

## SCHEDULE

Regulation 14

### BENEFIT LIMITS

#### PART I—

#### INTERPRETATION

1. Paragraphs 2 to 6 have effect for defining expressions used in this Schedule.
2. “Total retirement benefits” means the total of—
  - (a) the annual rate of the participator’s retirement pension under these regulations;
  - (b) the annual rate of any retirement pension under the 1988 Regulations; and
  - (c) the annual equivalent of any retirement lump sum under the 1988 Regulations;together with the total of so much of—
  - (d) the annual rate of any pension payable to the participator under any approved scheme; and
  - (e) the annual equivalent of any retirement lump sum under any approved scheme—as is attributable to contributions paid while in pensionable employment.
3. “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 or C8A of the 1988 Regulations.
- 4.—(1) Subject to sub-paragraph (3) and paragraph 5 “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 regulations C8 or C8A of the 1988 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.
- (3) In respect of the tax year 1987/88 and following tax 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 1 of the Taxes Act and arising from the acquisition or disposal of shares, or an interest in shares, or from a right to acquire shares except where the shares or interest in shares or right to acquire shares which gave rise on or after 17th March 1987 to a Schedule E tax liability had been acquired before that date.

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5.—(1) Where the participator entered pensionable employment on or after 1st June 1989 and the final remuneration, calculated under paragraph 4, 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.

(2) Subparagraph (1) shall not apply—to a participator to whom regulation C1 (13) or C1(14) and (15)(2) of the 1988 Regulations applies.

6.—(1) “Retained benefits” means the total of any pensions, including the annual equivalent of any lump sum, 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.

## PART II

### RETIREMENT PENSIONS

7. 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.

8.—(1) If the participator retires on his 60th birthday, except where paragraph 10 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 17th 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.

(2) Regulation C1(13) to (15) was inserted by S.I. 1993/114.

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- (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.
9. 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 8 as at that date,
    - K is an amount calculated in accordance with paragraph 8 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 8(2)(a)(ii) and (2)(b).
- 10.—(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) 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 8 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 8(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 retirement benefits.

11.—(1) If the participator retires and is entitled to receive retirement benefits by virtue of regulation E4(7) of the 1988 Regulations, the permitted amount is—

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

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

- (b) in any other case, T, where—

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N, P and Q have the same meaning as in paragraph 10,

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

T is the lesser of the amounts calculated in accordance with paragraph 8(2)(a)(ii) and (2)(b).

**12.—**(1) If the participator retires and is entitled to receive retirement benefits by virtue of regulation E4(6) of the 1988 Regulations, whether or not those benefits were enhanced under regulation E8 of the 1988 Regulations, 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 8 of this Schedule.

### PART III

#### DEPENDANTS' PENSIONS

**13.—**(1) Where only one dependant's pension is payable the annual rate of that pension under these Regulations must not be such as to cause the total of the annual rates of the relevant benefits to exceed the permitted amount.

(2) For the purposes of sub-paragraph (1) the relevant benefits are—

- (a) the dependant's pension; and
- (b) any similar pension payable to the dependant under the 1988 Regulations or under a free-standing additional voluntary contributions scheme to which contributions were paid while the participator was in pensionable employment,

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

(3) Where two or more dependants' pensions are payable—

- (a) the annual rate of each such pension must not be such as to cause the annual rates of the relevant benefits payable to the dependant in question to exceed the permitted amount referred to in sub-paragraph (2); and
- (b) the total of the annual rates of such pensions must not be such as to cause the total of the annual rates of the relevant benefits to exceed the permitted amount.

(4) For the purposes of sub-paragraph (3) the relevant benefits are—

- (a) the dependants' pensions; and
- (b) any similar pensions payable as mentioned in sub-paragraph (2)(b),

and for the purposes of paragraph (3)(b) the permitted amount is the annual rate of the maximum retirement pension.

(5) Subject to sub-paragraph (6), the maximum retirement pension is the participator's permitted amount calculated in accordance with paragraphs 8 to 12 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 the date of his death.

## PART IV

### LUMP SUM DEATH BENEFIT

**14.—**(1) The lump sum death benefit under regulation 13 must not be such as to cause the total of that lump sum and any death benefits totalling £2,500 or more that are payable under relevant schemes to exceed the permitted amount.

(2) 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 1988 Regulations.

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

(4) 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 4(1).