

**THIS DEED OF AMENDMENT** is made the  
One thousand nine hundred and ninety-six

15<sup>TH</sup>

day of FEBRUARY



**BETWEEN:**

- 1 Stephen Ward Photography Limited having its registered office at St Mary's School House Taylor Street Hollingworth Via Hyde Cheshire ("the Principal Employer")
- 2 Stephen Ward and Sandra Ward both of The Red House Water Lane Hollingworth Cheshire and M.W. Trustees Limited having its registered office at 12 Barshaw Park Leycroft Road Beaumont Leys Leicester ("the Trustees")

**WHEREAS:**

**1 THIS DEED IS SUPPLEMENTAL TO:**

An Interim Trust Deed ("the Interim Deed") made on the 30th day of March 1987 between the Principal Employer and Stephen Ward and Garry Neil Lomas and Pensioneer Trustees Limited whereby Stephen Ward Photography Directors Pension Scheme ("the Scheme") was established.

A Deed of Appointment and Retirement made the 29<sup>th</sup> day of April 1988 between the Principal Employer and Stephen Ward and Pensioneer Trustees Limited and Garry Neil Lomas and Sandra Ward whereby Sandra Ward was appointed as a trustee of the Scheme and Garry Neil Lomas was removed as a trustee of the scheme.

A Definitive Deed ("the Definitive Deed") made the 24<sup>th</sup> day of July 1989 between the Principal Employer and Stephen Ward and Sandra Ward and Pensioneer Trustees Limited whereby the Principal Employer brought into effect Rules ("the Old Rules") defining the provisions of the Scheme.

A Deed of Appointment and Retirement made the 30<sup>th</sup> day of May 1991 between the Principal Employer and Stephen Ward and Sandra Ward and Personal Pension Trustees Limited whereby Personal Pension Trustees Limited was appointed as a trustee of the Scheme and Pensioneer Trustees Limited was removed as a trustee of the Scheme.

Deeds dated 3<sup>rd</sup> day of June 1991, 21<sup>st</sup> day of January 1992, 24<sup>th</sup> day of July 1992 and 10<sup>th</sup> April 1995 each made between the Principal Employer and Stephen Ward and Sandra Ward and Personal Pension Trustees Limited and the trustees whereby the Old Rules were amended in the manner therein appearing.


A Deed of Appointment and Retirement made the 14<sup>TH</sup> day of FEBRUARY 1996 between the Principal Employer and Stephen Ward and Sandra Ward and M.W. Trustees Limited whereby M.W. Trustees Limited was appointed as a trustee of the Scheme and Personal Pension Trustees Limited was removed as a trustee of the Scheme.

- 2 The Principal Employer with the consent of the Trustees (and with the prior approval of the Board of Inland Revenue) desires to amend the Definitive Deed and the Old Rules in accordance with the powers conferred upon it by Clause 9 of the Definitive Deed and Rule 52 of the Old Rules.

**NOW THIS DEED WITNESSETH** and it is hereby agreed and declared as follows:

- 1.1 With effect from the date of this deed the Definitive Deed shall cease to have effect and there shall be substituted therefor clauses 1-18 (inclusive) of a new form of Definitive Trust Deed ("the New Definitive Trust Deed") contained (with the New Rules hereinafter referred to) in the Schedule hereto.



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- 1.2 With effect from the date of this Deed all references to "the Trustees" "the Managing Trustees" "the Special Trustee" or "Pensioneer Trustee" shall mean the trustee or trustees for the time being of the Scheme.
- 2 With effect from the date of this Deed the Old Rules shall be deleted in their entirety and replaced by the new rules ("the New Rules") contained in the New Definitive Trust Deed.
- 3 All references to "the Trust Deed" shall henceforth be read and construed as a reference to the "New Definitive Trust Deed" and all references to "the Rules" shall henceforth be read and construed as "the New Rules".
- 4 In the New Definitive Trust Deed and in the New Rules:
- "Act" means the Income and Corporation Taxes Act 1988 and any statutory amendment modification or re-enactment thereof.
- "Actuary" means the Actuary of the Scheme being a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries appointed in accordance with Clause 6.7 of the New Definitive Trust Deed.
- "Approval" means approval of the Scheme by the Board of Inland Revenue under Chapter I Part XIV of the Act.
- "Pensions Act" means Social Security Pension Act 1975. Words and expressions given a meaning in the Pensions Act shall have the same meaning as in that act and where appropriate a reference to a particular provision of the Pensions Act shall (unless the context otherwise requires) be read and construed as a reference to the corresponding provision in the Social Security Pensions (Northern Ireland) Order 1975.
- "The Principal Employer" where the context so admits includes any other company or undertaking by which the function of the Principal Employer in relation to the Scheme may be taken over by agreement with the trustee or trustees thereof.
- "Relevant Benefits" means benefits comprised within the definition of relevant benefits in section 612(1) of the Act.

## **SCHEDULE**

### **"THE NEW DEFINITIVE TRUST DEED"**

#### **1. Interpretation**

- 1.1 In this Deed reference to any enactment or regulations shall include reference to any statutory amendment or re-enactment thereof for the time being in force and where appropriate any subsequent related legislation in the same behalf.
- 1.2 The headings to this Deed and to the Sections thereof are for convenience of reference only and shall not affect the interpretation of the Deed.
- 1.3 The words and expressions defined in Rule 15 of the Rules shall have the respective meanings given in Rule 15 wherever they appear.

#### **2. Establishment of the Scheme**

- 2.1 The Principal Employer hereby confirms the establishment of the Scheme as an irrevocable trust which:
- 2.1.1 shall have as its purpose or object the provision of Relevant Benefits for and in respect of any Member;

- 2.1.2 shall be administered so as to comply with the preservation requirements of the Pension Schemes Act 1993;
- 2.1.3 shall comply with the requirements of the Section 118 of the Pension Schemes Act 1993 and the corresponding provision in the Social Security Pensions (Northern Ireland) Order 1975 relating to equal access for men and women to membership of occupational pension schemes;
- 2.1.4 shall be administered in accordance with this Definitive Deed and Rules.

### **3 Constitution of Scheme and Fund**

- 3.1 Unless and until otherwise resolved by the Trustees such of the trustees for the time being of the Scheme as are resident for tax purposes in the United Kingdom shall be the administrator of the scheme for the purposes of the Act.

### **4 Covenants**

- 4.1 The Principal Employer hereby covenants with the Trustees that it will from time to time and at all times until the determination of the trusts of the Scheme and the dissolution of the Fund duly perform and observe all and singular the conditions stipulations and provisions which under the Scheme ought from time to time to be observed by it.
- 4.2 It shall be a condition of admission of any associated employer that it shall in respect of its period of participation in the Scheme have executed a deed under which it covenants with the Trustees to comply with and observe the provisions of the Definitive Deed and Rules so far as they are applicable to it as one of the Participating Employers.

### **5. Appointment, removal and resignation of trustees**

- 5.1 The Principal Employer hereby confirms the trustees as trustees of the Scheme.
- 5.2 The Principal Employer may at any time by deed remove the Trustee or Trustees or any of them and may appoint one or more persons or a body corporate (whether or not a trust corporation) to be a new or additional trustee or new or additional trustees of the Scheme without limit as to number provided that unless the Principal Employer at any time appoints a corporate trustee as one of the trustees of the Scheme (which the Principal Employer shall have power to appoint either to act as sole trustee of the Scheme or otherwise and whether or not the corporate trustee is a trust corporation) the number of trustees of the Scheme shall not be less than two.
- 5.3 A Trustee may at any time by notice in writing resign as trustee of the Scheme.
- 5.4 The Trustees shall do all things necessary to give effect to any removal or resignation and to vest the Fund in such new or additional trustees or trustee as may be appointed in accordance with clause 5.1 or in the continuing trustees as the case may be.

### **6. Powers, duties and discretion of trustees**

- 6.1 The Trustees shall have all the powers conferred on them by law by the New Definitive Deed and by the Rules and the Trustees shall have discretion to exercise or refrain from exercising any such power and the Scheme shall be managed by the Administrator on behalf of the Trustees.



## 6.2 Trustees' meetings

Unless a corporate body is sole trustee of the Scheme the Trustees shall meet at such times and at such place as they shall from time to time decide. Two of the Trustees present at a meeting shall be a quorum. At every meeting of the Trustees all questions shall be decided subject to clause 6.3 by majority vote. The decisions made by majority vote of the Trustees present and voting at a duly constituted meeting of the Trustees shall be binding on all the Trustees.

## 6.3 Trustees' resolutions

The Trustees shall exercise their powers, duties and discretion and execute their duties under the Scheme by resolutions passed by majority (except as provided in this clause) at meetings of the Trustees. A resolution in writing signed by all the Trustees shall be as valid and effectual as if it had been passed at a duly constituted meeting of the Trustees and may consist of several documents in like form each signed by one or more of the Trustees. The exercise of the Trustees' powers and discretion in connection with consenting to amendments to the provisions of the Scheme and the winding up of the Scheme shall require the unanimous approval of the Trustees and none of the said powers which require the unanimous approval of the Trustees may be delegated under the provisions of clause 6.5.

## 6.4 Exercise of powers by corporate trustee

A corporate trustee may act through any of its directors or through an officer appointed for the purpose. Any such appointment may be of one person or of one or more persons alternatively, identified either by name or as the holder for the time being of a specified office.

## 6.5 Delegation

Subject to the exceptions prescribed in clause 6.3 the Trustees may delegate and authorise the sub-delegation of all or any of the powers, duties and discretion conferred upon them under the Scheme or by statute or otherwise for any period to any person or persons whether or not incorporated and whether or not a trustee of the Scheme and shall not be responsible for any loss thereby arising.

## 6.6 Agents

The Trustees shall have power to employ and to remunerate such agent or agents as they may think fit in the transaction of any business of the Scheme including the payment of pensions and other benefits, and any such payment duly made by such agent or agents shall be a good and sufficient discharge to the Trustees.

## 6.7 Professional advisers

The Trustees shall have power to appoint and obtain the advice of an Actuary and of any solicitor, accountant or other adviser upon such terms as to duties and remuneration as the Trustees shall think fit. The Trustees shall not be chargeable or accountable in respect of any calculation, determination, payment or other matter or thing made, done or omitted by the Trustees in the administration of the Scheme upon the advice of the Actuary or of any such other person as aforesaid so consulted.

## 6.8 Investment manager

The Trustees shall have power to consult an investment manager or investment managers and, in relation to the whole or any part of the Fund, shall have power to delegate to any such investment manager all or any of their powers of investment and of engaging in transactions and of realising and transposing investments, and shall have power to authorise the sub-delegation by such investment manager of such powers to the intent that such powers may be exercised by the investment manager alone or jointly with other persons to whom the same have been delegated or sub-delegated. The Trustees shall have power to authorise such investment manager (either alone or jointly as aforesaid) to open and operate such capital accounts, income accounts and deposit accounts as such investment manager (or any such other person or persons as aforesaid) shall consider proper and the Trustees approve for the foregoing purpose, and to



this object the Trustees may negotiate with and pay to such investment manager (or any other person or persons as aforesaid) such fees, commission and other remuneration for his or their services and generally enter into such arrangements with such investment manager (or any other person or persons as aforesaid) including (without prejudice to the generality hereof) arrangements for exoneration from liability as the Trustees may consider proper for the foregoing purpose.

6.9 Banking accounts

The Trustees shall have power to open and operate or to authorise such person or persons or body as they think fit to open and operate such banking accounts in the name of the Scheme as they think appropriate.

6.10 Committee

The Trustees shall have power to authorise a committee consisting of any two or more persons (whether or not trustees) as they shall think fit to draw cheques on any such banking account, to endorse any cheque or to give receipts and discharges and every such receipt and discharge shall be as valid and effectual as if it were given by the Trustees.

6.11 Signing of documents

The Trustees shall have power to authorise any one or more of their number to sign any document on their behalf.

