12A and 12B of the Pension Schemes Act;
- 13.14.2 comply with those restrictions contained in section 40 of the Pensions Act which apply to it;
- 13.14.3 satisfy such other requirements as may be prescribed; and

on cessation of Contracting-Out comply with the provisions of section 12C of the Pension Schemes Act and regulations made thereunder including, in particular, Regulation 45 of the Contracting-out Regulations.



## **14. SECTION 14 - STATUS OF THE SCHEME AND TAXATION**

### **14.1 Status of the Scheme**

The Scheme is treated as a Registered Scheme (and prior to 6 April 2006 an exempt approved scheme for the purposes of section 592 of the Taxes Act) and complies with the preservation requirements of the Pension Schemes Act.

### **14.2 Undertakings to HMRC**

For the purpose of enabling the Scheme to continue to be treated as a Registered Scheme, the Trustees may give to HMRC such undertaking or undertakings as may be required from time to time and may vary any such undertaking or undertakings.

### **14.3 Undertakings to the Department for Work and Pensions and to the Pensions Regulator**

For the purpose of enabling the Scheme to comply with the requirements as to preservation of benefits and contracting out under the Pension Schemes Act, the Trustees may give to the Department for Work and Pensions such undertaking or undertakings as may be required from time to time and may vary such undertaking or undertakings.

For the purposes of ensuring compliance with any of the requirements of the Pensions Act, the Trustees may give such undertakings to the Pensions Regulator as they may deem appropriate.

### **14.4 Effect of undertakings**

The provisions of any undertaking which may be given pursuant to the foregoing provisions of this rule 14.4 shall be deemed to be incorporated in the Rules, and, to the extent that they are inconsistent with any other provisions of the Scheme (including any apart from this rule 14.4 which otherwise would have the effect of overriding it), they shall override that provision.

### **14.5 Taxation deductions**

14.5.1 There shall be deducted from refunds of contributions payable under the Rules to a Member or his personal representatives a sum equal to the liability of the Fund to HMRC in respect of payments so made, provided that the Trustees may waive such deduction in whole or in part if they consider that there are exceptional circumstances to warrant it. Deductions made from sums liable to tax (which includes repayment of employees' contributions) will not confer on any such Member or his personal representatives any ground for a claim for repayment of income tax.

14.5.2 Without prejudice to rule 14.5.1:

14.5.2.1 any tax liability arising in relation to payment of a lump sum benefit in accordance with rule 6.14 and 12.3 shall be met by the person receiving the benefit and if the Trustees are liable for any tax (including any charge payable under the Finance Act) in respect of any benefit it may apply part of the benefit

in paying the tax (including any interest) or may postpone payment of the benefit until the tax has been paid or provided for to its satisfaction; and

14.5.2.2 there shall be deducted from a Member's present or future benefits or entitlement under the Scheme, an amount reflecting any liability of the Trustees or the Scheme administrator in respect of the Lifetime Allowance Charge under section 215 of the Finance Act, in respect of that Member. However, this does not authorise the reduction of entitlement to a benefit which has not crystallised, except that in relation to which the Lifetime Allowance Charge arises.

14.5.3 Subject to the requirements of part IV of the Pension Schemes Act, a Member's pension will not start before age 75, unless the Member has provided evidence to the satisfaction of the Trustees of the amount of personal Lifetime Allowance that is available to him or her, or such other information necessary to enable the Scheme to make Authorised Payments (such term as defined in the Finance Act) (if any).

#### **14.6 Enhanced and Primary Protection**

12.6.1 Where a Member elects for enhanced or primary protection under the Finance Act, the Principal Employer and the Trustees may agree to make such arrangements under the Scheme, with the consent of the Member, to accommodate such an election so that such enhanced or primary protection is not prejudiced.

12.6.2 The Trustees shall not be liable for the consequences of any Relevant Benefit Accrual (as defined in the Finance Act) that occurs before the Trustees have been provided with a copy of the certificate issued by HMRC which confirms that the individual has registered for enhanced protection under the Finance Act.

#### **14.7 Unauthorised Payments**

14.7.1 In the application of this rule 14.7 to an annuity contract within paragraph 1(1)(d) of Schedule 36 of the Finance Act, references to the Trustees are to be read as references to the Insurance Company with whom the contract is made.

14.7.2 Subject to rule 14.7.1, any provision (however framed) in the Rules which requires the Trustees to make a payment from the Scheme which, by virtue of section 160 of the Finance Act would be an Unauthorised Payment, or to make a payment if the consent of an Employer or any other person was given for their doing so, shall be construed as conferring a discretion upon the Trustees to make the payment.

14.7.3 If the consent of an Employer or any other person is required under the Rules before the Trustees can make any other discretionary payment under the Scheme, then the discretion conferred by rule 14.7.4 may only be exercised with the consent of that person.

14.7.4 Subject to rule 14.7.5 an Unauthorised Payment which is made under rule 14.7.2 or would be so made if that paragraph applied to the Scheme, is a payment of a description prescribed for the purposes of section 241(2) of the Finance Act (certain payments not to be Scheme Chargeable Payments), but only to the extent that it is referable to subsisting rights (as defined in section 67A(6) of the Pensions Act) which have accrued under defined benefits arrangements before 6 April 2006, or to contributions which have been paid to the Scheme under money purchase arrangements before that day.

14.7.5 In the case of an Unauthorised Payment which comprises or includes a refund of AVCs, so much of the refund payment as could have been used to provide pension benefits for the Member and his Dependants without prejudicing approval of the Scheme, before 6 April 2006 by HMRC, is not a payment of a description prescribed for the purposes of section 241(2) of the Finance Act.

#### **14.8 Authorised Payments**

All benefits payable from the Scheme must be authorised payments under the Finance Act, unless otherwise agreed between the Principal Employer and the Trustees.

#### **14.9 Money Purchase Arrangements**

Before the Trustees:

14.9.1 pay a Scheme pension to a Member in respect of a money purchase arrangement, they must allow the Member to select a lifetime annuity instead;

14.9.2 pay a dependant's scheme pension in respect of a money purchase arrangement, they must allow the Member or Dependand to select a dependant's annuity instead;

14.9.3 purchase a lifetime annuity for a Member in respect of a money purchase arrangement, they must allow the Member to select the insurance company; and

14.9.4 purchase a dependant's annuity in respect of a money purchase arrangement, they must allow the Member or Dependand to select the insurance company.

In this rule 14.9, the terms "money purchase arrangement", "lifetime annuity", "dependant's annuity", "scheme pension", "dependant's scheme pension" and "insurance company" have the meanings given to them by the Finance Act.

**15. SECTION 15 - ADMINISTRATION**

**15.1 Appointment and removal of Trustees**

The Fund is vested in MRC Pension Trust Limited as Trustee and the power of appointing new Trustees shall be vested in the Principal Employer. The Principal Employer may at any time remove a trustee from his office for any reason which it considers adequate and shall have power at any time to appoint an additional trustee or another corporate body as sole trustee (whether or not it is a trust corporation).

The provisions of this rule 15.1 shall have effect subject to compliance with sections 241 and 242 of the 2004 Act.

**15.2 Trustees to have control of Fund**

The Trustees shall, subject to these Rules, have sole and absolute control of the Fund and the administration thereof and determine (within the limits laid down by these Rules) the investments in which it shall be laid out from time to time.

**15.3 Remuneration and expenses of Trustees**

The Trustees shall be repaid out of the Fund all expenses and costs which may be incurred by them and shall be entitled to such remuneration (if any) as may from time to time be agreed between the Trustees and the Principal Employer.

