

## SCHEDULE

### 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 Superannuation Regulations; and
  - (c) the actuarial equivalent as an annual pension of any retirement lump sum under the Superannuation 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 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 sub-paragraph (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 regulations C8 or C8A of the Superannuation 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 annual average over a period ending with the year in question of any fluctuating emoluments; the period is one of at least 3 years, where fluctuating emoluments have been payable over the last 3 years, or if fluctuating emoluments have not been payable over the last 3 years, the annual average over the period of less than 3 years during which fluctuating emoluments have been payable,

and “the material date” means the earliest of—

- (a) the retirement date;

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- (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 Superannuation 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, or from a right to acquire shares except where the shares or interest in, or right to acquire, shares which give rise on or after 17th 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 Superannuation 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(2); 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.

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

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

(2) Section 431(4)(d) was amended by the Finance Act 1994 (c. 9), section 143.