6.12 Donations and bequests

The Trustees shall have power to accept or to renounce as they shall at their discretion decide such gifts donations and bequests as may be made by the Employer or by any other persons or body for the purposes of the Scheme.

**7. Payment of moneys**

7.1 On the written authority of the Trustees any assurance society, company or institution dealing with the Trustees in good faith shall be entitled (subject in each case to deducting any tax due in respect of such payment) to pay any sums which the Trustees are entitled to receive therefrom to any person or persons to whom corresponding sums may be payable under the provisions of the Scheme, and shall not be concerned to see whether or not the Trustees have acted within the powers conferred on them by this Deed or whether any such persons are persons to whom moneys may properly be paid under this Deed, and payment duly made as aforesaid to such person or persons shall be a complete and absolute discharge to any such assurance society, company or institution for any sums so paid.

**8. Investment and application of fund**

8.1 The Trustees may retain in any bank account such moneys as they may from time to time consider proper and subject thereto shall have full and unrestricted powers of investment and application of all moneys and other assets coming into their hands which form part of the Fund including all such powers which they could exercise if they were absolutely and beneficially entitled thereto (with power to undertake on behalf of the Scheme in relation to any such investment or application such liabilities as they may think fit and to realise transpose and vary any such investment or application). In particular and without prejudice to the generality of the foregoing the Trustees may invest or apply all or any part of the Fund in any part of the world:

8.1.1 in deferred or immediate annuity policies, life assurance policies, retirement, endowment or sinking fund contracts or policies each of which shall be effected with an Insurance Company;

8.1.2 in any interest in land or property;

- 8.1.3 in units, in unit trusts or mutual funds or securitised issues;
- 8.1.4 in the purchase of or subscription for or in underwriting, sub-underwriting or guaranteeing the subscription of any stocks, shares, debenture stocks or other investments;
- 8.1.5 in entering into and engaging in any obligations, contracts or dealings and in particular but without prejudice to the generality hereof in engaging in dealings in currencies, traded options, financial futures, commodities or commodity futures;
- 8.1.6 by placing the same on deposit with any local authority, bank, insurance company, building society or finance company at such rate of interest (if any) and upon such terms as the Trustees shall think fit;
- 8.1.7 by participating in any scheme of deposit administration or any managed funds administered by an Insurance Company;
- 8.1.8 by participating in any investment (whether income producing or not) or in the acquisition, acquisition and development, or development of any interest in land or property jointly with any other party or parties, whether as partners or as trustees to hold the same upon trust for sale or otherwise, notwithstanding that the interest of the Trustees in any such venture may be a minority interest;

provided that before any investment of the resources of the Scheme is made in an employer-related investment, each member shall agree in writing to the making of that investment.

## **9. Borrowing powers**

- 9.1 The Trustees shall have power to borrow moneys from time to time upon any terms and conditions and to secure the repayment thereof and the payment of interest thereon upon the whole or any part of the Fund, and to apply moneys so borrowed in any manner which the Trustees may in their absolute discretion think fit for the purposes of the Scheme. All moneys borrowed as aforesaid shall be treated in all respects as moneys forming part of the Fund, and it is hereby declared that the Trustees may from time to time if they consider it to the advantage of the Fund so to do exercise the power of borrowing hereby conferred by raising moneys in any part of the world for the purpose of engaging in transactions or making investments on the part of the Fund. The Trustees shall have full and unrestricted power to approve execute deliver and perform the terms of a legal charge in favour of any person firm or company ("the Lender") to secure the payment of all monies and liabilities from time to time due owing or incurred from or by the Trustees to the Lender.



**10. Insurance**

- 10.1 The Trustees shall have power to insure such assets of the Fund as they think appropriate against such risks and for such amounts as the Trustees shall in their absolute discretion determine (and whether as owners of an interest in such assets or as occupiers or otherwise) and may apply any part of the Fund whether income or capital in effecting and maintaining any such insurance. The Trustees shall hold the proceeds of any such insurance upon the trusts of the Scheme with power to pay or apply such proceeds in whole or in part towards the repair, replacement, reinstatement or preservation of the asset insured or (as the case may be) in indemnifying the Trustees or the Fund against any claim made against the Trustees or the Fund in relation thereto to the intent that the powers hereby conferred shall be exercisable by the Trustees as if they were the absolute owners of the Fund and any exercise of such powers shall be unrestricted by law whether statutory or otherwise.

**11. Extension of scheme to associated employers**

- 11.1 The Principal Employer may with the consent of the Trustees and subject to the approval of the Board of Inland Revenue extend the benefits of the Scheme to such employees of any associated employer as it may think fit, provided that their employer shall have entered into a deed by which it covenants with the Trustees to comply with and observe the provisions of the Definitive Deed and the Rules so far as they are applicable to it as a Participating Employer which is not the Principal Employer.

**12 Remuneration, indemnity and liability of trustees**

- 12.1 Any Trustee (or officer of a Trustee) for the time being of the Scheme being a person engaged in any profession or business shall be entitled to be paid and retain all usual professional or proper charges and commissions for business done by him or his firm in connection with the trusts of the Scheme including acts which a Trustee (or officer of a Trustee) not being in any profession or business could have done personally. A corporate Trustee shall be paid such fees (if any) for its services as the Principal Employer shall determine.
- 12.2 Without prejudice to the right to indemnity by law given to trustees the Trustees shall in the absence of fraud, crime or personal conscious bad faith (or negligence in the case of professional trustees) be indemnified by the Principal Employer and any other Participating Employers in respect of all liabilities and expenses incurred in the execution or purported execution of the trusts of the Scheme or of any powers authorities or discretion vested in the Trustees under the Scheme and against all actions, proceedings, costs, expenses, claims and demands in respect of any matter or thing made, done or omitted in any way relating to the Scheme.
- 12.3 The Trustees shall be liable only for such moneys as they shall actually receive and shall in no event be liable for any interest in respect of such moneys.
- 12.4 None of the Trustees or of the officers of a corporate Trustee shall be liable for the consequences of any mistake or forgetfulness whether of law or fact of the Trustees or their advisers whether legal or otherwise or any of them or for any breach of duty or trust whatsoever whether by commission or omission unless it shall be proved to have been made, given, done or omitted fraudulently, criminally or in personal conscious bad faith of the Trustee (or negligence in the case of professional Trustees) or the officer of a corporate Trustee sought to be made liable.
- 12.5 No decision of or exercise of a power or discretion by the Trustees shall be invalidated or questioned on the grounds that the Trustees or any of them or any officer of a corporate Trustee had a direct or other personal interest in the mode or result of such decision or of exercising such power or discretion.
- 12.6 A Trustee or the officer of a corporate Trustee shall be entitled to retain beneficially any interest or entitlement to benefits which he may have under the Scheme.
- 12.7 The Trustees shall not be obliged to institute maintain or defend any legal proceedings in relation to the Scheme.

**13. Costs and expenses**

- 13.1 All liabilities and expenses properly incurred in the execution or purported execution of the trusts of the Scheme or otherwise properly incurred in relation thereto shall be borne by the Participating Employers in the same proportions as the contributions payable by them respectively to the Fund in respect of the period in which the liability or expense was incurred. The Principal Employer may at any time determine that such liabilities and expenses are to be borne by the Fund or that the Principal Employer should bear all the expenses. However any fees which remain unpaid for whatever reason by the Participating Employers as described above for a period of ninety days are to be borne by the Fund.

**14. Amendment of scheme**

- 14.1 The Principal Employer may at any time and from time to time with the consent of the Trustees by deed executed by the Principal Employer and the Trustees amend the Scheme by altering, modifying, replacing, curtailing or adding to all or any of the provisions thereof notwithstanding that thereby the destination of benefits under the Scheme may be changed or that by virtue of any such alterations, modifications, replacements, curtailments or additions (whether considered individually or as a whole) benefits under the Scheme may be cancelled or reduced or otherwise prejudicially affected. Such power may not be so exercised as to relieve any of the Participating Employers from liability for any company contributions that have become payable before the effective date of the amendment or (in the case of a retrospective amendment) the date if later by which the proposed amendment has been made known to the Trustees in general terms but, subject to this qualification, any deed by which an amendment is made may be retrospective in effect.
- 14.2 Provided always that no amendment shall be made to the provisions of the Scheme which:
- (a) shall prejudice or adversely affect any pension or annuity then payable or the rights of any Member of the Scheme who is then no longer in pensionable service under the Scheme; or
  - (b) shall in the opinion of the Actuary operate to reduce the aggregate value of the benefits payable under the Scheme to and in respect of any Member who is in pensionable service under the Scheme (excluding any such benefits which would be payable on death in service while under the normal pension age) below the aggregate value of the benefits which would be payable to and in respect of him under the provision of the Scheme in force before such amendment if he were to cease to be in Pensionable Service.
- 14.3 The Trustees shall have power to give undertakings to the Inland Revenue and to the Occupational Pensions Board notwithstanding that fulfilment of such undertakings would mean going beyond or outside the existing provisions of the Scheme or breaking the existing provisions of the Scheme, and shall treat the existing provisions of the Scheme as being amended so far if at all as may be appropriate in order to permit fulfilment of such undertakings.

**15 Determination of questions**

- 15.1 The provisions of clause 15.2 shall have effect subject to the powers expressed to be exercisable by the Principal Employer or the other Participating Employers under the Definitive Deed and the Rules and save in so far as set aside or varied by any court of competent jurisdiction.
- 15.2 The Trustees shall have full power conclusively to determine whether or not any person is entitled to any of the benefits from time to time payable under the Scheme and the amount of any such benefit and also conclusively to determine all questions and matters of doubt arising under or in connection with the Scheme and the Fund and whether relating to the construction thereof or otherwise. Any such determination shall be binding on all interested parties.



16 **Winding up and dissolution**

16.1 The Scheme shall be wound up and the Fund shall be dissolved and the trusts of the Scheme shall be determined in the events and in the manner specified in the Rules provided always that in no circumstances shall the trusts continue beyond a period of eighty years from the date hereof or for such further period as at the conclusion of the said period may then be lawful and provided that no resolution of the Trustees to wind up the Scheme shall be effective unless all of the following conditions are met:

- a) at the time of the resolution one of the Trustees is a Pensioner Trustee (as defined in Rule 15)
- b) each Trustee including the Pensioner Trustee votes in favour thereof, and
- c) the resolution or a copy thereof is signed by each Trustee including the Pensioner Trustee.

17 **Governing Law**

17.1 The Definitive Deed and the Rules shall in all respects be governed by and interpreted according to the laws of England.

18 **Appendix**

18.1 Notwithstanding anything to the contrary in the Scheme provisions the Appendix to the Rules shall be deemed to be incorporated in the Rules and shall have full effect except that they may not be construed as conferring powers on the Trustees which they do not otherwise have by virtue of this deed.

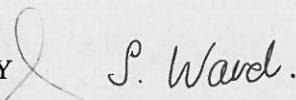
IN WITNESS whereof the Principal Employer and the Trustees have executed this document as a deed the day and year first before written.

THE COMMON SEAL of  
STEPHEN WARD PHOTOGRAPHY LIMITED  
was hereunto affixed in the presence of:

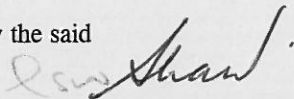
DIRECTOR



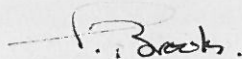
SECRETARY



SIGNED AS A DEED by the said  
STEPHEN WARD  
in the presence of:



Witness Signature:



Name:

Address:

Occupation:

Margaret Brooks,  
15, Mottram Moor,  
Hollingsworth,  
via Hyde. SK14 8LZ.  
Secretary.