**15.4 How MRC Pension Trust Limited may act**

The Trustees may act by resolution of their board of directors, and any consent, decision, notice or other document or instrument of whatsoever nature shall be deemed to be sufficient to comply with the Rules if signed on behalf of the Trustees by any two directors of the Trustees, or any one director and the secretary.

**15.5 Members as directors of MRC Pension Trust Limited**

No Member or employee or officer of the Employer who is or shall be for the time being a director or other officer of the Trustees shall be disqualified from exercising any power or discretion vested in the Trustees by this or any other rule by reason of his dual capacity.

**15.6 Administrator**

The Trustees shall hold the office of administrator of the Scheme but the Principal Employer with the consent of the Trustees may at any time and from time to time appoint as administrator of the Scheme some other person, and may delegate to the administrator all or any of the powers and discretions vested in the Trustees under these Rules other than the power of making holding and managing the investments of the Fund.

**15.7 Actuary**

The Trustees shall appoint an actuary to the Fund and they shall have the power to remove any actuary so appointed whenever they shall think fit and to appoint a new actuary if and so often as there may be a vacancy in that office. Any actuary so appointed shall be qualified to give Actuarial Advice.

## **15.8 Fund Manager**

The Trustees shall in consultation with the Principal Employer appoint an individual, firm or company as fund manager(s). Any fund manager(s) so appointed shall satisfy the requirements of the Financial Services and Markets Act 2000. The Trustees shall appoint a new fund manager(s) if and so often as there may be a vacancy in that office and shall have power to remove any fund manager so appointed whenever they shall think fit.

## **15.9 Auditor and books of account**

The Trustees shall appoint an auditor and if and so often as there may be a vacancy in that office shall appoint a new auditor. The Trustees shall have power to remove any auditor so appointed whenever they shall think fit.

As at the Accounting Date, the Trustees shall cause the Trustees' report to be prepared and the accounts to be prepared and audited by the auditor appointed by them under this rule 15.9. The report of the Trustees and the audited accounts shall comply and be prepared in accordance with the requirements of the Pensions Act and in particular The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996.

## **15.10 Investment**

All moneys belonging to the Fund shall either be placed on current or deposit account with a bank or invested in the name or under the legal control of the Trustees in the purchase of or at interest upon the security of such stocks, funds, shares, securities or other investments or property of whatsoever nature and wheresoever, and whether involving liability or not, and whether producing income or not, or upon such personal credit with or without security, as the Trustees shall in their absolute discretion think fit, to the intent that the Trustees shall have the same full and unrestricted powers of investing and transposing investments in all respects as if they were absolutely entitled thereto beneficially. The Trustees shall prepare a statement of investment principles in accordance with section 35 of the Pensions Act. Without prejudice to the generality of the foregoing, trust money may:

- 15.10.1 be invested in or upon any securities the holding of which is restricted to a particular class of persons, the Trustees being Members of that class, and the Trustees shall, in making any such investment which requires an indemnity to be given by the Trustees against liabilities arising in the event of the Fund losing its status as a Registered Scheme, have power to bind the Fund, notwithstanding that such indemnity may only become operative by reason of some act or omission which constitutes a breach of trust on the part of the Trustees;
- 15.10.2 be lent (with or without security) to any body corporate which is for the time being a trustee of the Fund or an agent of the Trustees and whose business comprises the business of banking, without such trustee being liable to account for any profits made in respect thereof;
- 15.10.3 be invested in holdings of foreign currencies or in loans bonds or other investments denominated in such currencies;

- 15.10.4 be used for entering into or meeting liabilities under underwriting or sub-underwriting contracts of all kinds and whether resulting in the actual investment of trust monies or not;
- 15.10.5 be used for entering into, or meeting liabilities under any other contracts of whatsoever nature (including traded options financial futures and forward currency transactions) which the Trustees shall consider appropriate for the purpose of augmenting the capital or income of the Fund or protecting the Fund against the possibility of loss of capital or income and such as not to expose the Fund to undue risks, and notwithstanding that any such contract may involve the acquisition of no pre-existing property or rights or may require the temporary deposit of, or a temporary delegation of the management of, assets forming part of the Fund;
- 15.10.6 be invested by effecting with one or more insurance companies deferred annuity policies annuity policies or contracts for the purpose of providing pensions or benefits whether immediate or future and whether contingent or otherwise for the purposes of the Scheme and the Trustees may, at their discretion, reserve full power to deal with and dispose of any policy effected by them whether by sale surrender or otherwise in such manner in all respects as the Trustees shall in their absolute discretion think fit;

and for the prevention of doubt it is hereby recorded that the Trustees shall in respect of property other than money comprised in the Fund have the like powers of lending the same at interest or using the same for the purpose of effecting or facilitating contracts or otherwise applying the same as if such property were money.

#### **15.11 Power to delegate**

The Trustees may, delegate all or any of the powers, duties and discretions conferred upon them in the manner hereinafter set out in extension of and without prejudice to the powers of delegation contained in section 23 of the Trustee Act 1925 and of any and every other power enabling them in that behalf:

- 15.11.1 the Trustees shall have a discretion to delegate to any one or more persons of their choice, including any officers or employees of any of the Employers, the power to exercise any powers, duties and discretions of the Trustees whether arising under the provisions of these Rules, as from time to time amended, or under the general law relating to trusts and trustees, upon such terms and subject to such limitations and subject to an overriding power of revocation as the Trustees may decide, provided that:
  - 15.11.1.1 the Trustees shall not delegate the exercise of their right to approve any amendment of the Rules;
  - 15.11.1.2 the Trustees shall not delegate any of their powers in connection with the winding-up of the Scheme except as required by statute;
  - 15.11.1.3 the Trustees must lay down the limits applicable to such delegated powers and guidelines for their execution; and

15.11.1.4 the person to whom powers are delegated must report regularly to the Trustees on the exercise of the delegated powers and the Trustees must use their reasonable endeavours to make sure that all guidelines which have been laid down are observed;

15.11.2 the Trustees shall have power from time to time to delegate their powers of making and managing investments and of keeping a register thereof to any person, firm or company whom they may consider competent to be such a delegate and to pay to such delegate such agreed fees as the Trustees consider to be reasonable in all the circumstances, provided that:

15.11.2.1 the Trustees must lay down investment guidelines for the delegate;

15.11.2.2 the Trustees must be able to revoke any delegation after a maximum period of 12 months;

15.11.2.3 the delegate must report to the Trustees at least quarterly on the performance of the investments; and

15.11.2.4 the Trustees must use their reasonable endeavours to ensure that the delegate observes the investment guidelines.

The Trustees may if they consider this expedient authorise the Fund Manager or other delegate so appointed himself to delegate the exercise of all or any powers delegated to him upon such terms (if any) as the Trustees may think fit to impose and as the appointed delegate may accept.

Without prejudice to the generality of provisos 15.11.2.1 to 15.11.2.4 inclusive the Trustees shall comply with section 34(4) of the Pensions Act and with section 34(6) of that Act (where they have appointed any relevant fund managers to manage by way of delegation any of the investments of the Scheme) as regards those matters on which they are required to take all such steps as are reasonable to satisfy themselves so as to obtain the protections afforded by those sub-sections.

