

SCHEDULES

SCHEDULE 5

PENSIONS: MISCELLANEOUS AMENDMENTS AND ALTERNATIVE TO ANTI-FRANKING RULES

PART II

ALTERNATIVE TO ANTI-FRANKING RULES

Alternative rules

13.—(1) Where this Part applies in the pensioner's case, the amount of the benefits to which he is entitled under the scheme shall not be less than the amount of the benefits to which he would have been entitled under the scheme if his entitlement fell to be calculated by the method set out in sub-paragraph (2).

(2) That method is as follows—

Step 1: compute the amount of any benefits consisting in the guaranteed minimum pension to which the pensioner is entitled;

Step 2: compute what would have been the amount of those benefits on the assumptions set out in sub-paragraph (3);

Step 3: determine the extent (if any) to which attributing an amount of benefits equal to the amount computed in accordance with Step 2 to rights accruing before 6th April 1997 would leave any such rights unused;

Step 4: compute, in accordance with sub-paragraph (4), the amount of such of the benefits to which the pensioner is entitled under the scheme as are attributable to rights accruing before 6th April 1997 (if any) which, applying the determination in Step 3, would be left unused after the attribution of the amount mentioned in that Step to rights so accruing;

Step 5: compute the amount resulting, on the required assumption, from the application of the statutory revaluations and increases in the case of the benefits computed in accordance with Step 4;

Step 6: compute, in accordance with sub-paragraph (4), the amount of such of the benefits to which the pensioner is entitled under the scheme as are attributable to rights accruing on or after 6th April 1997;

Step 7: compute the amount resulting, on the required assumption, from the application of the statutory revaluations and increases in the case of the benefits computed in accordance with Step 6;

Step 8: aggregate the results of Steps 1, 5 and 7 to give the minimum benefits required by sub-paragraph (1).

- (3) The assumptions referred to in Step 2 in sub-paragraph (2) are—
- (a) that no increases are required to be made in accordance with section 11 or 105 of the Pension Schemes Act (deferment increases and indexation);
 - (b) that increases in accordance with section 12(1) of that Act (revaluation of earnings factors for early leavers) of any earner's earnings factors are to be calculated as if references to the final relevant year were references to whichever is the earlier of—
 - (i) the final relevant tax year, and
 - (ii) the tax year immediately preceding that in which the member in question left service that qualified him for salary-related benefits under the scheme; and
 - (c) that no increases in accordance with any provision included in the scheme by virtue of section 12(3) of that Act (increases of weekly equivalent for person leaving contracted-out service before final relevant year) are to be made for any year after the tax year immediately preceding that in which the member in question left service that qualified him for salary-related benefits under the scheme.
- (4) For the purposes of Steps 4 and 6 in sub-paragraph (2)—
- (a) if (apart from this sub-paragraph) there would be a difference between the two Steps in the level of salary taken as the level by reference to which any salary-related benefits are to be computed, the level used for Step 4 shall be no lower than that used for Step 6; and
 - (b) statutory revaluations and increases shall not be attributed to rights accruing at any time.
- (5) For the purposes of Steps 5 and 7 in sub-paragraph (2), the required assumption is that the benefits in whose case the statutory revaluations and increases are applied comprise a whole pension deriving from the rights to which they are taken to be attributable for the purposes of Step 4 or, as the case may be, Step 6.
- (6) Subject to sub-paragraph (7), references in this paragraph to the statutory revaluations and increases are references to—
- (a) the revaluations required to be made in accordance with Chapter II of Part IV of the Pension Schemes Act (revaluation of accrued benefits); and
 - (b) the increases required to be made by virtue of Article 51 of the Pensions Order (indexation).

- (7) For the purposes of applying the statutory revaluations and increases for the purposes of Steps 5 and 7 in sub-paragraph (2)—
- (a) money may be used in a way allowed by section 106(1) of the Pension Schemes Act (use of money to pay guaranteed minimum pension increase for subsequent year); and
 - (b) any deductions authorised by Article 53(1) or (2) of the Pensions Order (permitted deductions from statutory increases) may be made.
- (8) In this paragraph “the pensioner” has the meaning given by paragraph 12.
- (9) Any reference in this paragraph to a provision of the Pension Schemes Act includes a reference to any statutory provision re-enacted in that provision.