SIGNED AS A DEED by the said  
SANDRA WARD  
in the presence of:

*S. Ward.*

Witness Signature: *l*

*M. Brooks.*

Name: *l*

*Margaret Brooks,*

Address: *l*

*15, Mottram Moor,*

*Hollingham, via Hyde. SK14 8LZ.*

Occupation: *l*

*Secretary*

THE COMMON SEAL of  
M.W. TRUSTEES LIMITED  
was hereunto affixed in the presence of:

DIRECTOR

*[Signature]*

SECRETARY

*[Signature]*



## **THE RULES**

### **1 CONSTRUCTION OF THE DEFINITIVE DEED AND RULES**

- (1) The words and expressions defined in Rule 15 of the Rules shall have the respective meanings given in Rule 15 wherever they appear.
- (2) Words importing the masculine shall include the feminine and words importing the singular shall include the plural and vice versa, wherever such words appear in the Definitive Deed or the Rules including the definitions in Rule 15.

### **2 MEMBERSHIP**

- (1) Any person satisfying both of the following conditions shall be eligible to become a Member of the Scheme:
  - i) he is receiving or has received remuneration from one or more of the Participating Employers
  - ii) he has been invited by the Principal Employer to become a Member of the scheme.
- (2) Each person who has agreed to become a member will be given a letter explaining his entitlement to benefits and the basis on which contributions will be paid. He will then complete a form which will be provided by the Trustees to give them such information as they require. On the date that the Trustees receive the completed form he shall be deemed to have become a Member.
- (3) If a Member is temporarily absent from Service or is seconded to another employer with a definite expectation that he will return to Service and he does not become a member of another retirement benefit scheme for the period of absence he may remain a Member until the earliest of the following events occurs:
  - (a) a period of 3 years (or such longer period as the Board of Inland Revenue will allow) expires;
  - (b) there is no longer a definite expectation of return to Service;
  - (c) the Member becomes a member of another retirement benefits scheme.

### **3 CONTRIBUTIONS**

- (1) Contributions by employers

Contributions will be paid for each Member by each of his Employers at such annual rates as are notified to the Member from time to time and, in addition, special non-recurring contributions may be made. The amount of these contributions will be determined taking into account the advice of the Actuary in relation to the contributions required to provide for the Target Benefits. However, any of the Participating Employers may reduce, suspend or terminate the contributions payable for any Member at any time.

- (2) Member's contributions

- (a) The rate of contributions, if any, which each Member is required to pay is determined by the Principal Employer and notified in writing to the member. No rate of contribution determined under this sub-rule may be altered before the expiry of a period of 12 months from the date on which the first payment at the current rate became due without the specific agreement of the Board of Inland Revenue.
- (b) In addition the Member may make voluntary contributions to the Scheme to secure additional benefits for himself and/or his Dependants. For a Class B Member or a Class C Member where such contributions commence on or after 8th April 1987 or for a Class A Member any retirement benefits so secured must be in the form of non-commutable pension except to the extent to which the provisions of the Scheme allow commutation of trivial pensions or on the grounds of serious ill health.

- (c) The total contributions paid by a Class A Member in a year of assessment to this and any Associated Scheme shall not exceed 15% of his Remuneration for that year in respect of that Service and the total contributions paid by a Class B Member or a Class C Member in a year of assessment to this and any Relevant Scheme providing benefits in respect of Service shall not exceed 15% of his Remuneration for that year.
- (d) If necessary the Member's contributions will be further restricted so that they do not exceed the amount advised by the Actuary as being necessary to enable benefits equal to the Target Benefits to be provided.

#### **4 TRANSFER FROM OTHER SCHEMES**

- (1) Subject to the provisions of this Rule, on the request of a Member the Trustees may accept from the trustees of another scheme ("the Transferring Scheme") under which the member has rights an amount equal to the cash equivalent of the Member's and the Member's dependants' interests under that scheme. Any such transfer shall be credited to the Member's Fund Share.
- (2) The Transferring scheme to which Section (1) of this rule refers shall be a retirement benefits scheme which is approved under the Income and Corporation Taxes Act 1988 or is approved by the Board of Inland Revenue for the purposes of the transfer and which has the power to make transfer payments to the Scheme.
- (3) The Trustees shall obtain a certificate from the relevant trustees or administrator of the Transferring Scheme as to the date on which each such Member's qualifying service commenced and specifying the proportion (if any) of the transferred assets attributable to the contributions made to the Transferring Scheme by the Member concerned, and such amount shall be deemed to be a contribution under the Scheme made by such Member and the Trustees shall ensure that such amount shall be regarded as Member's contributions under the Scheme only to the extent so certified. Such certificate shall also state the maximum amount which could have been taken by the Member or Members concerned in lump sum form under the respective rules of the Transferring Scheme and the Trustees shall ensure that the lump sum which is paid on retirement of the Member in respect of the amount transferred shall not exceed the certified maximum.
- (4) If the Member's benefits are subsequently transferred to another retirement benefits scheme, the Trustees shall supply the administrator of that other scheme with the information received under Section (3) of this Rule.
- (5) Where the Trustees have accepted a transfer of assets under the provisions of paragraph (1) of this Rule before the Scheme has received Approval, if the Scheme has not received Approval within two years of the date on which the Scheme commenced or such longer period as the Board of Inland Revenue may agree, then the Trustees will apply the transfer payment to the extent that it has not already been used to pay benefits under the Scheme to purchase from one or more Insurance Companies incorporated in the United Kingdom individual non-assignable annuity policies in the name of each member which shall be commutable only to the extent permitted under the rules of the Transferring Scheme and under which no further premiums are payable.
- (6) The Trustees shall meet any liability for tax which results from an event which if it had occurred under the Transferring Scheme would have resulted in a liability for tax falling on the trustees of the Transferring Scheme.
- (7) The Trustees shall comply with the terms of any undertaking given by them to the Board of Inland Revenue in connection with the acceptance of such transfers.

#### **5 TRANSFERS TO OTHER SCHEMES**

- (1) Subject to the provisions of this Rule, if a Deferred Member becomes a member of another retirement benefits scheme or personal pension scheme ("the Receiving Scheme") which satisfies the requirements in Section 2 of this rule and if he so requests, the Trustees will transfer cash or other assets equal in value to his Fund Share to the Receiving Scheme.



- (2) The requirements which must be met by the Receiving Scheme mentioned in Section (1) of this rule are that the scheme should be approved by the Board of Inland Revenue under the Income and Corporation Taxes Act 1988 or that it should be approved by the Board of Inland Revenue for the purposes of the transfer and that it shall have the power to accept a transfer from the Scheme.
- (3) Before making the transfer the Trustees shall:
  - (a) ascertain from the Trustees of the Receiving Scheme the act and the section of that act under which it is approved by the Board of Inland Revenue or under which approval is being sought from the Board of Inland Revenue;
  - (b) comply with the terms of any undertaking given by them to the Board of Inland Revenue in connection with the payment of such transfers;
  - (c) certify to the Trustees of the Receiving Scheme the amount of that part of the transfer payment which relates to contributions paid by the Member (together with interest thereon of an amount certified by the Actuary as reasonable) together with details of the restriction on the refund of those contributions;
  - (d) provide the administrator of the Receiving Scheme with any relevant information or certification that he may request.

## **6 RETIREMENT BENEFITS**

### **(1) Normal Retirement**

If, on reaching his Normal Retirement Date, a Member leaves Service or having decided to remain in Service elects to receive his retirement benefits at Normal Retirement Date he will become a Pensioner and will be provided with benefits on the basis set out in Section 4 of this Rule.

### **(2) Early Retirement**

If a member leaves Service before reaching his Normal Retirement Date and after he has reached the age of 50 or within the period of 10 years immediately preceding his Normal Retirement Date or at any age if he leaves due to Incapacity, he may elect to receive benefits on the basis set out in Section 4 of this Rule in which case he would become a Pensioner.

### **(3) Late Retirement**

If a Class B Member or a Class C Member reaches Normal Retirement Date but with the consent of his Employer continues in Service he may defer receiving any benefits from the Scheme whilst he continues in Service. At any time after reaching his Normal Retirement Date he may elect to receive retirement benefits on the basis set out in Section 4 of this Rule. He may also elect at any time on or after reaching Normal Retirement Date that part of his Fund Share is to be applied to provide benefits on the basis set out in Section 4 of this Rule and that the remaining part of his Fund Share will be applied to providing benefits at such later date as he shall subsequently elect but not after the date on which his Service ceases. If the benefits taken in advance of actual retirement included a lump sum additional benefits provided later shall only be in the form of non-commutable pensions for the member or his Dependants.

A member whose Normal Retirement Date is after the date on which he attains the age of 75 will be provided with the benefits set out in Section 4 of this Rule on attaining Normal Retirement Date if benefits have not already been so provided whether or not his Service has ceased.

- (4) On the date that benefits are to commence under any other Section of this Rule, the Member will be provided with the following benefits:

- (1) a pension payable immediately for the rest of his life;

- (2) one or more reversionary pensions payable to Dependants on his death after retirement for the remainder of the Dependant's life;
- (3) an allowance for one or more of his Dependant Children (if any)
- (4) a provision for any one or more of the personal pension and the reversionary pensions to be increased each year after retirement at a fixed or variable rate.

The benefits will be payable in accordance with the schedule of Target Benefits and other terms and conditions set out in his Announcement Letter to the extent that, in the opinion of the Actuary, the Member's Fund Share will allow.

On the same date the member may elect that part of his personal pension is commuted for a lump sum payable immediately. If the Member's Fund Share is less than the maximum lump sum that can be paid to him and he so requests his entire Fund Share may be paid as a lump sum with no other benefits being paid.

- (5) The personal pensions payable under this Rule will be paid at least until the death of the Member. If the Member dies within 5 years of the commencement of the pension a lump sum will be paid equal to the total amount of pension payments that would have been paid between the date of his death and the end of the 5 year period. A Member may elect for a period of up to 10 years to be substituted for this period of 5 years. If this substituted period exceeds 5 years and the member dies within the substituted period the following provisions will apply:
  - (1) the benefit will not be paid as a lump sum but the pension will continue to be paid until the end of the period;
  - (2) any pension payable to a Dependant will not commence until the expiry of the period.
- (6) The personal pension payable to a member will be secured by purchasing in the name of the Trustees one or more non-commutable, non-assignable annuities under which no further premiums are payable from one or more Insurance Companies on or before the date on which the pension commences. The Trustees shall, however, have the power to defer the securing of the pension for such Member until no later than the date on which such Member attains age 75, so long as the following conditions are and remain satisfied:
  - (a) Where all Members of the Scheme are in receipt of pensions, the Trustees shall not, directly or indirectly, make any new loans to the Employer or a Company associated with the Employer (as defined in Rule 1.3 of the Appendix attached hereto) or make any new investments in any stock or shares in any Private Company following the first payment of pension to the last Member of the Scheme to retire. The Trustees shall ensure the repayment of any existing loan made to the Employer or to any Company associated with the Employer and shall realise the value of any stock or shares held in any Private Company within five years of the commencement of pension in respect of the last Member to have retired.
  - (b) Where the Scheme has both Members who have not retired and Pensioners whose annuity purchase has been deferred, the Actuary shall exclude each Pensioner's Fund Share when determining the proportion and the amount which may be lent to the Employer or any Company associated with the Employer or used to buy stock or shares in any Private Company. Within 5 years of the commencement of pension to the new Pensioners the Trustees shall ensure that an appropriate proportion to any loan to the Employer or any Company associated with the Employer is repaid and shall ensure an appropriate proportion of the value of any stock or shares held in any Private Company is realised.
  - (c) Where, during the period of deferral, investments held for the purposes of the Scheme include real property, the Trustees shall ensure that there are sufficient other readily realisable assets so as to be in a position to purchase a Member's annuity at any time after the Member has attained age 70.



- (d) The amount of any new borrowing by the Trustees during any period of deferral shall be restricted so that the Pensioners' Fund Shares are excluded from the calculation in Rule 2 (c) of the Appendix.
- (e) During the period of deferral, and whilst the pension is paid by the Trustees, the Actuary shall certify the amount of pension which can be maintained by the Trustees taking account of:
  - (i) any contingent Dependants' pensions payable;
  - (ii) the income and assets of the Scheme, and in particular those liquid assets representing the Pensioner's Fund Share.