Additionally, the Trustees may appoint an investment sub-committee including not more than five persons whom they may decide to co-opt because they have special skills relating to investment and may make regulations for the proceedings of the sub-committee and delegate to the sub-committee such discretionary, executive and advisory powers relating to the investment of the fund as they in their absolute discretion determine from time to time;

15.11.3 the Trustees may, if they consider it expedient to do so for the more efficient management of the Fund, appoint a custodian for the purpose of holding all or any part of the assets of the Fund and may permit all or any part of the assets of the Fund to be held in the name of a nominee or nominees, which may include any investment manager appointed under rule 15.11.2 and appointed under this rule 15.11, any subsidiary of either of them or of any company appointed by the Trustees to act as their nominee and any participant in a recognised clearing system used for the

purpose of investing in traded securities on terms that any such custodian or nominee will hold such assets for and on behalf of the Trustees and deal with the income and capital derived from them as directed from time to time by the Trustees. For the purposes of any agreement appointing any such custodian or nominee, the Trustees shall also have power to give an indemnity or lien which shall be binding on the Fund; and

15.11.4 the Trustees shall have a discretion to delegate to any one or more persons of their choice including any senior employee of any of the Employers power to sign, draw and endorse cheques and give receipts and acknowledgements on behalf of the Trustees for the purposes of the Scheme.

#### **15.12 Power to borrow**

The Trustees shall have power to raise any money required for the purposes of the Scheme by the sale, conversion, calling in or mortgage or charge of all or any part of the trust property for the time being in their possession, in the same manner and to the same extent as if the Trustees were the absolute and beneficial owner thereof, and, generally, shall have power to borrow for the purposes of the Scheme.

#### **15.13 Notices**

Any notice to the Trustees or to any Member, Pensioner or other person in receipt of a pension or annuity or entitled to any other benefit hereunder may be given by sending the same through the post in a letter addressed to them or him at his last known place of abode, and any notice so sent shall be deemed to be served on the fourth day following that on which it is posted.

#### **15.14 Members to give notice of addresses**

Every Member, Pensioner and annuitant shall give notice in writing to the Trustees of his place of residence at the time he becomes a Member or entitled to an annuity out of the Fund and, thereafter, shall give immediate notice of any change of residence.

#### **15.15 Interested professional parties**

Any director or officer of the Administrator or the Trustees who may be a solicitor, accountant, stockbroker, actuary or other person engaged in any profession or business may act by himself or his firm in a professional capacity for the Trustees, and shall be entitled to charge and be paid for all work done by him or his firm for or on account of the Trustees.

#### **15.16 Costs and expenses**

The Principal Employer may, from time to time, agree with the Trustees to bear such of the costs and expenses of managing and administering the Scheme as the Employer shall decide.

#### **15.17 Limitation of liability and indemnity**

15.17.1 Without prejudice to any right of indemnity given them by law the Trustees and the officers of a corporate trustee shall, subject to rule 15.17.3, be indemnified by the Employers (and each of them) and



shall, subject to section 256 of the 2004 Act, be entitled to an indemnity against the assets of the Fund in respect of:

- 15.17.1.1 all liabilities of any description incurred by them in the performance of their obligations hereunder or in the administration of the Scheme so long as those liabilities shall have been incurred in good faith and without any fraudulent or wrongful intent or deliberate disregard of the interest of the beneficiaries of the Scheme on their part; and
  - 15.17.1.2 all expenses properly incurred by them in the execution of the trusts of the Scheme including all expenses incurred in connection with any such liabilities as is referred to in rule 15.17.1.1 above or in connection with any breach of trust for which they are exonerated from liability by virtue of rule 15.17.2 below.
- 15.17.2 Save to the extent referred to in rule 12.2, the Trustees (and the directors of any corporate trustee of the Scheme, including any former director in respect of his period of office) shall not be liable for any actual or alleged maladministration, error of judgement or breach of trust of whatever nature whether by way of omission or commission by any of them or by any other person but this paragraph shall not operate to release any liability attaching to any trustee or director or employee of the trustee in respect of that person's fraud or deliberate disregard of the interests of the beneficiaries under the Scheme. Nothing in this paragraph shall be taken to relieve the Trustees from any liability which may attach to them by virtue of section 33 of the Pensions Act, subject however to the protections afforded to the Trustees under section 34 of that Act.
- 15.17.3 The indemnity from the Employers in rule 15.17.1 above shall not apply where:
- 15.17.3.1 the Trustees are personally indemnified in respect of any loss caused to any of them under any policy of insurance to the extent that the insurer in relation to that policy in fact pays sums due or payable under the policy (and attributable to that loss) to the Trustees in respect of an insured event under that policy; or
  - 15.17.3.2 the liability, whether a fine, penalty or otherwise, is of a criminal nature.
- 15.17.4 The Trustees may enter into such agreements, and give such undertakings, indemnities or guarantees which are binding upon the Scheme, as the Trustees shall, in their absolute discretion, decide are necessary or desirable for the proper and efficient administration of the Scheme, save that the Trustees may not use assets of the Scheme to insure themselves against any personal liability or where there is a corporate trustee to insure its officers against personal liability.
- 15.17.5 Where the Trustees have a right of indemnity against the assets of the Fund for any matter referred to in this rule 15.17, they shall exercise that right before calling on the indemnity conferred upon them by the

Employers and shall use all reasonable endeavours to pursue claims in respect of any such matter which is an insured event under any such subsisting policy of insurance as is referred to in rule 15.17.3.1, where in the opinion of the Trustees this is practicable, prior to having recourse to the Fund or to the Employers under its indemnity contained in rule 15.17.

#### **15.18 Payment of pensions**

The following administrative provisions shall apply to the payment of pensions and where appropriate other Relevant Benefits under the Scheme:

- 15.18.1 all pensions and annuities shall be payable at such periods as the Trustees shall from time to time, either generally or in any particular case, decide and any pension or annuity may be paid in advance if the Trustees think fit;
- 15.18.2 where the Trustees have determined pursuant to rule 15.18.1 that a pension is payable at a particular date or in a particular period or otherwise as the Trustees considers appropriate, then interest at a rate determined by the Trustees at their sole discretion shall be paid on the delayed payment of pension (or other benefit) or where the delay is not as a result of any act of the recipient or of their agent(s);
- 15.18.3 pensions and annuities are payable to a bank account maintained by the Pensioner or annuitant or in such other manner as the Trustees think fit, and any agreement for a payment through the post, or otherwise, which may in any particular case be made by the Trustees, shall be at the risk of the Member or annuitant concerned;
- 15.18.4 where any pension or annuity is payable in arrear or partly in arrear it shall be apportioned from the last day of the period in respect of which a payment is made before termination to the date of such termination;
- 15.18.5 before making or sanctioning any payment out of the Fund, the Trustees may require the production of a certificate, or such other evidence as they may think fit, of the birth, marriage, continued existence or death of the person claiming benefit or of a Member, his surviving spouse or Dependants or the identity of any person named in a certificate or any other material fact; and
- 15.18.6 if the Trustees are of the opinion that any person entitled to benefit is incapable of managing his affairs due to physical or mental infirmity (whether or not he is a patient for the purposes of Part VIII of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960), the Trustees shall be entitled at their discretion to pay any such benefit to any person approved by them who undertakes to apply such benefit to or for the maintenance or benefit of the person concerned, and the Trustees shall not be under any obligation to see to the application of any benefits so payable and actually paid to such person as aforesaid.

#### **15.19 Claims only in accordance with Rules**

No Member, Pensioner or annuitant shall have any claim or right to any benefit save if and so far as the Scheme allows and in accordance with the Rules.

#### **15.20 Termination of employment**

Nothing herein shall in any way restrict the rights of the Employer or its appropriate officials to determine the employment of any Member and the benefits to which a Member might have become entitled under the provisions hereof in respect of a period after his contract of service has lawfully been terminated shall not be used as a ground for increasing damages in any action brought by such Member against the Employer.

