SCHEDULE

Regulations 4(4), 11(7), 12(2), 13(1) and (2) and 15(5) and (6)

Benefit limits

PART I

Interpretation

1. Paragraphs 2 to 6 have effect for defining expressions used in this Schedule.

2. "Adjusted salary" means A + B, where—

A is the participator's total taxable salary for the year in question less any fluctuating emoluments such as bonus payments and payments for overtime, and

B is the annual average of such fluctuating emoluments. For these purposes such emoluments shall be averaged—

(i) over a period of whole years, not being less than 3 consecutive years, ending on the last day of the year in question, or

(ii) in a case where such emoluments have been paid for a period of less than 3 years, over the period during which they have been paid.

3.—(1) "Final remuneration" means, subject to sub-paragraphs (2) and (3), the greater of C and D, where—

C is the participator's highest year's adjusted salary in respect of superannuable service during the period of 5 years ending on the material date; and

D is the average of the participator's salary in respect of 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 increased in proportion to any increase in the Index from the end of the year up to the material date.

(2) In respect of the tax year's 1987/88 and following tax years, "final renumeration" shall not include any sums chargeable to tax under section 148 of the Taxes Act (payments on retirement or removal from office or employment) 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, or from a right to acquire shares except where the shares or rights which give rise on or after 17th March 1987 to a Schedule E tax liability had been acquired before that date.

(3) Where the participator entered superannuable employment on or after 1st June 1989 and final renumeration, calculated under sub-paragraph (1), exceeds the permitted maximum under section 590C of the Taxes Act(**1**) (conditions of approval of retirement benefit schemes; earning cap), then, for the purposes of calculating the participator's final renumeration, no account shall be taken of the excess over that amount unless the participator is a person mentioned in regulation 3(3) of the 1995 Regulations.

(4) For the purposes of this paragraph, the Department shall select the years by reference to which the participators final renumeration shall be calculated and the years selected shall be those which produce the most favourable result to the participator.

4. "Material date" means the earlier of—

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

(a) the participator's retirement date;

(b) the date on which the participator ceased to be in superannuable employment.

5.—(1) "Retained benefits" means the total of any pensions payable to the participator, in respect of employment before the participator entered superannuable employment, under—

(a) a retirement benefits scheme or under an annuity contract falling within section 431(4)(d) of the Taxes Act (interpretative provisions relating to insurance companies);

(b) a retirement annuity contract or trust scheme under Chapter III of Part XIV of the Taxes Act;

(c) a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act;

(d) a statutory scheme (as defined in section 612 of the Taxes Act); or

(e) an approved scheme.

(2) In this paragraph "pension" includes the actuarial equivalent as an annual pension, as determined by the Inland Revenue Pensions Schemes Office, of any lump sum.

6. "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 pension payable under 12 to 17 of the 1995 Regulations;

(c) the actuarial equivalent as an annual pension, as determined by the Inland Revenue Pension Schemes Office, of any retirement lump sum under the 1995 Regulations;

(d) the annual rate of any pensions payable to the participator under any approved scheme;

(e) the actuarial equivalent as an annual pension, as determined by the Inland Revenue Pension Schemes Office of any retirement lump sum under an approved scheme,

as is attributable to contributions, including any contributions made by the employer, paid while in superannuable employment.

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 becomes entitled to a pension under regulation 12 of the 1995 Regulations on his 60th birthday, the permitted amount is the greater of E and F, where—

E is 1/60th of the participator's final renumeration for each of up to 40 years of superannuable 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 superannuable employment before 17th March 1987, the fraction of final renumeration ascertained by reference to the number of years of superannuable service at age 60, from the following Table—

Table

Years of superannuable 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

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

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

9. If the participator becomes entitled to a pension under regulation 12 of the 1995 Regulations on a date later than his 60th Birthday, the permitted amount is the greater of J, K and, where applicable L. where—

J is an amount calculated in accordance with paragraph 8 at the material 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, either in proportion to any increase in the Index during that period or actuarially in respect of that period; and