The certificate shall compare the pension with the amount of an annuity which could, at that time and on the same terms, be secured with the Member's Fund Share. Where the pension and annuity differ by 10% or more, the certificate shall include a full explanation.

- (f) A copy of the initial actuarial certificate shall be provided to the Pension Schemes Office with the next actuarial valuation report of the Scheme or earlier on request by the Pension Schemes Office.
  - (g) A formal review of the amount of pension payable shall thereafter form part of the Scheme's triennial actuarial reviews; and the renewal certificate shall be supplied to the Pension Schemes Office with the actuarial valuation report.
  - (h) The Trustees shall review the suitability of annuity purchase at least on an annual basis and in connection with significant changes in available annuity rates.
- (7) The reversionary pension payable to any one or more Dependants and the prospective annual increases payable on the member's pension and the Dependants' pensions may be secured by purchasing in the name of the Trustees non-commutable, non-assignable.

Annuity policies under which no further premiums are payable from one or more Insurance Companies on the same date that the annuity policies are purchased for the Member's pension under Section 6 of this Rule.

Alternatively, the purchase of the annuity policies to secure those benefits may be deferred by the Trustees until a later date but the purchase shall not be deferred beyond:

- i) in the case of a reversionary pension payable to a Dependant, the date of death of the Member;
- ii) in the case of an increase payable on a Member's pension or a Dependant's pension the date on which such increase is first paid.

If the annuity policies for the reversionary pension are purchased at the same time as the annuities for the Member's pension are purchased they will be effected on the basis that the reversionary pension for a spouse is payable to the person to whom the Pensioner was married at the date that the annuity was bought. If the annuity policies for the reversionary pension are purchased at the date of the Member's death they will be effected on the basis that the pension is payable to the person to whom he is married at the date of his death.

- (8) On the death of a Pensioner whose total Fund Share has not been applied in the purchase of one or more annuities the benefits which have been arranged in accordance with this Rule shall be secured to the extent that the Pensioner's Fund Share will allow. If the Pensioner's Fund Share is more than sufficient to provide such benefits then the balance of his Fund Share will be applied to increasing the benefits payable to his Dependants within the limits set out in Rule 10.
- (9) In no circumstances will a benefit be paid of an amount in excess of the limits set out in the appropriate part of Rule 10.

## **7 DEATH BEFORE RETIREMENT BENEFITS**

- (1) The Trustees may effect with one or more Insurance Companies policies which would pay a lump sum on the death of a Member before he reaches retirement. The amount which would be payable by the policies on death will be determined so that when added to the Member's Fund Share the Target Benefits can be provided. The policy may be written on the terms that it expires after a fixed period or that it continues in force, subject to the payment of the required premiums, until the Member retires. There shall be no obligation on the Trustees to effect a policy to improve a Member's Target Benefits above the amount which can be provided by his Fund Share and they may insure some Members whilst not insuring others. If a Member dies the proceeds of the policy will be paid to the Trustees.
- (2) If a Member dies whilst in Service or a Deferred member dies before any benefits have become payable to him, his Fund Share will be increased by any amounts payable under Section (1) of this Rule and the total amount of his Fund Share will be applied to provide benefits in accordance with the Target Benefits as set out in Section (3).
- (3) The benefits to which Section 2 refers are one or more of the following benefits:
  - (a) a lump sum or lump sums, in addition to an amount equal to the contributions paid by the Member plus interest thereon;
  - (b) if the Member is survived by one or more Dependants, a pension to any one or more of such Dependants for the rest of their lives without increases or increasing each year;
  - (c) if the Member is survived by one or more Dependant Children, an allowance payable to any one or more of such Dependant Children until they cease to qualify as Dependant Children without increases or increasing each year.

The amount of the benefits will not in any event exceed the limits set out in Rule 10.

- (4) If a Member's widow is entitled to a pension under the provisions of Section (3) of this Rule she may elect that the payment of the pension is deferred but such deferment shall not extend beyond the 70th birthday of the widow.
- (5) Any pension payable under the provisions of this Rule will be secured by the purchase in the name of the Trustees of one or more non-assignable and non-commutable annuity policies under which no further premiums are payable from one or more Insurance Companies at the time that the pension commences. Any increases payable on the pensions may be secured at the same time or monies equal to the estimated cost of providing the intended increases may be retained in the Fund with the increases being secured by similar annuity policies at the time that they are granted.
- (6) The lump sum benefits payable under paragraph (a) of Section (3) of this Rule shall be held by the Trustees upon trust for a period not exceeding two years whilst they decide to whom the monies should be paid. The Trustees may pay the sums to any one or more of the Member's beneficiaries (defined in Section (7) of this rule) or to the member's estate or to both in whatever proportions they decide appropriate. If they have not reached a decision after the end of the two year period the unpaid balance of the lump sum benefits shall be paid to the Member's legal personal representatives. However, if this would result in amounts being paid to the Crown or the Duchy of Lancaster or to the Duke of Cornwall as bona vacantia these amounts shall be retained within the fund for the benefit of such other members as the Trustees shall decide.
- (7) In this Rule 7 the 'beneficiaries' of the member means in relation to that Member:
  - (7.1) such of the following persons as are living or en ventre sa mere at the Member's death:
    - (a) the spouse of the Member;
    - (b) the children and remoter descendants of the Member;



- (c) the parents of the member and the spouse of the Member;
- (d) any other children and remoter descendants of the grandparents of the Member or of the grandparents of the spouse of the Member;
- (e) any spouse widow or widower (whether or not remarried) of any of the persons described in (b), (c) and (d) of this definition;
- (f) any person to whose advancement, maintenance or support the Member shall in the opinion of the Trustees have contributed;
- (g) any person, society, club, charity or other body (whether or not charitable) of which the Member has notified the Trustees or any of the Participating Employers or the trustees of any predecessor scheme as being a person or body he wished to be considered as a recipient of benefit in the event of his death; and
- (h) any person beneficially interested under any testamentary disposition of the Member; and

(7.2) the Member's legal personal representatives.

For the purposes of this definition adopted persons and step-children shall be treated as the children of their adopters and step-parents.

- (8) If a Controlling Director dies whilst in Service on or after his 75th birthday any lump sum payable in respect of him shall not be paid in accordance with Section (6) of this Rule but shall instead be paid to his spouse or if he is not survived by a spouse to his legal personal representatives.

## **8 BENEFITS ON LEAVING THE SCHEME**

- (1) If a Member leaves the Scheme before Normal Retirement Date in circumstances which do not qualify him for benefits under Rule 6 or Rule 7 he will become a Deferred Member. Subject to the provisions of this Rule, a Deferred Member who survives to his Normal Retirement Date will be provided with benefits at his Normal Retirement Date and the provisions of the Rules regarding Normal Retirement shall apply to him in the same manner as they apply to a Member retiring at his Normal Retirement Date.
- (2) If a Deferred Member so requests the Trustees may provide him with benefits before his Normal Retirement Date and the provisions of the Rules regarding Early Retirement shall apply to him in the same manner as they apply to a Member retiring before Normal Retirement Date.
- (3) If a Class B Member or a Class C Member who is a Deferred Member notifies the Trustees in writing before his Normal Retirement Date that he wishes the payment of his benefits to be deferred beyond his Normal Retirement Date the Trustees may defer the payment of his benefits beyond Normal Retirement Date if he is still employed at that time until the later of the Normal Retirement Date under his last employer's scheme and the cessation of all employment.  
When benefits are provided for a Deferred member under this Section the provisions of the Rules regarding Normal Retirement shall apply to him in the same manner as they apply to a Member retiring at Normal Retirement Date.

A Class A Member who is a Deferred Member may elect by notifying the Trustees that benefits should come into payment at any time between the attainment of the age of 50 and the attainment of the age of 75.

The Deferred Member shall provide evidence to the Trustees of his continuing employment in such form as the Trustees decide and if the Deferred Member does not produce evidence which is in a form satisfactory to them the Trustees shall proceed as if he had ceased to be employed.

- (4) If a Deferred Member so requests the Trustees may transfer cash or other assets equal to his Fund Share to another retirement benefits scheme or personal pension scheme on the terms set out in Rule 5 or to an insurance policy on the terms set out in Rule 14(2)(b).

## **9 PAYMENT OF BENEFITS**

- (1) If the beneficiary shall become bankrupt or shall assign or attempt to assign any pension benefit payable under the Scheme and the Trustees shall have notice thereof no payment or further payment (as the case may be) shall be made in respect of the benefit to which he is entitled but the Trustees may pay or apply an amount or amounts not exceeding the value of such forfeited benefit for the personal support and maintenance of such;

beneficiary his spouse children or Dependants or such one or more of them as the Trustees shall in their discretion determine.

- (2) If a beneficiary is an infant or is in the opinion of the Trustees suffering from an incapacity rendering him unable to manage his affairs or to give a proper receipt the Trustees may at their discretion (except where by law otherwise required) make payment of any benefit (to which such beneficiary is entitled) to his guardian or his spouse or any of his children or any of his relatives or any of his dependants or any institution or person providing of his care and such payment shall be in complete satisfaction of the obligations of the Trustees to such beneficiary in respect of such benefit and the Trustees shall not be under any liability to see to the application thereof.
- (3) Where the Trustees or the Administrator are liable to account to the Inland Revenue for income or other tax or are chargeable to such tax as a result of making any payment under the Scheme the Trustees or Administrator shall deduct such income or other tax from the amount of the payment.
- (4) If any pension or other benefit payable under the Scheme or any instalment thereon remains unpaid to and unclaimed by the person for a period of six years from the date it became payable then the entitlement thereto shall be extinguished.
- (5) Each person who claims to be entitled to or to be eligible for a benefit under the Scheme shall give to the Trustees such proof of age identity and existence as the Trustees may require.
- (6) No sum shall be payable to the personal representatives of a deceased person until there shall be produced to the Trustees a Grant of Representation relating to his estate provided however that where a Grant of Representation has not been produced any sums of money so payable up to an aggregate of £1,000 (or such greater sum as the Principal employer may from time to time determine) may be paid at the discretion of the Trustees to such individual (as the Trustees in their discretion shall determine) and the receipt of such individual shall be valid discharge in like manner as if it had been given by personal representatives of such deceased person.

## **10 INLAND REVENUE LIMITS**

- (A) Notwithstanding anything to the contrary in the Scheme provisions:

- i. any term used in the Scheme as a measure of the annual earnings of a Class A Member for the purpose of calculating benefits is to be interpreted as though those earnings are no greater than the permitted maximum as defined in section 590C(2) of the Act. The benefits so calculated may be augmented up to the maximum limits in ii. below;
- ii. the benefits payable to a Class A Member or his Dependants or other beneficiaries in respect of him shall not, when aggregated with all benefits of a like nature provided under all Relevant Schemes providing benefits in respect of Service, exceed the limits set out below.