#### **15.21 Annuity in satisfaction of Member's rights**

The Trustees, acting on Actuarial Advice, (and subject to the consent of the Member concerned if the benefit to be assured by the operation of this rule 15.21 is alternative to any Short Service Benefits to be provided under section 10), may at any time, and from time to time, if and when they shall for any reason consider it convenient in any particular case, purchase from any Insurance Company any policy of insurance or annuity contract for the purpose of answering or satisfying any benefits which may be paid to any person under the Rules, whether immediately or prospectively, and so that, in any case where a Member for whom any such policy or contract is purchased has allocated part of his pension in return for an annuity payable to a beneficiary under section 8, the policy or contract may provide for the payment to the beneficiary of an annuity of the same amount and commencing at the same time and payable on the same terms as the annuity which the beneficiary would have received under the Rules. Any policy or contract so purchased shall be purchased in the name or names of the person or persons to whom the benefits purchased are to be paid, or in the name of the Trustees for him or them, and shall be paid or applied for the purposes and in the manner to and for and in which the said benefits in respect of which the same was purchased is payable or applicable in accordance with the Rules. No Member or person on whose behalf any such policy or contract is purchased under the provisions of this rule 15.21 shall thereafter have any claim upon or interest in the Fund.

#### **15.22 Effect of mis-statements**

If any Member or dependant of a Member shall make any mis-statements as to any of the matters referred to in the preceding Rules, the Trustees, on discovering the mis-statement, shall have power, acting on Actuarial Advice, to make such arrangements as they shall consider fair by way of adjustment of any pension, annuity or other money payable out of the Fund.

#### **15.23 Information to be made available**

Every person having any rights under the Scheme being a present or former employee shall on demand be entitled during normal office hours, to inspect a copy of the Rules and of all amendments thereof, and the latest statement of accounts and balance sheet and the latest actuarial valuation statement and report and all other documents which he is for the time being entitled to inspect under The Occupational Pension Schemes (Disclosure of Information) Regulations 1996 or any regulations thereunder and shall also have sent to him at the appropriate time any such document which the Trustees or Administrator are so required to send by those regulations.

#### **15.24 Actuarial investigation**

An actuarial investigation into the condition of the Fund shall be made at intervals of at least three years (or such other period as may from time to time be laid down under the Pensions Act, the 2004 Act or the Pension Schemes Act).

If, as a result of the investigation, an alteration in the Scheme is desirable, then the Trustees, in consultation with the Principal Employer, shall take such steps as they shall consider appropriate to ensure that such alterations or additions shall be made in or to the Scheme as may be considered necessary, but subject to the provisions of section 15.

#### **15.25 Acts of the Employer**

Unless otherwise provided for in the Rules any discretionary power or obligation conferred or imposed on the Employer may be exercised or complied with:

- 15.25.1 by any appropriate committee of the Employer on which obligated powers have been conferred acting by resolution, or by a written document signed by all the Members thereof; or
- 15.25.2 as an alternative to 15.25.1 above, by some person duly nominated in manner aforesaid by the Employer to exercise the powers and discretions conferred upon it.

#### **15.26 Liability of Employer**

The Employers shall not be under any liability whatsoever in connection with the Scheme, except as expressly provided in the Rules.

**16. SECTION 16 - ALTERATIONS IN AND ADDITIONS TO RULES**

**16.1 Power of alteration**

The Principal Employer may, subject to the provisions of clause 9 of the Charter of The Medical Research Council dated 26 October 1966, at any time, by deed, alter or repeal all or any of the Rules for the time being in force or make any new Rules to the exclusion of or in addition to all or any of the existing Rules aforesaid, and any Rules so made shall be deemed to be Rules of the same validity as if originally embodied herein and shall be subject in like manner to be altered or modified.

**16.2 Effect on existing accrued benefits**

No alteration or addition shall prejudice any pension or annuity then payable under the Scheme or the accrued rights of any Member whether or not he is then excused from, or not liable for, contributions. Without prejudice to the above restrictions, the requirements of section 67 of the Pensions Act shall be observed.

**16.3 Alterations not to affect purpose of the Scheme**

There shall be no alteration which shall have the effect of altering the purpose of the Scheme, which shall continue to be the provision of Relevant Benefits. Without prejudice to the above restrictions, the requirements of section 67 of the Pensions Act shall be observed.

**16.4 No return to Employer of any part of Fund**

There shall be no alteration which shall result in the return to the Employer of any part of the Fund but subject to the provisions of rule 17.6.

**16.5 Consent of Trustees**

There shall be no alteration without the consent in writing of the Trustees.

## 17. SECTION 17 - TERMINATION AND WINDING UP

### 17.1 Power of determination

The Scheme may be terminated by the Principal Employer at any time by giving three months' previous notice in writing to the Trustees expiring at any time. From the expiration of such notice or the termination of the Scheme for any other reason, the Employer shall not be liable for any further payments to the Fund, but without prejudice to any liability for payments due on or before the date of such expiration or other determination. Upon such notice being received or other termination in accordance with the Rules, the Trustees shall give notice thereof to the Members.

### 17.2 Partial determination

The Scheme may be partly terminated by the Principal Employer with like notice as is required under rule 17.1 in relation to any group of Members in respect of whom alternative pension arrangements are proposed or exist and in such event that group of Members shall be treated as if they were employees of a participating Employer to which rule 17.3 applies provided always that to facilitate the establishment of alternative pension arrangements a company may participate in the Scheme for such temporary period not exceeding twelve months as the Principal Employer and the Trustees shall agree subject to the approval of HMRC in respect of those Members only for whom alternative pension arrangements are being made.

### 17.3 Withdrawal of an individual Employer

Where a participating Employer becomes a Retiring Employer as defined in paragraph 17.3.1 below the remaining provisions of this rule 17.3 shall then apply to or in respect of that Employer:

17.3.1 For the purposes of this rule 17.3 "**Retiring Employer**" means an Employer in respect of which one or more of the following conditions shall have been fulfilled, namely:

17.3.1.1 an order shall have been made, or effective resolution passed, for the winding-up or dissolution thereof, otherwise than for the purpose of reconstruction or amalgamation with any other Employer;

17.3.1.2 it shall have ceased to be a subsidiary of or to be associated with the Principal Employer;

17.3.1.3 it has been found by such Employer or the Trustees to be impracticable or inexpedient for it to continue to participate in the Scheme; or

17.3.1.4 a declaration has been made pursuant to rule 1.7.

17.3.2 On the date on which an Employer becomes a Retiring Employer (hereinafter called "**Retiring Date**"), it shall cease to participate in the Scheme either immediately or after such interval as the Principal Employer and the Trustees shall agree subject to approval of HMRC.

17.3.3 On the date on which a Retiring Employer ceases to participate in the Scheme ("Transfer Date"):

17.3.3.1 Members then in the service of such Retiring Employer shall be treated as if their service had then terminated and any who have not attained Normal Retiring Age shall be treated as Members to whom section 9 applies and the provisions of this section shall be applied accordingly provided that no Member shall thereby become entitled to a refund of his contributions;

17.3.3.2 the Trustees shall forthwith set aside the Appropriate Part of the Fund (as defined in 17.3.3.4 below) for the benefit of the Relevant Beneficiaries (as defined in 17.3.3.6 below);

17.3.3.3 the Appropriate Part of the Fund shall be applied in accordance with this section so far as relevant as if:

- (a) references therein to the winding-up of the Scheme were references to the Retiring Employer ceasing to participate;
- (b) references to the Employer were references to the Retiring Employer;
- (c) references to the Fund were references to the Appropriate Part of the Fund;
- (d) the only persons eligible to benefit under rule 17.6.1 and 17.6.5 were the Relevant Beneficiaries;
- (e) in respect of any Relevant Beneficiaries for whom no transfer payment is or is to be made in accordance with rule 17.6 the portion (determined by the Trustees acting on Actuarial Advice) of the Appropriate Part of the Fund should be retained in the Fund and benefits for the Relevant Beneficiaries concerned provided out of the Fund as if under section 9 in lieu of securing such benefits pursuant to rule 17.6;

