

DATED 30 APRIL 2009

**CONSOLIDATED RULES
OF
UNIVERSITIES
SUPERANNUATION SCHEME**

incorporating all
Deeds of Amendment up to and including
the Fourth Deed of Amendment
dated 2 June 2011

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THIS DEED is made on

30 APRIL 2009

BY UNIVERSITIES SUPERANNUATION SCHEME LIMITED (a company registered in England under company number 1167127) whose registered office is at Royal Liver Building, Liverpool L3 1PY

BACKGROUND

- A This deed is supplemental to, amongst other documents, a deed of consolidation dated 1 October 2003 and the rules adopted by that deed, as amended by 17 amending deeds ("**Former Rules**") governing a registered pension scheme known as the Universities Superannuation Scheme.
- B By this deed the rules contained in this deed are adopted to replace the Former Rules in their entirety in accordance with the terms of the rules in this deed.

OPERATING PROVISIONS

In accordance with rule 21 of the Former Rules, the Trustee Company, with the consents of the Joint Negotiating Committee and of the Funding Councils, adopts the following rules contained in this deed, to replace the Former Rules in their entirety, with effect from 1 May 2009, which is the "**Effective Date**" as defined in sub-rule 1.1 below, in accordance with the terms of the following rules:

1. DEFINITIONS

- 1.1 Except where the context otherwise requires, the following expressions shall have the following meanings and shall be shown in italics throughout these *rules*:

"1989 Act Member" means any *member* or *former member* who joined or rejoined the *scheme* after 31 May 1989, excluding an individual who with the consent of *HMRC* has been treated as a *pre-1989 Act member*. A person who as a *pre-1989 Act member* elected to become a *1989 Act member* with effect from 1 June 1989 under section 17 (Inland Revenue limits) of the rules which governed the *scheme* immediately before the *effective date* is included as a *1989 Act member*.

"ABS" (Alternative benefits service) means a period of *eligible employment* after 5 April 1988 in respect of which *alternative benefits* accrue, except that:

- (a) where an *eligible employee* is a *member* in respect of more than one employment, and is in *contracted-out employment* by reference to the *scheme*, that individual will be in *ABS* only in relation to the employment in respect of which *alternative benefits* accrue; and
- (b) where a person is in *eligible employment*, and is a member of *FSSU* or belongs to a *pension scheme* to which either of sub-rules 42.2.4 or 42.2.5 applies in respect of an *eligible employment*; or would be in *eligible employment* but for being ineligible for *membership* under sub-rule 5.2 (Maximum entry age and excluded cases); then *alternative benefits* shall not be treated as accruing to that person in respect of that *eligible employment*.

"Accepted Employee" means an *excluded post employee* whom the *trustee company* has consented to treat as an *eligible employee* under sub-rule 5.6 (Excluded post employees).

"Accounting Date" means 31 March in each year, or such other date as the *trustee company* may decide.

"Active Member" means a *member* who is an *eligible employee* and who is either contributing to the *fund* under rule 6 (Member contributions) or who is exempted or excluded from paying contributions under rule 9 (Continuation contributions) or rule 10 (Late retirement) or is a *member* in respect of whom contributions are being made under sub-rule 40.3.2 (Contributions during maternity, paternity and adoption leave) or 38.1 (Salary sacrifice).

"Active Membership" means the period of *membership* of an *active member*, excluding any period during which *membership* is suspended.

"Actuarial Advice" means advice from the *actuary*.

"Actuary" means the Fellow of the Institute of Actuaries or Fellow of the Faculty of Actuaries in Scotland who is appointed by the *trustee company* to advise either generally or in any particular case.

"Added years AVCs" means *AVCs* paid under rule 34.

"Additional Pensionable Service" means in relation to a *member* who has 5 or more years' *pensionable service* (calculated without applying the *part-time service fraction*

for this purpose), for the purposes of calculating an *enhanced incapacity pension*, notional additional *pensionable service* of the lesser of (a) and (b) below:

- (a) the number of additional *years' service* which the *member* would have accrued if *eligible employment* had continued from *retirement* until the earlier of *normal retirement age* and the date when the *member's pensionable service* amounts in aggregate to 40 years; and
- (b) the following number of years' additional *pensionable service*:
 - (i) if the *member* has 5 or more, but less than 10, years' *pensionable service* (calculated without applying the *part-time service fraction* for this purpose), the number of *years' pensionable service* at *retirement*; or
 - (ii) if the *member* has 10 or more, but less than 20, years' *pensionable service* (calculated without applying the *part-time service fraction* for this purpose), the greater of:
 - (A) 20 years minus the number of *years' pensionable service* (calculated without applying the *part-time service fraction* for this purpose); and
 - (B) 6 years and 243 days; or
 - (iii) if the *member* has 20 or more years' *pensionable service*, 6 years and 243 days.

"Advisory Committee" means the committee established and constituted in accordance with rule 62.

"Allocation" means the surrender by any person under rule 28 of part of that person's pension out of the *fund*.