- (1) The Member's Aggregate Retirement shall not exceed:

- (a) on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retirement Date on grounds of Incapacity, a pension of 1/60th of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;



- (b) on retirement at any time before Normal Retirement Date on grounds of Incapacity a pension of the amount which could have been provided at Normal Retirement Date in accordance with paragraph (a) of Section (1) of this Rule; Final Remuneration being computed as at the actual date of retirement;
  - (c) on leaving Pensionable Service before attaining age 75, a pension of 1/60th of Final Remuneration for each year of that service (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date of termination of Pensionable Service and the date on which the pension begins to be payable. any further increase necessary to comply with Department of Social Security requirements is also allowable.
- (2) The member's Lump Sum Retirement Benefit shall not exceed:
- (a) on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retirement Date on grounds of Incapacity, 3/80ths of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
  - (b) on retirement at any time before Normal Retirement Date on grounds of Incapacity the amount which could have been provided at Normal Retirement Date in accordance with paragraph (a) of Section (2) of this Rule; Final Remuneration being computed as at the actual date of retirement;
  - (c) on leaving Pensionable Service before attaining age 75, a lump sum of 3/80ths of Final Remuneration for each year of that service (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date of termination of Pensionable Service and the date on which the pension begins to be payable but only if and to the same extent as the total benefits have been increased under paragraph (c) of Section (1) of this Rule.
- (3) The lump sum benefit (exclusive of any refund of the Member's contributions and any interest thereon) payable on the death of a Member while in Service or (having left Service with a deferred pension) before the commencement of his pension shall not, when aggregated with all like benefits under Associated Schemes, exceed the greater of:
- (a) £5,000 and
  - (b) 4 times Final Remuneration but excluding proviso i. of that Definition
- less
- i. any lump sum (other than a refund of his own contributions and any interest thereon) payable on the death of the Member under all Relevant Schemes in respect of service with previous employers, and
  - ii. any lump sum life assurance benefit payable on the death of the member under a retirement annuity contract or trust scheme approved under Chapter III Part XIV of the Act, or a personal pension scheme approved under Chapter IV Part XIV of the Act,
- if the aggregate of such lump sums exceeds £1,000.
- (4) Any pension for a Dependant, when aggregated with the pensions, other than those provided by surrender of the Member's own pension, payable to that Dependant under all Associated Schemes, shall not exceed an amount equal to 2/3rds of the Aggregate Retirement Benefit:
- (a) being paid to the Member at the date of his death (including any pension increases given under Rule 6) or

- (b) being a deferred benefit payable to the member at any time between attaining age 50 and attaining age 75, or
- (c) prospectively payable to the member who dies in Service had he remained in Service up to the Normal Retirement Date at the rate of pay in force immediately before his death, or
- (d) prospectively payable to the Member who dies in Service after Normal Retirement Date on the basis that he had retired on the day before he died.

or such greater amount as will not prejudice Approval.

If pensions are payable to more than one Dependant of a Member, the aggregate of all Dependents' pensions payable in respect of him under this and all Associated Schemes shall not exceed the full amount of whichever is the appropriate Aggregate Retirement Benefit under (a), (b), (c) or (d) above or such greater sum as will not prejudice Approval.

- (5) The maximum amount of a pension ascertained in accordance with this Rule less any pension which has been commuted for a lump sum or surrendered to provide a Dependant's pension may be increased in proportion to the increase in the Index which has occurred since the pension commenced to be paid.
- (6) The preceding provisions of this Rule shall be modified in their application to a Member who is or has been a Controlling Director as follows:

the amount of the maximum Aggregate Retirement Benefit in Section (1) of this Rule and of the maximum Lump Sum Retirement Benefit in Section (2) of this Rule shall be reduced, where necessary for Approval, so as to take account of any corresponding benefits under either a retirement annuity contract or trust scheme approved under Chapter III Part XIV of the Act or a personal pension scheme approved under Chapter IV Part XIV of the Act.

- (B) Notwithstanding anything to the contrary in the Scheme provisions, the benefits payable to a Class B Member or a Class C Member or to his Dependents or other beneficiaries in respect of him shall not when aggregated with all benefits of a like nature provided under all Relevant Schemes providing benefits in respect of Service exceed the limits set out below.

- (1) The member's Aggregate Retirement Benefit shall not exceed:
  - (a) on retirement at or before Normal Retirement Date, a pension of 1/60th of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
  - (b) on retirement after Normal Retirement Date, a pension of the greatest of:
    - i. the amount calculated in accordance with paragraph (a) of Section (1) of this Rule on the basis that the actual date of retirement was the Member's Normal Retirement Date;
    - ii. the amount which could have been provided at Normal Retirement Date in accordance with paragraph (a) of Section (1) of this Rule increased either actuarially in respect of the period of deferment or in proportion to any increase in the Index during that period, and
    - iii. where the Member's total Service has exceeded 40 years, the aggregate of 1/60th of Final Remuneration for each year of Service before Normal Retirement Date (not exceeding 40 such years) and of a further 1/60th of Final Remuneration for each year of Service after Normal Retirement Date, with an overall maximum of 45 reckonable years.

Final Remuneration being computed in respect of i. and iii. above as at the actual date of retirement, but subject always to Section (6) of this Rule;



- (c) on leaving Pensionable Service before Normal Retirement Date, a pension of 1/60th of Final Remuneration for each year of that service (not exceeding 40 years) or of such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date of termination of Pensionable Service and the date on which the pension begins to be payable. Any further increase necessary to comply with Department of Social Security requirements is also allowable.

(2) The Member's Lump Sum Retirement shall not exceed:

- (a) on retirement at or before Normal Retirement Date, 3/80ths of Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as will not prejudice Approval;
- (b) on retirement after Normal Retirement Date, the greatest of:
  - i. the amount calculated in accordance with paragraph (a) of Section (2) of this Rule on the basis that the actual date of retirement was the member's Normal Retirement Date,
  - ii. the amount which could have been provided at Normal Retirement Date in accordance with paragraph (a) of Section (2) of this Rule together with an amount representing interest thereon, and
  - iii. where the Member's total Service has exceeded 40 years, the aggregate of 3/80ths of Final Remuneration for each year of Service before Normal Retirement Date (not exceeding 40 such years) and of a further 3/80ths of Final Remuneration for each year of Service after Normal Retirement Date, with an overall maximum of 45 reckonable years.

Final Remuneration being computed in respect of i. and iii. above as at the actual date of retirement, but subject always to Section (6) of this Rule;

- (c) on leaving Pensionable Service before Normal Retirement Date, a lump sum of 3/80ths of Final Remuneration for each year of that service (not exceeding 40 years) or such greater amount as will not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date of termination of Pensionable Service and the date on which the pension begins to be payable but only if and to the same extent as the total benefits have been increased under paragraph (c) of Section (1) of this Rule.

(3) The lump sum benefit (exclusive of any refund of the Member's own contributions and any interest thereon) payable on the death of a Member while in Service or (having left Service with a deferred pension) before the commencement of his pension shall not, when aggregated with all like benefits under Associated Schemes, exceed the greater of:

- (a) £5,000, and

- (b) 4 times Final Remuneration but excluding proviso i. of that Definition

less

- i. any lump sum (other than a refund of his own contributions and any interest thereon) payable on the death of the Member under all Relevant Schemes in respect of service with previous employers, and
- ii. any lump sum of assurance benefit payable on the death of the member under a retirement annuity contract or trust scheme approved under Chapter III Part XIV of the Act, or a personal pension scheme approved under Chapter IV Part XIV of the Act.

if the aggregate of such lump sums exceeds £1,000.

- (4) Any pension for a Dependant, when aggregated with the pensions, other than those provided by surrender of the member's own pension, payable to that Dependant under all Associated Schemes, shall not exceed an amount equal to 2/3rds of the Aggregate Retirement Benefit:
- (a) being paid to the member at the date of his death including any pension increases given under Rule 6, or
  - (b) being a deferred benefit payable to the member at Normal Retirement Date, or
  - (c) prospectively payable to the Member who dies in Service had he remained in Service up to the Normal Retirement Date at the rate of pay in force immediately before his death, or
  - (d) prospectively payable to the Member who dies in Service after Normal Retirement Date on the basis that he had retired on the day before he died,

or such greater amount as will not prejudice Approval.

If pensions are payable to more than one Dependant of a Member, the aggregate of all Dependents' pensions payable in respect of him under this and all Associated Schemes shall not exceed the full amount of whichever is the appropriate Aggregate Retirement Benefit under (a), (b), (c) or (d) above or such greater sum as will not prejudice Approval.

- (5) The maximum amount of a pension ascertained in accordance with this Rule less any pension which has been commuted for a lump sum or surrendered to provide a Dependant's pension may be increased in proportion to the increase in the Index which has occurred since the pension commenced to be paid.
- (6) If a Member elects under Rule 6 to take any part of his benefits under this Scheme in advance of actual retirement, the limits set out in Sections (1) and (2) of this Rule shall apply as if he had retired at the date of the election as aforesaid, no account being taken of subsequent Service, save that the maximum amount of any uncommuted pension not commencing immediately may be increased either actuarially in respect of the period of deferment or in proportion to any increase in the Index during that period.
- (7) The preceding provisions of this Rule shall be modified in their application to a Member who is or has been a Controlling Director as follows:

the amount of the maximum Aggregate Retirement Benefit in Section (1) and of the maximum Lump Sum Retirement Benefit in Section (2) shall be reduced, where necessary for Approval, so as to take account of any corresponding benefits under either a retirement annuity contract or trust scheme approved under Chapter III Part XIV of the Act or a personal pension scheme approved under Chapter IV Part XIV of the Act,

and in relation to a member who is a Controlling Director at his normal Retirement Date, as follows:

- (a) where retirement takes place after Normal Retirement Date but not later than the member's 70th birthday, paragraphs (b).ii. and (b).iii. of Section (1) of this Rule and paragraph (b).ii. and (b).iii. of Section (2) shall not apply, and if retirement is later than the attainment of that age, the said paragraphs shall apply as if the Member's 70th birthday had been specified in the Rules as his Normal Retirement Date so as not to treat as Service after Normal Retirement Date any Service before the Member reaches the age of 70;
- (b) where Section (6) applies to him, the rate of the actuarial increase referred to therein in relation to any period of deferment prior to his attaining the age of 70, shall not exceed the percentage increase in the Index during that period.



## **11 PARTICIPATING EMPLOYER CEASING TO PARTICIPATE**

- (1) the participation in the Scheme of any Participating Employer shall terminate:
  - (a) if it is not the Principal Employer and its association with the Principal Employer has changed to such an extent that its continued participation in the Scheme would prejudice the Approval of the Scheme;
  - (b) if the Participating Employer has given the Trustees one month's notice in writing of its intention to terminate its participation, on the expiry of such notice;
  - (c) if it is being wound up;
  - (d) if the Principal Employer's participation in the Scheme ceases for any reason and none of the Participating Employers agrees to undertake the duties and obligations of the Principal Employer under the Definitive Deed and the Rules.
- (2) In the event that a Participating Employer ceases to participate in the Scheme the Actuary will determine the Fund Share of each of the Members Deferred Members and Pensioners who were employed by that Participating Employer and who are not Members of the Scheme in respect of employment with any other Participating Employer and the Fund Shares so determined shall be applied in accordance with the provisions of Rule 14.
- (3) In determining the Fund Shares in accordance with Section (2) of this Rule the Actuary shall make allowance for all costs and expenses arising as a result of the Participating Employer ceasing to participate in so far as these costs are not met by the Participating Employer.

## **12 MISCELLANEOUS PROVISIONS**

- (1) Frequency of pensions. Each pension payable under these Rules shall be payable by equal monthly instalments unless the Trustees notify the Member to the contrary in writing.
- (2) Trivial Commutation. If at the time that a pension is due to commence the amount of the Aggregate Retirement Benefit is less than £260 per annum (or such higher amount which may be prescribed from time to time by regulations made under paragraph 15(4) of Section 77 (5) of the Pension Schemes Act 1993 or any subsequent enactment which will not prejudice Approval) the actuarial value of that pension may be paid as a lump sum in lieu of the pension. If a reversionary Dependant's pension would also be contingently payable in respect of a member whose pension is being commuted under this Section and if that reversionary Dependant's pension is less than £260 per annum (or such higher amount which may be prescribed from time to time by regulations made under Section 77 (6) of the Pension Schemes Act 1993 or any subsequent enactment which will not prejudice Approval) the actuarial value of that reversionary pension may also be paid to the Member or to the Dependant in lieu of the prospective reversionary benefits. The actuarial values referred to in this Section shall be calculated on a basis which is certified as reasonable by the Actuary.
- (3) Serious ill health commutation. If when his pension becomes payable a member or Deferred member is in exceptional circumstances of serious ill health such that his expectation of life is unquestionably very short by comparison with the average for the same age and sex then the Trustees may, subject to obtaining the prior consent of the Board of Inland Revenue, pay him a lump sum equal to the actuarial value of his pension in lieu of that pension. The actuarial value shall be calculated on a basis which is certified as reasonable by the Actuary and which disregards the member's ill health.
- (4) Commutation Calculations. All calculations to determine the lump sum equivalent of a pension or the amount of pension equivalent to a lump sum under this Rule or Rule 6 shall be determined by the Actuary on a basis which is consistent with any other calculations made for the same Member and for other purposes of the Scheme or which is agreed by the Actuary with the Board of Inland Revenue.
- (5) Assignability. All benefits payable under the Scheme shall be non-assignable and shall only be commutable to the extent specifically permitted in other parts of these Rules.