17.3.3.4 the "**Appropriate Part of the Fund**" means such part of the Fund as the Trustees determine provided that:

- (a) subject to proviso (b) below the Appropriate Part of the Fund shall not, without the consent of the Principal Employer, exceed an amount which is determined by the Trustees with Actuarial Advice to be equal in value to the accrued benefits under the Scheme of the Relevant Beneficiaries, and for this purpose Members in service on the Transfer Date shall be treated as if their service had then terminated and any who

have not attained normal retirement age shall be treated as Members to whom section 9 applied and shall not exceed a share of the Fund including a share of any surplus;

- (b) where a transfer payment is to be made in respect of Members of the Scheme the portion of the Appropriate Part of the Fund relating to such Members may, if the Trustees think fit and if and to the extent that the Principal Employer agrees, be determined by reference to a past service reserve for the Members concerned making such allowance for future increases in earnings and in pensions (whether or not in payment) and other matters as the Trustees may on Actuarial Advice consider appropriate;

17.3.3.5 the setting aside of the Appropriate Part of the Fund may be effected by reference to a valuation of the liabilities concerned or of the Fund in either case as at the Retiring Date or any date between the Retiring Date and the Transfer Date (if the latter date is different from the former) with such adjustments as the Trustees may consider appropriate to allow for the intervening period down to the setting aside of the Appropriate Part of the Fund;

17.3.3.6 the "Relevant Beneficiaries" means:

- (a) the Members who are at the Transfer Date employees of the Retiring Employer and other persons who under the Rules are or may become contingently entitled to benefit under the Scheme through such Members;
- (b) such one or more of the former employees of the Retiring Employer who are at the Transfer Date entitled under the Rules to deferred benefits as the Principal Employer with the consent of the Trustees nominates and any other persons who under the Rules are at the Transfer Date or may become contingently entitled to benefit under the Scheme through such former employees nominated by the Principal Employer with the consent of the Trustees;
- (c) such one or more of the Pensioners who at the Transfer Date are former employees of the Retiring Employer as the Principal Employer nominates and any other persons who under the Rules are at the Transfer Date or may become contingently entitled to benefit under the Scheme through such Pensioners nominated by the Principal Employer;



- (d) such one or more of the other persons (if any) who are nominated by the Principal Employer with the consent of the Trustees, are not capable of falling within (b) or (c) above, at the Transfer Date are in receipt of pensions or other benefits under the Rules and derive their entitlement from employees or former employees of the Retiring Employer; and
- (e) where there is more than one Retiring Employer and it is intended that such Retiring Employers should remain associated and become participating employers in a new scheme then this rule 17.3 shall operate as if those Retiring Employers were one Retiring Employer.

#### **17.4 Winding up of the Scheme**

If the Scheme shall be terminated in accordance with rule 17.1 and not continued as a closed fund, or if the Trustees shall at any time be of the opinion that the objects for which the Scheme was established no longer exist or that the administration thereof cannot conveniently be carried on, they shall have power to terminate the Scheme and thereupon the trusts upon which the Fund was formerly held shall cease. The Scheme shall in any event be terminated if the Perpetuity Period shall expire.

#### **17.5 Entitlement to benefit**

On the determination of the Scheme, Members then in the service who have not attained Normal Retiring Age shall be treated as if their service had then terminated and they were Members to whom section 9 applied, and the provisions of this section shall be applied accordingly, provided that no Member shall thereby become entitled to a refund of his contributions.

#### **17.6 Application of Fund on a winding up**

Upon the termination of the Scheme then the assets of the Fund shall be realised and the Fund converted into money and, subject to the payment of all costs charges and expenses which may then be owing, the entire proceeds of such conversion shall be applied by the Trustees in satisfying the following obligations in the order in which they are set out below:

- 17.6.1 in securing the continuance as if under the Scheme of any pensions and annuities which have then actually commenced (including pensions in course of payment to persons in receipt of Short Service Benefits), pensions prospectively payable to Members who are in the service after Normal Retiring Age and benefits payable on the death of any such Pensioner or Member, provided that no account shall be taken of further pensions increases which might have been payable under the provisions of rule 11.1;
- 17.6.2 in securing the future payment of equivalent pension benefits payable under part III of the National Insurance Act 1965 and the previous corresponding enactments;

- 17.6.3 in securing the future payment of Short Service Benefits in respect of Members who have left the service prior to 6 April 1978 but not so as to take account of any further pensions increases;
- 17.6.4 in securing the future payment of Guaranteed Minimum Pensions not then in payment, insofar as not provided for in rules 17.6.1 or 17.6.3 above, and accrued rights to Guaranteed Minimum Pensions or, as an alternative, or partial alternative, in paying state scheme premiums in accordance with sections 55 to 68 (inclusive) of the Pension Schemes Act;
- 17.6.5 in the provision under Actuarial Advice of benefits for Members and other prospective annuitants and beneficiaries entitled in anticipation to benefits, including Short Service Benefits not then in payment, but excluding such part of those benefits as shall have been secured under rules 17.6.2, 17.6.3 and 17.6.4 above, regard being had to the respective prospects of becoming entitled to such benefits had the Scheme continued in existence;
- 17.6.6 at their discretion, in augmenting, subject to the restrictions laid down in section 10, the pensions and annuities referred to in rule 17.6.1 above, and in augmenting, subject to the like restrictions, the benefits referred to in rules 17.6.3 and 17.6.5 above, and it shall be a requirement that the Trustees shall have regard to Actuarial Advice in deciding on a proper measure of augmentation;
- 17.6.7 in employing any balance remaining in their hands, after satisfying their obligations under the preceding paragraphs, to the Employer;

and, in relation thereto, if the employees of the Employer become entitled to join a Transfer Scheme (including another scheme of the Employer) the Employer may, subject to the provisions of the Pension Schemes Act, direct that a transfer payment or payments, of such amount or amounts as the Trustees, acting on Actuarial Advice, shall decide (regard being had to the assets available on the winding-up), shall be made to such Transfer Scheme in respect of each employee or former employee or group of employees and former employees in accordance, as nearly as may be, with the provisions of rule 9.11 and 9.12 and, subject thereto, any Member shall be entitled to require the Trustees to make a transfer payment of such amount as aforesaid in respect of him, and otherwise pursuant to rules 9.11 and 9.12. In cases where a transfer payment is not made in respect of a Member, his benefits shall be secured by the purchase of an annuity or other insurance policy from an Insurance Company.

#### **17.7 Application of the Fund and priorities on winding up when Scheme is in deficit**

Where the Scheme is being wound up in the circumstances for which section 73 of the Pensions Act provides (which details certain preferential liabilities where a Scheme is being wound up in deficit) such adjustments shall be made to the order of priorities set out in rule 17.6 as may be necessary to ensure compliance with the requirements of that section.

#### **17.8 Payment of benefits on a winding-up**

All annuities purchased pursuant to rule 17.4 shall commence to be payable not earlier than the earliest date on which a pension or annuity could have been payable

under the provisions of the Rules had the Scheme continued in existence, and all annuities shall be non-assignable and non-commutable.

## APPENDIX 1

### Countries and places to which rule 3.8 applies

Territories are shown under their common or current names as at 1 December 1974. Rule 3.8 applies to service in each country or place before 1 December 1974.