"Alternative Benefits" means either:

- (a) additional pension under section 44 of the Social Security Contributions and Benefits Act 1992; or

- (b) benefits under an appropriate personal pension scheme which meets the requirements of section 9(5) of *PSA 93*.

Where an *eligible employee* is not in *contracted-out employment*, having opted not to be a *member* or having withdrawn from *membership*, and is not liable to pay any primary Class 1 National Insurance Contributions, or is liable to pay them only at the reduced rate, *alternative benefits* shall be deemed to accrue.

"Appropriate Period" means, in relation to a period of temporary absence under sub-rule 39.2 (Voluntary absence and secondment), such period as the *employer* and the *trustee company* may agree, not exceeding such period during which either the *member* retains an express statutory right to return to work for the *employer*, or the *employer* retains a definite expectation that the *member* will return, or would do so but for circumstances beyond the control of both *member* and *employer*, subject to the following maxima:

- (a) if the period of absence is to enable the *member* to undergo full-time education connected with the employment, or to be seconded to another employer, up to 10 years or such longer period as the *trustee company* may agree; or
- (b) in any other case other than absence to enable the *member* to take up work of national importance, one year or such longer period as the *trustee company* may agree.

The *employer* shall promptly notify the *trustee company* in writing of the date when the voluntary absence or secondment ends.

In the case of a *VTE*, subject to (a) and (b) above, the period shall end on the first of the following to occur:

- (c) taking the last date on which *salary* was payable before the absence, the second *accounting date* after that date;
- (d) the *member's* return to work for the *institution*; or
- (e) the *member's* commencement of work in a *greater appointment* with another *institution*.

"Associated Employer" means, in relation to 2 or more employers, each such employer, if one is under the *control* of the other or others, or both or all are under the *control* of a third party.

"Auditor's Certificate" means a certificate from the *institution's* auditors (in a form specified by the *trustee company*) as to the completeness and accuracy of information provided to the *trustee company*.

"Authorised Maximum" means, in relation to any lump sum benefit payable to a *member, former member or ex-spouse participant*, in connection with that individual becoming entitled to a pension under the *scheme*, the lowest of:

- (a) the available portion of that individual's lump sum allowance (as defined in paragraph 2 of Schedule 29 of *FA 04*) immediately before becoming entitled to that lump sum benefit;
- (b) the applicable amount as defined in paragraph 3 of Schedule 29 of *FA 04*; and
- (c) 25% of the aggregate value of such lump sum and pension under the *scheme*, as determined by the *trustee company* on *actuarial advice*.

"AVC Provider" means a fund manager under section 34(3) of *PA 95* with which the *trustee company* invests *MPAVCs*.

"AVCs" (Additional voluntary contributions) means *added years AVCs* and *MPAVCs*.

"Beneficiary" means, in relation to a person, either:

- (a) that person's spouse or *civil partner*; or
- (b) any other individual nominated by that person who would in the opinion of the *trustee company* be (or have been) a *dependant* of that person, but excluding any one who would be (or have been) an *eligible child* by virtue only of paragraphs (a) and (b)(i) of the definition of *eligible child*.

In the case of an individual who was the spouse or *civil partner* of that person when that person first became entitled to receipt of a pension under the *scheme*, that individual shall remain a *dependant*, for the purposes of this definition, even if the marriage or *civil partnership* has subsequently been dissolved or annulled.

"Benefit Crystallisation Event" has the meaning given in section 216 of *FA 04*.

"Benefits in Kind" means, where the *employer* with the consent of the *trustee company* so determines, an amount of *salary* derived from benefits in kind, excluding such benefits as are within paragraph (b)(i) of the definition of *salary*, which either:

- (a) where the benefits are assessable to income tax as employment income, shall be computed under Part 3 of *ITEPA*; or
- (b) where the benefits are not assessable to income tax as employment income, shall be determined by the *trustee company* with the consent of the *employer* and the *member*.

"Board" means the board of directors of the *trustee company*.

"Calculation Date" means, in relation to a *VT employment*, the *relevant date* or, in relation to *salary* for any period before the *scheme year* in which the *relevant date* falls, the *accounting date*.

"CEP" (Contributions equivalent premium) has the same meaning as in section 55(2) of *PSA 93*.

"Chargeable Amount" has the meaning given in section 215(3) of *FA 04*.

"Civil Partner" has the meaning given in the Civil Partnership Act 2004 and "*civil partnership*" has a corresponding meaning.

"Comparable Scheme" means, in relation to a *member*, either:

- (a) an *occupational pension scheme*;
- (b) a relevant statutory scheme within the meaning of the *tax code*; or
- (c) a scheme to which the *employer* contributed in respect of the *member* while the *member* was normally required to work for the *employer* wholly or mainly outside the United Kingdom,

and "membership" of a comparable scheme shall mean active membership of it within the meaning of section 124 of *PA 95*.

"Compound Interest" means interest calculated with yearly rests (or such shorter rests as the *trustee company* may decide) on the amount of principal and interest accrued at the commencement of the year (or other shorter period), with no interest being allowed on any addition to principal or accruing interest since the commencement of that year or period.