- (6) Augmentation of benefits. Where in addition to being a member of this Scheme the Member is also a member of an approved scheme (the voluntary scheme) which provides additional benefits to supplement those provided by this Scheme and to which no contributions are made by any Employer of his, the provisions of the paragraph that follows shall apply in relation to any augmentation of the benefits provided for him by this Scheme after he has ceased to participate in it.

Any provisions in this Scheme imposing a limit on the amount of a benefit provided for the member shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the Member by the voluntary scheme.

- (7) Payment of benefits. The Scheme provisions shall have effect (notwithstanding anything in them to the contrary) as if they provided:
- (a) that a Class A member's retirement benefit shall be paid no later than the date on which he attains age 75, and
  - (b) subject to (a) above that no part of a Class A Member's retirement benefit shall be paid in advance of actual retirement or leaving service except to the extent necessary to comply with Department of Social Security requirements.
- (8) Return of surplus funds. Any provisions in the Scheme permitting the Member to make voluntary contributions to secure additional benefits for himself and/or his Dependants shall (notwithstanding anything in them to the contrary) have effect as if the provisions of Part III Schedule 6, Finance Act 1989 concerning the return of surplus funds applied to the Scheme.
- (9) Annuity payments. Any annuity policies purchased by the Trustees in accordance with the Rules shall be issued in the name of the Trustees but they may arrange for the Insurance Company to pay the benefits direct to the Pensioner.
- (10) Once the Trustees have exhausted the Fund Share of a Member, Deferred Member or Pensioner by applying it to the purchase of one or more annuities in accordance with the Rules the Trustees shall have no further liability for the payment of benefits in respect of him. In this event the individual shall cease to be a Member Deferred Member or Pensioner.
- (11) If the Board of Inland Revenue determines that the Fund held by the Trustees is excessive in relation to the expected cost of the benefits payable to the Members, Deferred Members and Pensioners and the Board of Inland Revenue requires the Trustees to pay part of the Fund to one or more of the Participating Employers the Trustees may make such payments.
- (12) No pension being paid under the provisions of the Scheme shall be reduced except in the following circumstances:
- i) the Trustees determine on the advice of the Actuary that it should be reduced from a specified date to enable the reduced pension payable from that date to remain fixed for the remainder of the recipient's life taking into account any reversionary benefits payable, or
  - ii) where a pension is payable on the basis that the amount will be adjusted each year in line with the change in the Retail Prices Index the pension may be reduced if the Retail Prices Index decreases over the year. However, the Trustees shall not be under any obligation to reduce the amount of the pension if the Member's Fund Share is sufficient to allow the higher amount to continue.
- (13) Notwithstanding anything to the contrary in the rest of the Rules or other provisions of the Scheme the following Sections (14-24) shall have full effect except that Sections (14-20) may not be construed as conferring powers on the Trustees that they do not otherwise have by virtue of the Definitive Deed and Rules.



- (14) Continued Life Cover. Any provision in the Rules to provide a lump sum benefit on the death of a Member after retirement on pension (other than a payment under a guarantee of pension provision) shall be restricted in respect of a Class A Member who joined the scheme on or after 1 October 1991 to exclude any provision other than in respect of the Member's death occurring before the Normal Retirement Date and after retirement on grounds of incapacity. The amount of the benefit shall not exceed the amount payable had the Member died immediately before retirement increased in proportion to any increase in the Index between the date of the Member's retirement and the date of the Member's death.
- (15) Valuation of lump sum benefits for limits purposes. In calculating the amount of the Aggregate Retirement Benefit of a Class A Member the pension equivalent of the Member's Lump Sum Retirement Benefit is one twelfth of its total cash value.
- (16) Controlling Directors. For a Controlling Director who is a Class A Member the definitions of Aggregate Retirement Benefit and Lump Sum Retirement Benefit are to be extended to include any benefits of either a retirement annuity contract approved under Chapter III Part XIV of the Act or a personal pension scheme approved under Chapter IV of that Part insofar as those benefits are secured in respect of Service with the Employer or an associated employer.
- (17) Post-retirement Increases of Pension. The amount of any pension of a Class A Member which may be increased under any provision of the Scheme to take account of increases in the cost of living may not notionally include any amount of pension which has been commuted for a lump sum.
- (18) Definition of Service. For a Controlling Director who is a Class A Member the definition of Service may not be interpreted as including a period of service for an employer who is associated with the Employer by virtue of a permanent community of interest rather than because one employer is controlled by the other or both are controlled by a third party. Where both such employers are participating in the Scheme separate calculations of maximum benefits are required in respect of the separate periods of Service. Control has the meaning in section 840 of the Act or, in the case of a close company, section 416 of the Act.
- (19) Transfers:
- a. The benefits arising on retirement from a transfer value shall not be capable of commutation nor shall they be paid in lump sum form if the transfer is accompanied by a certificate from the administrator of the transferring scheme to the effect that the transfer value is not to be used to provide benefits in lump sum form.
  - b. For Class B or Class C Members pension benefits on retirement arising from a transfer value (other than from another scheme of the Employer or an associated employer) may be commuted only if and to the extent that a certificate has been obtained from the administrator of the transferring scheme showing the maximum lump sum payable from the transfer value. The amount so certified may be increased in proportion to any increase in the Index since the date the transfer payment was received.
  - c. When on or after a transfer having been made to another occupational pension scheme the administrator requests such a certificate as is referred to in b. above, the Administrator shall calculate as at the date of transfer and supply the receiving scheme with a certificate of, the maximum lump sum payable on retirement from the transfer value.
  - d. When making a transfer to an approved personal pension scheme the Administrator shall provide a certificate of the maximum lump sum payable on retirement from the transfer value if the transferring member:
    - (a) was aged 45 or more at the time that the transfer payment was made, or
    - (b) has at any time within the 10 years preceding the date on which the right to the cash equivalent being transferred arose, been, in respect of any employment to which the transfer payment or any part of it relates, either
      - (i) a controlling director, or

- (ii) in receipt of annual remuneration in excess of £60,000 or, if greater, the allowable maximum (i.e. the equivalent for personal pension schemes of the permitted maximum) for the year of assessment in which the date of transfer falls, or
  - (c) is entitled to benefits included in the transfer payment which arise from an occupational pension scheme under which the normal retirement age is 45 or less.
- (20) Pension Guarantees. Any provision in the Rules for a pension to be guaranteed for a minimum period by reference to the value of the member's contributions is hereby disappplied. A pension may not be guaranteed for a minimum period exceeding 10 years.
- (21) Lump Sum Benefit for Deferred Pensioner. In relation to the deferred benefits of a Member who has left Pensionable Service, any provision in the Rules which limits the cost of living increase of the lump sum in proportion with any such increase granted on the total deferred benefit shall cease to have effect.
- (22) Dependent Children. A provision in the Rules which requires a pension for a child to cease on the later of attainment of age 18 and the cessation of full-time educational or vocational training shall have no effect if the child remains dependent because of disability.
- (23) Temporary Absence. A provision in the Rules to permit a Member who becomes temporarily absent from Service to continue in full membership of the Scheme for a period of up to 3 years without reference to the Board of Inland Revenue may, in respect of a Member who remains resident in the United Kingdom, be construed as though that 3 year period is extended to 10 years.
- (24) Surplus AVCs. Where the application of the limits in the rules requires the quantum of the Aggregate Retirement Benefit to be restricted and the Member has paid additional voluntary contributions to supplement scheme benefits, that restriction shall first be effected on those supplementary benefits so as to permit the repayment of the surplus additional voluntary contributions subject to section 599A of the Act.

The administrator of the scheme shall comply with the requirements of Regulation 5 of The Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993 [SI 1993 No 3016] and where the scheme is the "leading scheme" in relation to a member, with the requirements of Regulation 6 of those Regulations so far as they concern main schemes. If these Regulations are amended or replaced by any other Regulations then this clause will have effect as if it had been amended or replaced accordingly.

### **13 ADMINISTRATIVE PROVISIONS**

- (1) Appointments. On the establishment of the Scheme, the Trustees shall appoint the following:

- a) an Actuary
- b) an Administrator
- c) an Auditor

The Trustees may remove any person (or firm) so appointed at any time and may appoint another such person (or firm) in his place.

- (2) Records. The Trustees shall arrange for the keeping of records of all Members, Deferred Members and Pensioners and for the keeping of true accounts and records of all monies passing through their hands. They shall also cause accounts to be drawn up on an annual basis for each Scheme Year.
- (3) Actuarial Valuations. The Trustees shall make available all records, documents and information requested by the Actuary and shall arrange for the Actuary to perform an actuarial valuation of the Scheme at the commencement of the Scheme and at intervals not exceeding 3 years thereafter.



## 14 WINDING-UP

- (1) Subject to the provisions of this Rule and the provisions of Clause 16 of the Definitive Deed the Scheme shall be wound up on whichever of the following dates shall occur first:
  - (a) the date on which the period specified in Clause 16 of the Definitive Deed shall expire;
  - (b) the date on which the Principal Employer shall notify in writing to the Trustees that the Scheme should be wound up;
  - (c) the date on which the Principal Employer is wound up if none of the Participating Employers have agreed to undertake the duties and obligations of the Principal Employer under the Definitive Deed and Rules.
- (2) If the Scheme is to be wound up under Section (1) of this Rule the assets of the Scheme shall be realised and all costs fees and expenses which relate to the winding up of the scheme and which are not met by the Participating Employers will be met by the Trustees. The Actuary shall then determine the Fund Share for each Member, Deferred Member and Pensioner and the monies shall be applied in the following manner:
  - (a) the Fund Shares of any Pensioners shall be applied to the purchase of non-commutable non-assignable annuity policies under which no further premiums are payable from one or more Insurance Companies to secure the benefits payable to the Pensioners and their Dependants under Rule 6;
  - (b) the Fund Shares of any Members and Deferred Members shall be applied to the purchase of non-assignable annuity policies which are commutable only to the extent permitted under these Rules and under which no further premiums are payable from one or more Insurance Companies and which provide benefits in the same manner as would apply if the Member or Deferred Member was being provided with benefits under the Scheme. Such annuity policies must be in a form approved for the purposes of Sections 431(4)(d) and 591(2)(g) of the Act;

provided that the benefits so secured for any Member, Deferred Member or Pensioner shall not exceed the limits set out in Rule 10.
- (3) Any excess of the Fund Share of a Member Deferred Member or Pensioner over the amount which is applied to the annuity policy as a result of Section (2) shall be applied to augment his benefits within the limits set out in Rule 10 and any excess remaining after the benefits have been augmented to those limits shall be either:
  - i) allocated to the other Members Deferred Members and Pensioners in such proportions as the Trustees decide is appropriate, or
  - ii) paid to one or more of the Participating Employers in such proportions as the Trustees decide subject to the prior agreement of the Board of Inland Revenue and payment of any tax due under Section 601 of the Act.
- (4) If a Member, Deferred Member or Pensioner so requests the Trustees may transfer his Fund Share to the trustees of another retirement benefits scheme which is approved or capable of being approved by the Board of Inland Revenue under the Income and Corporation Taxes Act 1988 and which has the power to accept such transfers or any other pension arrangement approved for this purpose by the Board of Inland Revenue instead of applying his Fund Share in accordance with Section (2) of this Rule.