Ethiopia	including Addis Ababa
The Gambia	
Kenya	
Malaysia	
Nigeria	
Tanzania and Zanzibar	
Trinidad and Tobago	
Uganda	
Zambia	

## APPENDIX 2

### Special provisions relating to employees opting for Alternative Benefits

#### 1. Application

This appendix applies to those employees who on or after 6th April 1988 may opt for Alternative Benefits and to those who having so opted thereafter elect to rejoin or join the Scheme.

#### 2. Definitions

In this Part of the appendix the following words and expressions shall unless the context otherwise requires have the following meanings:

"**Entrant**" includes a late entrant and a re-entrant and any other employee who enters the Scheme after a period of Alternative Benefits Service;

"**Existing Member**" means a Member of the Scheme on 5 and 6 April 1988;

"**Late Entrant**" means an employee who on becoming a new Member opted for Alternative Benefits and who:

- (a) has elected to join the Scheme; and
- (b) has been admitted to Membership in accordance with the provision of this appendix;

"**New Member**" means an employee who becomes an employee eligible for Membership on or after 6 April 1988 whether or not he has previously been a Member;

"**Re-Entrant**" means an existing Member who:

- (a) opted for Alternative Benefits and then;
- (b) has elected to rejoin the Scheme; and
- (c) has been admitted to Membership in accordance with the provisions of this appendix.

#### 3. Right of Members to withdraw

A Member may at any time give not less than 28 days' notice in writing to his Employer and the Trustees to cease to be a Member such notice to take effect at the end of the month in which the notice expires and thereupon the provisions of paragraph 5 below shall apply to that Member provided that:

- 3.1 notwithstanding that notice shall normally take effect at the end of a calendar month an existing Member may give notice not later than 6 July 1988 to take effect on 6 April 1988;
- 3.2 such notice shall be deemed to have been given at the time of actual receipt by the Trustees or his Employer.

**4. Effect of retrospective withdrawal of a new Member**

Unless he has given notice in writing to the Employer prior to becoming an employee that he opts for Alternative Benefits a new Member shall automatically become a Member of the Scheme from the commencement of his employment provided that a new Member may within three months of becoming a new Member give notice in writing of his retrospective withdrawal from the Scheme and upon the giving of such notice:

- 4.1 the new Member shall be deemed never to have been a Member of the Scheme in respect of that employment (but without prejudice to any Short Service Benefits to which he may be entitled in respect of any prior period of Reckonable Service);
- 4.2 the Trustees may make such repayment of contributions to the Employer as shall not prejudice the approval of the Scheme under part XIV of the Taxes Act and its treatment as a Registered Scheme;
- 4.3 the Trustees shall repay to the Member the contributions paid in respect of him subject, if appropriate, to the provisions of rules 13.7 and 14.5 or to such other deductions on account of tax and National Insurance contributions either by the Trustees or the Employer as will not prejudice Approval and its treatment as a Registered Scheme and also the contracting-out certificate held by the Employer in respect of the Scheme; and
- 4.4 his notice shall be effective from the time of posting to the Trustees or the Employer by recorded delivery post or the time of delivery if delivered personally to his Employer.

**5. Effect of withdrawal of other Members**

Upon the withdrawal of a Member taking effect other than in circumstances to which paragraph 4 applies:

- 5.1 any allocation made by him pursuant to section 8 shall be cancelled; and
- 5.2 he shall become entitled to Short Service Benefits under section 9 but as provided in The Occupational Pension Schemes (Transfer Values) Regulations 1996 (as amended) and in rule 9.11.8 an existing Member shall not be entitled to a cash equivalent under the provisions referred to in rule 9.11 in respect of any period prior to 6 April 1988 so long as he remains an employee.

**6. Employee joining or rejoining**

- 6.1 An employee who has opted for Alternative Benefits and who neither is within two years of Normal Retiring Age nor has previously exercised his right to withdraw under this paragraph may elect to join or rejoin the Scheme on the terms set out in this paragraph.
- 6.2 An employee who is in Alternative Benefits Service may apply to join the Scheme in accordance with the following paragraphs:
  - 6.2.1 the employee shall provide such declaration of health and be subject to such medical examination at his own expense as the Trustees shall require;

- 6.2.2 the Trustees shall be entitled to reject the application of the employee if they are not satisfied that his state of health is normal;
- 6.2.3 such an employee shall become a Member only on the first day of the month following the acceptance in writing by the Trustees of his application for Membership.
- 6.3 This paragraph applies where an entrant has Short Service Benefits under the Scheme in respect of a prior period of employment or where an employee becoming a Member has Short Service Benefits in respect of a period of Reckonable Service which was followed by a period of Alternative Benefits Service:
  - 6.3.1 in accordance with rule 3.14 such Member shall not be entitled under the provisions of rule 6.12 to aggregate any prior period of Reckonable Service with his future Reckonable Service;
  - 6.3.2 the Reckonable Service of an entrant shall in no case commence or recommence earlier than the day on which his Alternative Benefits Service ceases;
  - 6.3.3 an entrant's Pensionable Salary shall not be calculated at any time after he joins or rejoins the Scheme by reference to any Salary payable for a period before his Alternative Benefits Service ceased; and
  - 6.3.4 he shall remain entitled to Short Service Benefits in respect of his prior period of Reckonable Service to the extent that he has not elected for one of the statutory alternatives thereto prior to the date of rejoining the Scheme.

## **7. Early retirement**

Where a Member had opted to withdraw as provided in rule 2.5.1 and this appendix but remains in the employment of the Employer and then retires in one of the four categories of early retirement, any deferred benefits to which he is entitled under section 9 shall be brought into payment either immediately in the case of a lump sum or at Normal Retiring Age in the case of an annual pension as if such deferred benefits were payable under rule 6.6, 6.7 or 6.8 as the case may require.

## APPENDIX 3

### AVC Scheme

1. This appendix applies to all Members, notwithstanding that an individual Member may be paying contributions pursuant to all or any one or more of rules 4.2 to 4.5, but subject to paragraph 5.3 below.
2. The purpose of the appendix is to set out the terms upon which Members may elect to make AVCs to the Scheme in order to secure additional Relevant Benefits on retirement or payable upon death.
3. In this appendix the words and expressions defined in rule 1.1 shall have the same meanings and in addition:

**"Investment"** means a policy or building society deposit or other approved investment specifically appropriated to a Member to whom this appendix applies; and

**"The Member's Fund"** shall mean in relation to a Member the amount payable on his retirement, death or withdrawal from service but shall not include any life insurance benefits which are payable on the Member's death in service or any contributions of the Member applied to secure such benefits.
4. No Member may elect in accordance with paragraph 5 if he is then subject to notice to terminate his employment.
5.
  - 5.1 Subject to paragraph 4 a Member may elect to pay or to vary AVCs at any time prior to Normal Retiring Age.
  - 5.2 Any election shall be made in writing.
  - 5.3 No amount of contributions shall exceed the Maximum Contribution.
  - 5.4 Contributions will be deducted from the monthly Salary becoming payable to the Member the first such payment being deducted from the monthly Salary payable following the coming into force of such election or in such other manner as the Trustees may agree with an individual Member from time to time.
6. Contributions will be applied by the Trustees in adding to the Member's Fund or in making an investment which shall become part of the Member's Fund and there may from time to time be added to the Member's Fund such income and other surpluses as the Trustees decided are available for that purpose.
7. On the death of a Member to whom the AVC Scheme applies before the Normal Retiring Age the Member's Fund and, if he has elected to secure additional life insurance benefits, such life insurance benefits shall be held by the Trustees on the Discretionary Trusts.
8. On the retirement of a Member the Member's Fund shall be applied by the Trustees in accordance with the directions of the Member.
9. On a Member leaving the employment of the Employer or ceasing to be in Reckonable Service before Normal Retiring Age without becoming entitled to an immediate pension



under section 6 and whether or not he is entitled to Short Service Benefits pursuant to section 9, then:

- 9.1 the contributions payable by such Member shall cease forthwith;
  - 9.2 if the Member to whom this paragraph applies is entitled under rule 9.10 to and elects to take a refund of his contributions the Member's Fund shall be returned to him subject to deduction of tax pursuant to rule 14.5;
  - 9.3 if a Member to whom this paragraph applies elects that a transfer payment be made pursuant to rule 9.11 the Member's Fund shall be included in the transfer payment in accordance with rule 9.13; and
  - 9.4 subject to the preceding paragraphs the Member's Fund shall be applied in providing benefits in accordance with paragraph 8 at Normal Retiring Age or such earlier date on which any benefit under section 9 commences to be payable.
10. The Employer shall have the right at any time by notice in writing to the Trustees to provide that there shall not be any further elections by Members to pay AVCs pursuant to the AVC Scheme without prejudice to the right of those Members who have already elected to continue payment of contributions pursuant to elections already made and without prejudice to the obligations of the Employer in respect of the Scheme under section 12 of the Social Security Act 1986 (Voluntary Contributions).
  11. Notwithstanding the provisions of paragraph 10 of this appendix the Principal Employer shall, at the same time as it gives notice to the Trustees pursuant to rule 17.1, give to the Trustees notice in writing to terminate the AVC Scheme in which case no further contributions under the AVC Scheme shall be payable and the provisions of paragraph 8 shall apply to the application of moneys becoming payable.
  12. On a winding up of the Scheme or on a winding up of the AVC Scheme pursuant to paragraph 11 of this appendix the Member's Fund shall be held by the Trustees to provide such Relevant Benefits for the Member but such Member shall only be entitled to such benefits as can be provided with the proceeds of the Member's Fund and any such benefits shall not exceed the limits specified in section 10.
  13. The proceeds of the Member's Fund shall not be applied in making any of the payments referred to in rule 17.4 and no moneys arising from a winding up of the Scheme under section 17 shall be applied in augmenting any of the benefits payable under this appendix.

## APPENDIX 4

### Pension sharing on divorce

#### 1. DEFINITIONS

For the purpose of this appendix the following terms shall have the meanings ascribed to them below (which, in case of conflict, supersede those in rule 1):

**"Associated Scheme"** has the meaning given to that expression in rule 10.2;

**"Connected Scheme"** has the meaning given to that expression in rule 10.2;

**"Incapacity"** has the meaning given to it in regulation 1 of the Pension Credit Benefit Regulations;

**"Negative Deferred Pension"** means the amount by which the Pension Debit Member's benefits under the Scheme, which are attributable to that Member's Reckonable Service, are reduced at the Member's Relevant Date by section 31 of the 1999 Act by virtue of a Pension Sharing Order, agreement or equivalent provision. For this purpose, Reckonable Service includes all periods of service with other employers which have been treated as if they were Reckonable Service when a transfer payment has been made to the Scheme in respect of that other service;

**"Pension Credit Benefit"** in relation to a scheme, means the benefits payable under the scheme to or in respect of an Ex-Spouse Participant by virtue of rights under the scheme attributable (directly or indirectly) to a Pension Credit;

**"Pension Credit Benefit Regulations"** means the Pension Sharing (Pension Credit Benefit) Regulations 2000;

**"Pension Debit"** means a debit under section 29(1)(a) of the 1999 Act;

**"Pension Debit Member"** means a Member whose benefits have been permanently reduced by a Pension Debit for HMRC purposes. Such a Member will either be:

- (i) a Member who is a controlling director of a company which is his/her employer if he/she is a director of the company to whom paragraph (b) of section 417(5) of the Taxes Act applies either at the date on which the marriage was dissolved or annulled, or at any time within the period of 10 years before that date; or
- (ii) a Member whose earnings (which for these purposes were paid in consequence of service during each of the three years of assessment before the year of assessment in which the marriage was dissolved or annulled, and from which tax was deducted in accordance with the Income Tax (Employments) Regulations 1993) exceed one quarter of the Permitted Maximum in the year in which the date of divorce occurs;

**"Preservation Provisions"** means the legislation for the time being in force relating to preservation, set out in part IV of the 1993 Act;

**"Safeguarded Rights"** has the meaning given in section 68A of the 1993 Act;

**"Serious Ill-health"** has the meaning given to it in regulation 2(a) of the Pension Credit Benefit Regulations.

## **2. PENSION CREDIT BENEFIT**

2.1 The Pension Credit Benefit shall be:

2.1.1 deferred benefits under the provisions of section 9 for an Ex-Spouse Participant who has not attained Normal Retiring Age at the date of the implementation of the Pension Sharing Order; and

2.1.2 an immediate pension under the provisions of section 6 and other benefits payable under section 7 for an Ex-Spouse Participant who has attained Normal Retiring Age at the date of the implementation of the Pension Sharing Order;

of such amount(s), taking into account the value of the Pension Credit, as the Trustees think fit acting on the advice of the Actuary, consistent with the relevant requirements of the Finance Act and the Preservation Provisions and subject to the limitations set out in paragraph 4 of this appendix.

2.2 For the avoidance of doubt:

2.2.1 this appendix shall prevail if there is any conflict between the provisions of this appendix and the Rules; and

2.2.2 the Ex-Spouse Participant shall have the right to commute the pension payable under paragraphs 2.1.1 or 2.1.2 above (as appropriate) in accordance with rule 6.14.

2.3 The Trustees must make provision for the Pension Credit Benefits of an Ex-Spouse Participant under the Scheme to be treated as provided separately from any benefits that they may have under the Scheme as a Member or Dependant.

## **3. ASSIGNMENT**

Rule 12.2 is amended to permit the assignment of part or all of the Member's retirement benefits or rights under the Scheme to his Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision or the assignment of part or all of the Ex-Spouse Participant's benefits or rights to benefit under the Scheme to his Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision.

## **4. LIMITS FOR EX-SPOUSE PARTICIPANTS**

The benefits detailed in this paragraph 4 are the maximum benefits that an Ex-Spouse Participant is entitled to receive and the benefits available to Ex-Spouse Participants in this Scheme, as set out in paragraph 2, are subject to these limits.

### **4.1 Payment of a pension**

A pension can be paid at any time between attaining Minimum Pension Age and 75 at the request of the Ex-Spouse Participant or earlier on grounds of Incapacity where the Ex-Spouse Participant is simultaneously taking benefits on Incapacity grounds arising from service as an employee under the Scheme in which Pension Credit Benefits are held. Additionally a pension not yet in payment may be fully commuted at any age on the grounds of exceptional circumstances of Serious Ill-Health. Such a pension

should not be commuted, surrendered or assigned except in accordance with the Rules. Such a pension must be payable for life unless it is fully commuted under paragraph 4.2 and may be guaranteed.

#### **4.2 Commutation of Pension Credit Rights**

Where the Member who was formerly married to the Ex-Spouse Participant has already received a pension benefit, or Pension Credit Rights were transferred into the Scheme with a lump sum nil certificate, no lump sum may be paid to the Ex-Spouse Participant. Otherwise, the Ex-Spouse Participant may choose to take a lump sum in commutation for part of the pension at the time the pension first becomes payable.

The Ex-Spouse Participant may choose to take a lump sum in full commutation of the Pension Credit Benefits on the grounds of triviality (as prescribed in regulation (3)(2)(b) of the Pension Credit Benefit Regulations) or Serious Ill-Health. Where the Ex-Spouse Participant is also entitled to benefits under the Scheme as a Member, for the purposes of determining the aggregate value of the total benefits payable to the Member under triviality rule 12.3, Pension Credit Benefits must be included. Where the Ex-Spouse Participant is also entitled to benefits under the Scheme arising from service as an employee, full commutation of the Pension Credit Rights on the grounds of triviality will only be permitted where benefits arising from service as an employee are simultaneously commuted.