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

10.—(1) If the participator becomes entitled to a pension under regulation 49 of the 1995 Regulations on or after his 60th birthday, the permitted amount is—

(a) where the participator first entered superannuable employment before 1st June 1989, the greater of—

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

where—

M is 1/60th of the participator's final renumeration for each of up to 40 years of superannuable 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 superannuable employment up to his 60th birthday;

Q is the maximum amount calculated in accordance with paragraph 8 if the participator had continued in superannuable employment up to his 60th birthday;

R is the appropriate increase; and

(b) is in any other case, is the amount calculated in accordance with paragraph 8 but disregarding sub-paragraph (2)(a)(i) of that paragraph and uprated by the appropriate increase.

(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 superannuable employment to the date of payment of retiring allowances.

11. Paragraphs 8 to 10 in their application to persons who are special class officers or mental health officers for the purposes of regulations 75 and 76 of the 1995 Regulations shall have effect subject to the modification that 55th birthday shall be substituted for 60th birthday and age 55 shall be substituted for age 60.

12. If the participator becomes entitled to a pension under regulation 13 of the 1995 Regulations (Early retirement pension on the grounds of ill health), the permitted amount is that fraction of the participator's final renumeration which, in accordance with paragraph 8, he could have received had he remained in superannuable employment until his 60th birthday.

13. If the participator becomes entitled to a pension under regulation 14 (Early retirement pension in respect of redundancy), 15 (Early retirement pension with employer's consent) or 16 (Early retirement pension with actuarial reduction) of the 1995 Regulations, the permitted amount is—

(a) where the participator first entered superannuable employment before 1st June 1989, the greater of—

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

(b) in any other case, S, where—

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

S is the lesser of the amounts calculated in accordance with paragraph 8 but disregarding sub-paragraph (2)(a)(i) of that paragraph and uprated by the appropriate increase.

PART III

Dependants' Pensions

14.—(1) The annual rate of a dependants' 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 1995 Regulations or under a free-standing additional voluntary contributions scheme to which contributions were paid while the participator was in superannuable employment;

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 the permitted amount is the annual rate of the maximum retirement pension.

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

(4) Subject to sub-paragraph (5), the maximum retirement pension is the participator's permitted amount calculated in accordance with paragraphs 8 to 13 but disregarding any retained benefits.

(5) In calculating the maximum retirement pension—

(a) if the participator died in superannuable employment and had not attained the age of 60, it is to be assumed that he continued in superannuable employment at the same salary up to, and retired on, his 60th birthday; and

(b) if the participator died in superannuable 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

15.—(1) The lump sum payable under regulation 11(7) must not be such as to cause the total lump sums payable on death to exceed the total realisable value of the investments made by the Department under regulations 7(1), 8(2) or 9(4) in respect of contributions made by the participator.

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

(a) any lump sum death benefit arising pursuant to an election under regulations 3(1)(b), 3(6) or 5(2)(a);

(b) any lump sum payable under regulation 11(7); and

(c) any lump sum benefits totalling £2,500 or more that are payable under the relevant schemes mentioned in sub-paragraph (2).

(3) The relevant schemes are—

(a) approved schemes;

(b) schemes approved under Chapter 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;

(e) the scheme constituted by the 1995 Regulations;

(f) "relevant statutory schemes" as defined by section 611A of the Taxes Act.

(4) The permitted amount for the purpose of regulation 4(4) and 12(2) is £5,000 or, if greater, 4 times the participators' renumeration.

(5) The participators' renumeration is the greater of T, U and V, where—

T is what the participators' final renumeration would have been if the date of death had been the material date;

U is the participators' highest year's adjusted salary for the purpose of calculating T; and

V is the participators' total taxable earnings during any period of 12 months ending not more than 3 years immediately before the date of death, increased in proportion to any increase in the Index from the end of the year up to the material date as mentioned in paragraph 3(1).