## 15 DEFINITIONS

### 15.1 In this deed:

"ACT" means the Income and Corporation Taxes Act 1988 and any statutory amendment modification or re-enactment thereof.

"ACTUARY" means the Actuary of the Scheme being a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries appointed in accordance with Rule 13.

"ADMINISTRATOR" means the person, persons or body corporate resident in the United Kingdom having the management of the Scheme.

"AGGREGATE RETIREMENT BENEFIT" shall mean the aggregate of:

- i. the Member's pension under this Scheme and any Associated Scheme, and
- ii. the pension equivalent of the Member's Lump Sum Retirement Benefit.

"ANNOUNCEMENT LETTER" means the letter given to a Member on joining the Scheme which sets out his Target Benefits and explains the general terms of the Scheme together with any subsequent letter given to the Member which amends the details provided previously.

"APPROVAL" means approval of the Scheme by the Board of Inland Revenue under Chapter I Part XIV of the Act.

"ASSOCIATED EMPLOYMENT" means 2 or more concurrent employments held by the Member which are associated i.e. where:

- a. there is a period during which the member has held all of them,
- b. the period counts under the Scheme in the case of all of them as a period in respect of which benefits are payable,
- c. during the period all the employers in question are associated.

"ASSOCIATED SCHEME" means either i. or ii. below as appropriate:

- i. In respect of a Class A Member any Relevant Scheme which is a Connected Scheme or which provides benefits in respect of Service.
- ii. In respect of a Class B Member or Class C Member any Relevant Scheme providing benefits in respect of Service.

"AUDITOR" means a person qualified to act as an auditor of a company under section 389 of the Companies Act 1985, or a person approved by the Secretary of State, not being:

- a) a Member of the Scheme;
- b) a Trustee of the Scheme;
- c) a person who is employed under a contract of service by the Trustees of the Scheme;
- d) the employer of any member of the Scheme who is in relevant employment; or
- e) where such an employer as is mentioned in sub-paragraph (d) is a company, a director or employee of that company or any connected company.

"BUSINESS" includes:

- (a) a trade or profession, or
- (b) any activity other than investment carried on by a body of persons, whether corporate or unincorporate, or
- (c) any activity carried on by a holding company for a trading group.



"CLASS A MEMBER" means any Member who joined a Scheme or any Related Scheme established on or after 14th March 1989 or a Scheme or any Related Scheme in existence prior to 14th March 1989 on or after 1st June 1989 and any Class B Member or Class C Member who has elected to be deemed to have become a Class A Member.

"CLASS B MEMBER" means any Member who joined the Scheme on or after 17th March 1987 and before 1st June 1989 or who joined subsequently and who the Board of Inland Revenue have agreed in writing to be a Class B Member by virtue of previous membership of a Related Scheme provided that in either case the Member may elect at any time before the Relevant Date to be deemed to have become a Class A Member.

"CLASS C MEMBER" means any Member who joined the Scheme before 17th March 1987 or who joined subsequently and who the Board of Inland Revenue have agreed in writing to be a Class C Member by virtue of previous membership of a Related Scheme provided that in either case the Member may elect at any time before the Relevant Date to be deemed to have become a Class A Member.

"CLOSE COMPANY" has the meaning given by sections 414 and 415 of the Act.

"COMPANY" means any body corporate or unincorporated association, but does not include a partnership.

"CONNECTED SCHEME" means any Relevant Scheme which is connected with the Scheme in relation to the member i.e. if:

- a. there is a period during which the Member has been the employee of 2 associated employers
- b. that period counts under both schemes as a period in respect of which benefits are payable
- c. the period counts under one scheme for service with one employer and under the other for service with the other employer.

For the purposes of the definitions of Associated Employment and Connected Scheme employers are associated if one is controlled by the other, or both are controlled by a third party. Control has the meaning in Section 840 of the Act, or in the case of a close company, section 416 of the Act.

"CONTROL" in relation to a body corporate (other than a close company) or partnership shall be construed in accordance with section 840 of the Act and in relation to an unincorporated association that section shall be applied as it applies to a body corporate.

In relation to a close company "control" shall be construed in accordance with section 416 of the Act.

"CONTROLLING DIRECTOR" means a Member who, at any time on or after 17th March 1987 and in the last 10 years before the Relevant Date has, in relation to the Employer, been both within the definition of a director in section 612(1) of the Act and within paragraph (b) of section 417(5) of that Act.

"DEFERRED MEMBER" means a member whose active membership of the Scheme has terminated in accordance with Rule 8 but who has not become a Pensioner.

"DEPENDANT" means in relation to any person that person's wife, husband, widow or widower or an individual who is wholly or partly dependent on him for the ordinary necessities of life. In relation to any deceased person it means an individual who fitted this description immediately before his death or retirement.

"DEPENDENT CHILDREN" means in relation to any deceased person such of his children, adopted children and step children and such of his spouse's children, adopted children and step children as are his Dependants until they cease to satisfy any one (or more) of the following conditions:

- 1) they have not attained the age of eighteen;

- 2) they are receiving full time education or vocational training;
- 3) they are in the opinion of the Trustees incapable of supporting themselves by reason of physical or mental disability.

"EARLY RETIREMENT" means in relation to a Member leaving Service before Normal Retirement Date and electing to receive benefits immediately or in relation to a Deferred Member electing to receive benefits before Normal Retirement Date.

"EMPLOYER" means in relation to any person employed by one or more of the Participating Employers that one or more of the Participating Employers by which he is employed and in relation to any person who is no longer employed by any of the Participating Employers that one or more of them by which he was last employed.

For the purposes of Clause 8.1.8 of the Definitive Deed "the employer" means the employer of persons in the description or category of employment to which the Scheme in question relates and in Rule 6 (6) and the Appendix "the Employer" means an employer participating in the Scheme.

"EMPLOYER-RELATED INVESTMENTS" means:

- (a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer;
- (b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person;
- (c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person;
- (d) loans to the employer or any such person.

"FINAL REMUNERATION" means:

A. in relation to a Class A Member the greater of:

- a. the highest remuneration for any one of the 5 years preceding the Relevant Date being the aggregate of:
  - i. the basic pay for the year in question, and
  - ii. the yearly average over 3 or more consecutive years ending with the expiry of the corresponding basic pay year, of any fluctuating emoluments provided that fluctuating emoluments of a year other than the basic pay year may be increased in proportion to any increase in the Index from the last day of that year up to the last day of the basic pay year, and
- b. the yearly average of the total emoluments for any 3 or more consecutive years ending not earlier than 10 years before the Relevant Date.

Provided that:

- i. remuneration and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Act except where the shares or rights etc. had been acquired before 17th March 1987;
- ii. in relation to a Controlling Director, Final Remuneration shall (subject to proviso iv. below) be the amount ascertained in accordance with b. above and a. above shall not apply;
- iii. where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's remuneration (as calculated in a. above) or total



emoluments (for the purposes of b. above) of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date but this proviso shall not apply to the calculation of the maximum Lump Sum Retirement Benefit in accordance with Section (2) of Rule 10(A) for a Class A Member unless (and subject to proviso iv. below) the Member's Aggregate Retirement Benefit is similarly increased beyond the maximum amount which could have been paid but for this proviso and the proviso to a.ii. above and then only to the same proportionate extent;

- iv. Final Remuneration and the annual rate of the Member's remuneration for the purpose of the calculation of the maximum benefits in accordance with Sections (3) and (4).c. of Rule 10(A) for a Class A Member shall not exceed the permitted maximum as defined in section 590C(2) of the Act.

B. in relation to a Class B Member the greater of:

- a. the highest remuneration for any one of the 5 years preceding the Relevant Date being the aggregate of:
  - i. the basic pay for the year in question, and
  - ii. the yearly average over 3 or more consecutive years ending with the expiry of the corresponding basic pay year, of any fluctuating emoluments provided that fluctuating emoluments of a year other than the basic pay year may be increased in proportion to any increase in the Index from the last day of that year up to the last day of the basic pay year, and
- b. the yearly average of the total emoluments for any 3 or more consecutive years ending not earlier than 10 years before the Relevant Date.

Provided that:

- i. remuneration and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Act except where the shares or rights etc. had been acquired before 17th March 1987;
- ii. in relation to a Controlling Director or any other Member whose remuneration in any year subsequent to 5th April 1987 used for the purpose of calculating benefits has exceeded £100,000 or such other figures as may be prescribed in an order made by the Treasury, Final Remuneration shall (subject to proviso iv. below) be the amount ascertained in accordance with b. above and a. above shall not apply;
- iii. where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's remuneration (as calculated in a. above) or total emoluments (for the purposes of b. above) of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date but this proviso shall not apply to the calculation of the maximum Lump Sum Retirement Benefit in accordance with Section (2) of Rule 10(B) for a Class B Member unless (and subject to proviso iv. below) the Member's Aggregate Retirement Benefit is similarly increased beyond the maximum amount which could have been paid but for this proviso and the proviso to a.ii. above then only to the same proportionate extent;
- iv. for the purpose of the calculation of the maximum Lump Sum Retirement Benefit in accordance with Section (2) of Rule 10(B) for a Class B Member Final Remuneration shall not in any event exceed £100,000 or such other sum as may be specified in an order made by the Treasury.

C. in relation to a Class C Member the greater of:

- a. the highest remuneration for any one of the 5 years preceding the Relevant Date being the aggregate of:
  - i. the basic pay for the year in question, and
  - ii. the yearly average over 3 or more consecutive years ending with the expiry of the corresponding basic pay year, of any fluctuating emoluments provided that fluctuating emoluments of a year other than the basic pay year may be increased in proportion to any increase in the Index from the last day of that year up to the last day of the basic pay year, and
- b. the yearly average of the total emoluments for any 3 or more consecutive years ending not earlier than 10 years before the Relevant Date.

Provided that:

- i. remuneration and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Act except where the shares or rights etc. had been acquired before 17th March 1987;
- ii. in relation to a Controlling Director or any other Member whose remuneration in any year subsequent to 5th April 1987 used for the purpose of calculating benefits has exceeded £100,000 or such other figures as may be prescribed in an order made by the Treasury, Final Remuneration shall be the amount ascertained in accordance with b. above and a. above shall not apply;
- iii. where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's remuneration (as calculated in a. above) or total emoluments (for the purposes of b. above) of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date but this proviso shall not apply to the calculation of the maximum Lump Sum Retirement Benefit in accordance with Section (2) of Rule 10(B) for a Class C Member unless the Member's Aggregate Retirement Benefit is similarly increased beyond the maximum amount which could have been paid but for this proviso and the proviso to a.ii. above then only to the same proportionate extent.

"FUND" means the assets for the time being held by the Trustees for the purposes of the Scheme.

"FUND SHARE" means in relation a Member, Deferred Member or Pensioner the part of the value of the Fund that the Actuary shall determine as being appropriate for that individual based on the contributions and transfer payments (if any) received the benefits and transfer payments (if any) paid and such part of the investment income and capital gains or losses (realised or unrealised) as the Actuary determines to be appropriate provided that nothing in this definition shall confer on the individual any right to specific assets of the Fund which are attributable to him on a notional basis solely for benefit calculation purposes.

"INCAPACITY" means physical or mental deterioration which is of a sufficiently serious nature to prevent an individual from following his normal employment, or which seriously impairs his earning capacity.

"INDEX" means the Government's Index of Retail Prices.

"INSURANCE COMPANY" means a United Kingdom office or branch of an insurance society, company or institution selected by the Trustees to which Part II of the Insurance Companies Act 1982 applies and which is authorised by or under section 3 or 4 of that act to carry on ordinary long-term insurance business as defined in that act.



"LATE RETIREMENT" means in relation to a Member leaving Service after Normal Retirement Date or electing to receive benefits after Normal Retirement Date.