#### **4.3 Death in deferment**

Where the Ex-Spouse Participant dies before benefits come into payment the Trustees shall discharge their liability in respect of the Pension credit in accordance with the provisions of registration of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000.

Such pensions must be payable for life, except that pensions paid to children must cease on the attainment of age 18 or, if later, on the cessation of full time education.

Such pensions may, however, be fully committed for a lump sum on the grounds of triviality at the time that such a pension becomes payable.

#### **4.4 Death in retirement**

Where the Ex-Spouse Participant dies after pension has come into payment, non-commutable pensions may be payable to a surviving spouse or Dependant of the Ex-Spouse Participant.

The amount of pension payable to a surviving spouse or Dependant is limited to a maximum of the initial annual pension which was paid to the Ex-Spouse Participant as increased by any rise in the Index since the commencement of the Ex-Spouse Participant's pension.

Where more than one pension is to be paid the total of all the pensions cannot exceed the amount of the initial annual pension which was payable to the Ex-Spouse Participant, as increased by any rise in the Index since the commencement of the Ex-Spouse Participant's pension. For these purposes initial annual pension should be calculated on the same basis for paragraph 3(b).

Such pensions must be payable for life, except that pensions paid to children must cease on the attainment of age 18 or, if later, on the cessation of full time education.

If an Ex-Spouse Participant who was entitled to select a five year guarantee selected one and the guarantee period has not expired, the remaining balance of the pension instalments can be paid as a lump sum.

#### **4.5 Surrender for Dependant's pension**

On the date the pension becomes payable part of this may be surrendered for the purpose of securing under the Scheme, on the death of the Ex-Spouse Participant, a pension payable to a surviving spouse or Dependents nominated by the Ex-Spouse Participant when exercising this option. The amount surrendered should not exceed the reduced pension that the Ex-Spouse Participant retains.

### **5. PENSION CREDIT BENEFITS - SUPPLEMENTARY PROVISIONS RELATING TO EX-SPOUSE PARTICIPANTS**

#### **5.1 Transfer to approved scheme**

The Ex-Spouse Participant may request that the Trustees arrange a transfer of his Pension Credit Rights to a Transfer Scheme. The Trustees must confirm to the receiving scheme or arrangement, that the transfer value consists wholly or partly of funds for the benefit of an Ex-Spouse Participant.

#### **5.2 Annuity**

At the point the pension becomes payable the Ex-Spouse Participant may request that the Trustees arrange for the purchase of an annuity from an Insurance Company of his choice.

#### **5.3 Forfeiture**

The rights to a Pension Credit Benefit under the Scheme shall not be absolute, but shall be forfeited upon the bankruptcy of the Ex-Spouse Participant. Such benefits may then be paid to any individuals or individual as specified by the Trustees, in their absolute discretion.

### **6. PROVISION OF SAFEGUARDED RIGHTS**

The Trustees shall separately identify the proportion of any Pension Credit Benefits which represents an Ex-Spouse Participant's Safeguarded Rights and any such rights shall be administered in accordance with the Pension Sharing (Safeguarded Rights) Regulations 2000. These Rules shall be deemed to include such additional Rules (if any) as may be required to ensure compliance with the Pension Sharing (Safeguarded Rights) Regulations 2000.

### **7. DEATH OF A PENSION DEBIT MEMBER**

On the death of the Pension Debit Member, any pension for a surviving spouse or Dependant shall not exceed an amount determined in accordance with section 7 as if there had been no Pension Debit, less the Negative Deferred Pension in any Associated Scheme.

**8. TRANSFERS OUT FOR PENSION DEBIT MEMBERS**

The Trustees must give full details of the Pension Debit and a lump sum certificate specifying the maximum permissible lump sum, to the receiving scheme/arrangement where the Fund underlying the benefits for a Pension Debit Member is transferred to a Transfer Scheme.

**9. TRANSFERS IN**

9.1 The Trustees may accept a transfer payment for a member or an Ex-Spouse Participant. Where the Trustees are informed that the transfer value consists wholly or partly of Pension Credit Rights in the former scheme or arrangement, then the Trustees must separately identify the transfer payment relating to the Pension Credit Rights or the part of the transfer payment relating to the Pension Credit Rights from other funds held for the benefit of the Pension Debit Member or Ex-Spouse Participant. Furthermore the Trustees must comply with the requirements of this appendix in respect of the transferred-in Pension Credit Rights and the individual will acquire the status of an Ex-Spouse Participant in the Scheme in relation to his transferred-in Pension Credit Rights. Such Pension Credit Rights will not count towards any limit on benefits for that Pension Debit Member or Ex-Spouse Participant.

9.2 Where the Trustees accept a transfer payment and are informed by the transferor of the details of a Pension Debit relating to the transfer payment, the Trustees must take account of the Pension Debit, if appropriate, in the calculation of any limit on benefits for that Member. If a transfer of the Fund underlying the benefits for the Member is made to a Transfer Scheme, the Trustees must give full details of the Pension Debit to the receiving scheme/arrangement.

**10. DEATH OF AN EX-SPOUSE BEFORE THE PENSION SHARING ORDER IS IMPLEMENTED**

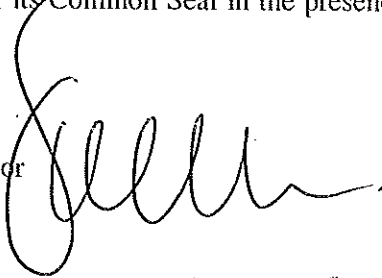
If the Ex-Spouse dies after a Pension Sharing Order, agreement or equivalent provision is made but before it is implemented by the Trustees, then the Trustees shall pay such benefits to the spouse and/or Dependants of the Ex-Spouse at the date of death as if the Pension Sharing Order, agreement or equivalent provision had been implemented in accordance with the mode of discharge contained in paragraph 1(2) of schedule 5 of the 1999 Act and paragraph 1 of this appendix.

**11. CHARGES**

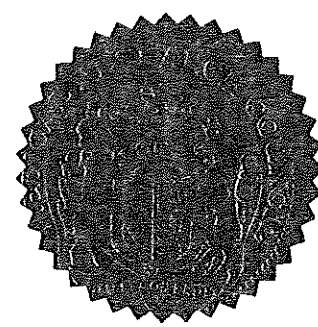
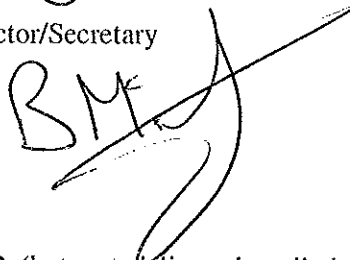
The Trustees shall be entitled in accordance with the Pensions on Divorce etc (Charging) Regulations 2000 to make such charges as it considers appropriate for providing information or taking other appropriate actions to comply with the relevant requirements of the 1999 Act.

EXECUTED (but not delivered until the date )  
hereof) as deed by Medical Research Council by )  
the affixing of its Common Seal in the presence )  
of: )

Director

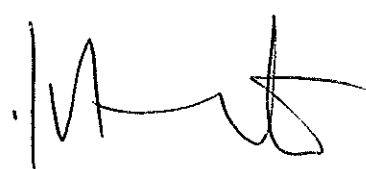


Director/Secretary



EXECUTED (but not delivered until the date )  
hereof) as deed by MRC Pension Trust Limited )  
by the affixing of its Common Seal in the )  
presence of: )

Director



Director/Secretary

