

SCHEDULE

Regulation 14

BENEFIT LIMITS

PART I

INTERPRETATION

1. Paragraphs 2 to 5 have effect for defining expressions used in this Schedule.
2. “Total retirement benefits” means the total of so much of—
 - (a) the annual rate of the participator’s retirement pension under these Regulations;
 - (b) the annual rate of any retirement pension under the 1992 Regulations;
 - (c) the actuarial equivalent as an annual pension of any retirement lump sum under the 1992 Regulations;
 - (d) the annual rate of any pension payable to the participator under any approved scheme; and
 - (e) the actuarial equivalent as an annual pension of any retirement lump sum under any approved scheme—

as is attributable to contributions paid while in pensionable employment.

3.—(1) Subject to subparagraph (3) and to paragraph 4, “Final remuneration” means the greater of A and B, where—

A is the participator’s highest year’s adjusted salary in respect of pensionable employment , or salary in respect of a period of contributions under regulation C8 of the 1992 Regulations, during the period of 5 years ending on the material date, and

B is the average of the participator’s salary for any period of 3 or more consecutive years ending no earlier than 10 years before the material date,

but, in respect of any year other than the one ending on the material date, the salary shall be taken to have been increased in proportion to any increase in the Index from the end of the year up to the material date.

(2) In this paragraph “adjusted salary” means

$C + D$.

where—

C is the participator’s total taxable salary for the year in question less any bonus payments and payments for overtime (“fluctuating emoluments”), and

D is the average, for a period ending with the year in question, of any fluctuating emoluments; the period is one of at least 3 years or, if shorter, the period during which the fluctuating emoluments have been payable,

and “the material date” means the earliest of—

- (a) the retirement date;
- (b) the date on which the retirement pension under these Regulations commenced; and
- (c) the date on which the participator ceased to be in pensionable employment or, as the case may be, to contribute under regulation C8 of the 1992 Regulations.

(3) In respect of the year 1987/88 and following years, “final remuneration” shall not include any sums chargeable to tax under section 148 of the Taxes Act or chargeable under Schedule E to Part I of the Taxes Act and arising from the acquisition or disposal of shares, or an interest in shares,

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or from a right to acquire shares except where the shares or rights etc which give rise on or after 17 March 1987 to a Schedule E tax liability had been acquired before that date.

4. Where the participator entered pensionable employment on or after 1st June 1989 and the final remuneration, calculated under paragraph 3, exceeds the permitted maximum in terms of section 590C of the Taxes Act(1), no account shall be taken of the excess over that amount unless the participator is a person to whom regulation C1(6) or (7) of the 1992 Regulations would apply.

5.—(1) “Retained benefits” means the total of any pensions payable to the participator—

- (a) in respect of employment before the participator entered pensionable employment, under a retirement benefits scheme or under an annuity contract falling within section 431(4)(d) of the Taxes Act; or
- (b) under a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act; or
- (c) under a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act.

(2) In this paragraph “pension” includes the actuarial equivalent as an annual pension of any lump sum.

PART II

RETIREMENT PENSIONS

6. The annual rate of a participator’s retirement pension under these Regulations must not be such as to cause the participator’s total retirement benefits to exceed the permitted amount.

7.—(1) If the participator retires on his 60th birthday, except where paragraph 9 applies, the permitted amount is the greater of E and F, where—

E is 1/60th of the participator’s final remuneration for each of up to 40 years of reckonable service, and

F is the lesser of G and H.

(2) In sub-paragraph (1)—

(a) G is—

- (i) in relation to a participator who entered pensionable employment before 17 March 1987, the fraction of final remuneration ascertained by reference to the number of years of reckonable service at age 60, from the Table below:—

TABLE

Reckonable service at age 60	Fraction
not more than 5	1/60th for each year
6	8/60ths
7	16/60ths
8	24/60ths
9	32/60ths
10 or more	40/60ths and

(1) Section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraph 4.

and

(ii) in any other case, 1/30th of the participator's final remuneration for each of up to 20 years of reckonable service, and

(b) H is 2/3rds of the participator's final remuneration less any retained benefits.

8. If the participator retires on a date later than his 60th birthday, the permitted amount is—

(a) where the participator first entered pensionable employment before 1st June 1989, the greater of J, K and, where applicable, L, where—

J is an amount calculated in accordance with paragraph 7 as at that date,

K is an amount calculated in accordance with paragraph 7 as at the participator's 60th birthday increased, up to the date of his retirement, in proportion to any increase in the Index during that period, and

L is, in the case of a participator with more than 40 years of reckonable service, 1/60th of the participator's final remuneration for each of up to a maximum of 45 years of reckonable service, excluding any years before the participator's 60th birthday in excess of 40, and

(b) in any other case, the lesser of the amounts calculated in accordance with paragraph 7(2)(a)(ii) and (2)(b).