"LUMP SUM RETIREMENT BENEFIT" means the total value of all retirement benefits payable in any form other than non-commutable pension under this and any Associated Scheme.

"MEMBER" means any employee as defined in section 612(1) of the Act or any former employee of the Principal Employer or any other Participating Employer as shall be or shall have been admitted to membership of the Scheme.

"NORMAL RETIREMENT" means in relation to a Member leaving Service at Normal Retirement Date or electing to receive benefits at Normal Retirement Date.

"NORMAL RETIREMENT DATE" means in relation to a Member or Deferred Member the date stated to be his normal retirement date in the Announcement Letter or such other date as shall subsequently be agreed by the Trustees the Employer and the member subject to the agreement of the Board of Inland Revenue if the circumstances are such that the Board of Inland Revenue would require their prior agreement to be obtained.

"ORDINARY ANNUAL CONTRIBUTION" means for the purpose of Rule 2 of the Appendix the smaller of:

- i the average annual amount of the contributions paid to the Scheme by the Employers in the three accounting periods preceding the date on which the ordinary annual contribution is to be ascertained or, where at that date the scheme had been established less than 3 years, the total amount of contributions paid to the scheme by the Employers divided by the number of years since the Scheme was established (a period of less than a year being counted as one year), and
- ii the amount of the annual contribution which has been advised by an Actuary in writing within 3 years of the date on which the ordinary annual contribution is to be ascertained, as that necessary to secure the benefits payable under the Scheme.

"PARTICIPATING EMPLOYER" means the Principal Employer and every other employer which is permitted to participate in the Scheme and has executed the appropriate deed binding them to observe and perform the Rules of the scheme but does not include any Employer which has ceased to participate in the Scheme in accordance with Rule 11.

"PENSIONABLE SERVICE" has the meaning ascribed to it by paragraph 3 Schedule 16 Social Security Act 1973.

"PENSIONER TRUSTEE" means a Trustee of the Scheme who:

- i is approved by the Board of Inland Revenue to act as such, and
- ii is not connected with a Scheme Member, another Trustee or an Employer.

"PENSIONER" means a Member who is in receipt of or has received benefits from the Scheme in accordance with the Rules and in respect of whom all the liabilities of the Trustees to provide him with benefits have not terminated.

"PRINCIPAL EMPLOYER" has the meaning assigned to it in the Definitive Deed to which these Rules are attached and where the context so admits includes any other company or undertaking by which the function of the Principal Employer in relation to the Scheme may be taken over by agreement with the trustee or trustees thereof.

"PRIVATE COMPANY" means a company which is not officially listed on a recognised stock exchange within the meaning of section 841 of the Act.

"RELATED SCHEME" means in relation to a Class A Member, a Class B Member or a Class C Member any retirement benefits scheme in which his Employer participated and of which that Class A Member, Class B Member or Class C Member was a member whether or not his entitlement to benefits under the Related Scheme was affected by him joining the Scheme.

"RELATIVE" means a brother, sister, ancestor or lineal descendant.

"RELEVANT DATE" means the date of retirement, leaving Pensionable Service or death as the case may be.

"RELEVANT SCHEME" means any other scheme approved or seeking approval under Chapter I Part XIV of the Act.

"REMUNERATION" in relation to any year means:

- a. as regards a Class A Member the aggregate of the total emoluments for the year in question:
  - i. from the Employer, and
  - ii. in respect of any Associated Employment or any Connected Scheme

which are assessable to Income Tax under Schedule E but excluding any amounts which arise from the acquisition or disposal of shares or an interest in shares or a right to acquire shares or anything in respect of which tax is chargeable by virtue of Section 148 of the Act. Provided that in arriving at such emoluments there shall be disregarded any emoluments in excess of the permitted maximum as defined in Section 590C(2) of the Act.

- b. as regards a Class B Member and a Class C Member total emoluments from the Employer in the year in question which are assessable to Income Tax under Schedule E but excluding any amounts which arise from the acquisition or disposal of shares or an interest in shares or a right to acquire shares or anything in respect of which tax is chargeable by virtue of Section 148 of the Act.

"RESIDENTIAL PROPERTY" means property normally used, or adapted for use as one or more dwellings.

"SCHEME MEMBER" means a member of the Scheme to whom benefit is currently accruing by virtue of service as an employee.

"SCHEME" has the meaning assigned to it in the Definitive Deed to which these Rules are attached.

"SCHEME YEAR" means a period of 12 months ending on a date selected by the Trustees or on the date on which the accounting year of the Principal Employer ends except that:

- i. the first Scheme Year shall be the period starting on the date on which the Scheme commenced and ending on the date on which the accounting year of the Principal Employer during which the Scheme commenced ends, and
- ii. if the accounting year of the Principal Employer changes the period of the Scheme Year may be extended to a period not exceeding 24 months.

"SECURITIES" means any asset, right or interest falling within paragraph 1, 2, 4 or 5 of Schedule 1 to the Financial Services Act 1986.



"SERVICE" means:

- i. in respect of a Class A Member the aggregate of:
  - a. all periods of service with the Employer, and
  - b. all other periods which count in respect of any Associated Employment or any Connected Scheme.
- ii. in respect of a Class B Member or a Class C Member service with the Employer.

"TARGET BENEFITS" means in relation to a Member the benefits which are described in his Announcement Letter except that each of the benefits are subject to the appropriate limits set out in Rule 10.

"TRUSTEES" has the meaning assigned to it in the Definitive Deed to which these Rules are attached.





## **APPENDIX**

### **1 Interpretation**

- 1.1 The words and expressions defined in Rule 15 of the Rules shall have the respective meanings given in Rule 15 wherever they appear in this Appendix.
- 1.2 For the purpose of the rules in this Appendix any question of whether a person is connected with another shall be determined as follows:
- a. a person is connected with an individual if that person is the individual's spouse or is a Relative or the spouse of a Relative of the individual or of the individual's spouse;
  - b. a Scheme Member is connected with an Employer if:
    - i) the Employer is a partnership and the Scheme Member is connected with a partner, or
    - ii) the Employer is a Company and the Scheme Member or any person connected with him or her is, or has been during the last 10 years a Controlling Director of the Company;
  - c. a Company is connected with another Company if:
    - i) the same person has Control of both, or
    - ii) a person has Control of one and persons connected with that person have Control of the other, or
    - iii) a person has Control of one and that person and persons connected with that person have control over the other;
  - d. a Company is connected with another person if that person has Control of it or if that person and a person or persons connected with him or her together have Control of it;
  - e. any two or more persons acting together to secure or exercise Control of a Company shall be treated in relation to that Company as connected one with another and with any person acting on the directions of any of them to secure or exercise Control of the Company.
- 1.3 For the purpose of the rules in this Appendix a company is associated with an Employer if (directly or indirectly) the Employer controls that company or that company controls the Employer or if both are controlled by a third person.
- 1.4 For the purpose of these rules a member of the Scheme includes:
- a. a Scheme Member,
  - b. a person in receipt of a pension from the Scheme, or
  - c. a person who has been a Scheme Member.

### **2 Provisions as to borrowing**

Any power of the Trustees to borrow shall be restricted so that, at the time of any borrowing, the Trustees shall not have borrowed and not repaid an aggregate amount including the amount of that borrowing in excess of the total of:

- a. three times the Ordinary Annual Contribution, and
- b. three times the annual amount of contributions paid or payable as a condition of membership by Scheme Members in the year of assessment ending immediately before the borrowing takes place, and
- c. forty-five per cent of the market value of investments held for the purposes of the Scheme.

### **3 Provisions as to investment**

The Trustees' powers of investment shall be restricted to preclude investment either directly or indirectly in:

- a. personal chattels other than choses in action, or
- b. Residential Property other than that which is, or is to be, occupied:
  - i) by an employee who is not connected with his or her Employer and who is required as a condition of employment to occupy that property, or
  - ii) by a person other than a Scheme Member or a person connected with a Scheme Member where that person also occupied connected business premises which are also held by the Trustees as an investment of the Scheme; or
- c. Stock or shares in a Private Company which:
  - i) carry more than thirty per cent of the voting power in the Company, or
  - ii) entitle the holder to more than thirty per cent of any dividends declared by the Company.

For the purposes of this rule the Trustees are not regarded as holding a Residential Property where they hold as an investment units in a unit trust scheme:

- a) which is an authorised unit trust scheme within the meaning of section 468(6) of the Act, or
- b) an exempt unit trust within the meaning of section 96 of the Capital Gains Tax Act 1979, and
- c) that unit trust scheme holds Residential Property as an investment.

**4** The Trustees in that capacity shall not directly or indirectly lend money:

- a. to a member of the Scheme or to a person who is connected with a member of the Scheme other than an Employer or any Company associated with an Employer; or
- b. to an Employer or a Company associated with an Employer unless the loan is:
  - i utilised for the purpose of the borrower's Business, and
  - ii for a fixed term, and
  - iii at a commercial rate of interest, and
  - iv evidenced by an agreement in writing which contains all the conditions on which it is made and, in particular, the provisions specified in paragraph c. below;
- c. the provisions specified in this paragraph are that the lending shall be repaid immediately if:
  - i the borrower is in breach of the conditions of the agreement, or
  - ii the borrower ceases to carry on business; or
  - iii the borrower becomes insolvent within the meaning defined for the purposes of Regulation 6 of the Retirement Benefit Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991; or
  - iv the money is required to enable the Trustees to pay benefits which have already become due under the Scheme.

**5** The amount of the aggregate of:

- a. the amount outstanding of any lending to an Employer and/or a Company associated with an Employer made in accordance with Rule 4.b. and 4.c. above, and
- b. the market value of stock and shares in an Employer and/or a company associated with an Employer held by the Trustees in that capacity

shall not at the time of any lending under Rule 4. or the purchase of any shares in the Employer or a company associated with an Employer exceed fifty per cent of the market value of the total assets of the Scheme. If the lending or purchase takes place within 2 years of the establishment of the Scheme the amount shall not exceed twenty five per cent of the market value of the total assets of the Scheme excluding the value of any transfer values received.



## **6 Provisions as to transactions with members of the Scheme**

The Trustees in that capacity shall not directly or indirectly purchase, sell or lease any investment or asset from or to a member of the Scheme or a person (other than an Employer or a company associated with an Employer) connected with a member. A purchase will not be construed as being an indirect purchase from a member of the Scheme or a connected person if at the time of purchase 3 or more years have elapsed since the investment or asset was owned by the member or connected person. A sale will not be construed as an indirect sale to a member of the Scheme or a connected person if the purchase by the member or connected person takes place 3 years or more after the sale by the Trustees.

## **7 Provisions as to transactions with Employers and associated companies**

The Trustees in that capacity shall not directly or indirectly purchase, sell or lease any investment or asset from or to an employer or a Company associated with an Employer except in accordance with independent professional advice obtained in writing.

## **8 Provisions as to Pensioner Trustees**

One of the Trustees shall be a Pensioner Trustee and should that Trustee cease to be a Trustee or cease to be qualified to act as a Pensioner Trustee the remaining Trustee or Trustees shall within 30 days notify the Board of Inland Revenue in writing and within 60 days appoint a successor who is a Pensioner Trustee. The Trustee shall within 30 days of the appointment of the successor notify the Board of Inland Revenue in writing of the name of the successor.

## **9 Provision of information to Inland Revenue**

9.1 Within 90 days of any transaction by the Trustees such as is specified in paragraph (2) below the Administrator will furnish the Board of Inland Revenue with such information and documents as the Board requires.

9.2 the transactions specified are:

- a. the acquisition or disposal of land (including buildings or other structures);
- b. the lending of money to an Employer or a Company associated with an Employer;
- c. the acquisition or disposal of shares in an Employer or a Company associated with an Employer;
- d. the acquisition or disposal of shares in a Private Company;
- e. the borrowing of money; or
- f. the purchase, sale or lease from or to an Employer or a Company associated with an Employer of any investment or asset.