9.—(1) If the participator retires on his 60th birthday, having at a date before that birthday ceased to be in pensionable employment—

(a) where the participator first entered pensionable employment before 1st June 1989, the permitted amount is the greater of

$$(M + R) \text{ and } \left(\frac{N \times Q}{P} + R \right)$$

where—

M is 1/60th of the participator's final remuneration for each of up to 40 years of reckonable service,

N is the number of years on which M is calculated,

P is the number of years on which M would have been calculated if the participator had continued in pensionable employment up to his 60th birthday,

Q is the maximum amount calculated in accordance with paragraph 7 if the participator had continued in pensionable employment until age 60,

R is the appropriate increase, and

(b) where the participator first entered pensionable employment after 31st May 1989, the permitted amount is the lesser of the amounts calculated in accordance with paragraph 7(2)(a)(ii) and (2)(b).

(2) For the purposes of sub-paragraph (1) the appropriate increase is an increase in the amount in question in proportion to any increase in the Index from the cessation of pensionable employment to the date of payment of retiring allowances.

10. If the participator retires by reason that his pensionable employment was terminated on the grounds of redundancy or in the interests of the efficient exercise of the employer's functions and the participator immediately became entitled to payment of retiring allowances under the 1992 Regulations, the permitted amount is—

(a) where the participator first entered pensionable employment before 1st June 1989, the greater of S and

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$$\left(\frac{N \times Q}{P} \right)$$

and

(b) in any other case, T, where—

N, P and Q have the same meaning as in paragraph 9,

S is 1/60th of the participator’s final remuneration for each of his years of reckonable service up to a maximum of 40, and

T is the lesser of the amounts calculated in accordance with paragraph 7(2)(a)(ii) and (2)(b).

11. If the participator retires by reason that his pensionable employment was terminated due to incapacity and the participator immediately became entitled to payment of retiring allowances under the 1992 regulations, whether or not these were enhanced, the permitted amount is that fraction of the participator’s final remuneration which he could have received had he remained in pensionable employment until his 60th birthday in accordance with paragraph 7 of this Schedule.

PART III

DEPENDANTS' PENSIONS

12.—(1) The annual rate of a dependant’s pension under these Regulations, or where more than one such pension is payable the total of their annual rates, must not be such as to cause the total of the annual rates of the relevant benefits to exceed the permitted amount.

(2) Where only one dependant’s pension is payable, the relevant benefits are—

- (a) that pension;
- (b) any similar pension payable to the dependant under the 1992 Regulations or under a free-standing additional voluntary contributions scheme to which contributions were paid while the participator was in pensionable employment; and
- (c) any retained benefits,

and the permitted amount is 2/3rds of the maximum retirement pension.

(3) Where two or more dependants' pensions are payable, the relevant benefits are—

- (a) those pensions;
- (b) any similar pensions payable as mentioned in sub-paragraph (2)(b); and
- (c) any retained benefits,

and the permitted amount is the annual rate of the maximum retirement pension;

Provided that for each dependant’s pension the relevant benefits shall not exceed the permitted amount specified in sub-paragraph (2).

(4) In sub-paragraphs (2) and (3) “retained benefits” means pensions payable to a dependant as such which, if they had been pensions payable to the participator, would have fallen within paragraph 5.

(5) Subject to sub-paragraph (6), the maximum retirement pension is the participator’s permitted amount calculated in accordance with paragraphs 7 to 11 but disregarding any retained benefits.

(6) In calculating the maximum retirement pension—

- (a) if the participator died in pensionable employment and had not attained the age of 60, it is to be assumed that he continued in pensionable employment at the same salary up to, and retired on, his 60th birthday, and
- (b) if the participator died in pensionable employment and had attained the age of 60, it is to be assumed that he retired on the day before death.

PART IV

LUMP SUMS ON DEATH

13.—(1) The lump sum payable under regulation 12(8) must not be such as to cause the total lump sums payable on death to exceed the permitted amount.

(2) The total lump sums payable on death are the total of—

- (a) any lump sum death benefit which the person has elected to provide for under regulation 4(1)(b), 5(4) or 6(2)(a);
- (b) any lump sum payable under regulation 12(8); and
- (c) any benefits similar to lump sum death benefit totalling £1,000 or more that are payable under relevant schemes.

(3) The relevant schemes are—

- (a) approved schemes;
- (b) schemes approved under Chapter IV of Part XIV of the Taxes Act;
- (c) free-standing additional voluntary contributions schemes;
- (d) retirement annuity contracts approved under Chapter III of Part XIV of the Taxes Act,; and
- (e) the scheme constituted by the 1992 Regulations.

(4) The permitted amount is £5,000 or, if greater, 4 times the participator's remuneration.

(5) The participator's remuneration is the greatest of U, V and W, where—

U is what the participator's final remuneration would have been if the date of death had been the material date,

V is the participator's highest year's adjusted salary for the purpose of calculating U, and

W is the participator's total taxable earnings during any period of 12 months ending not more than 3 years before the date of death, increased as mentioned in paragraph 3(1).