"Contracted-out Employment", in relation to an *eligible employee*, has the meaning given by section 8 of *PSA 93*.

"Contracted-out Scheme" means a scheme by reference to which an *employer* holds, or is named in a schedule to, a contracting-out certificate under Part 3 of *PSA 93* covering the *member's* employment.

"Control", in relation to a company or an unincorporated association, has the same meaning as in section 416 of the *Taxes Act* for the purposes of Part 11 of that Act, except that in relation to *associated employers* of a company other than a close company, it shall have the same meaning as in section 840 of the *Taxes Act*. In relation to a partnership, it has the meaning in section 840 of the *Taxes Act*. In relation to rule 41 (Admission of institutions) and the definition of *institution*, it includes such other governance or ownership arrangements within sub-paragraphs (i) or (ii) of paragraph (c) of that definition as the *trustee company*, after consultation with *institutions* within those sub-paragraphs, may decide prior to the admission of that body to participate in the *scheme*. *Control* shall have a corresponding meaning in these *rules* when used as a verb.

"Conversion Rate" means the amount of additional *pensionable service* or additional benefits to be credited to or in respect of a *member* or *former member* for each £1,000 of the *member's fund* of that person that is to be transferred to the *main section* of the *fund* under an election under rule 35.10 (Transfer for defined benefits).

"Co-opted Director" means an individual co-opted to membership of the *board* in accordance with the articles of association of the *trustee company*.

"CPA" (Contractual pension age) means, in relation to a *CPA member*, the earliest of the ages (on or after age 60 and before age 65) at which, immediately prior to the termination of that individual's *pensionable service*, that individual had the express or implied right to retire on an immediate pension either:

- (a) under the terms of the last contract of employment or terms of appointment applicable to the individual's latest employment as an *active member* in respect of which the individual accrued *pensionable service*; or
- (b) in respect of a *former member* entitled to *preserved benefits* under sub-rules 30.4.1 or 30.5.3 (Multiple appointments), or sub-rule 37.2 (Deferred pensioner rejoining), or any similar or corresponding provision of the *rules*, or of the previous rules of the *scheme* in force at the date when the *former member* ceased *membership*, under the terms of the last contract of employment or terms of appointment applicable to the individual's last employment as an *active member*, from which the individual accrued any *pensionable service* that does not fall to be aggregated with any *pensionable service* that accrued from subsequent *active membership*.

"CPA Member" means an *active member*, *former member* or *pensioner member* who is within one or more of the following categories:

- (a) a male *active member* with *pensionable service* prior to 17 May 1990 who on ceasing the employment in respect of which the *CPA* applies will have a *CPA* of less than 65;
- (b) an *active member* with *pensionable service* after 31 March 1995 who on ceasing the employment in respect of which the *CPA* applies will have a *CPA* of less than 63 years and 6 months;
- (c) a *former member* with prior periods of *pensionable service* and one or more *CPAs*, whose benefits have not yet been brought into payment under the *rules* or under the previous rules of the *scheme* in force at the date when the *former member* ceased the employment in respect of which the *CPA* applies;
- (d) a *pensioner member* who was a *former member* with prior periods of *pensionable service* and one or more *CPAs*, whose benefits have been brought into payment under the *rules* or under the previous rules of the *scheme* in force at the date when the *pensioner member* ceased the employment in respect of which the *CPA* applies; or
- (e) a *former member* with prior periods of *pensionable service* and one or more *CPAs* who has exercised the *former member's* statutory right, or right under

the *scheme*, to take a transfer payment of the *former member's* accrued past service rights under the *scheme* to a *transfer arrangement*, where the amount of the transfer value was calculated on the assumption of a *normal pension age* of more than 60 (whether or not the benefits attributable to those rights have yet been brought into payment).

"**DDA**" means the Disability Discrimination Act 1995.

"**Deferred Pensioner**" means a *former member* who is (or was immediately prior to death) entitled under the *scheme* to benefits which have not yet come into payment, or a person to whom paragraph D of sub-rule 20.1, or sub-rule 30.4.1 applies, notwithstanding that that person has not ceased to be a *member*.

"**Dependant**" means, in relation to a person, an individual (whether or not a *relative*) who in the opinion of the *trustee company* is at the time of the death of that person wholly or partly either:

- (a) financially dependent on that person; or
- (b) dependent on that person because of any physical or mental disability.

"**Discretionary Trusts**" means, in relation to any sum directed to be held on such trusts in respect of a deceased individual, the trusts, powers and provisions set out below:

- (a) the *trustee company* may pay or apply the whole or any part of that sum to or for the benefit of all or any of the *relatives, dependants, personal representatives or nominated beneficiaries* of the deceased individual in such shares and proportions as the *trustee company* may decide;
- (b) if the deceased leaves no *relative* or *dependant*, the *trustee company* may elect to retain all or any part of the sum in the *fund*;
- (c) the *trustee company* may declare in respect of the sum or any part of it such separate trusts, terms and limitations (including for maintenance, education, advancement and accumulation of income during a minority) as the *trustee company* may by deed appoint without infringing the rule against perpetuities; the *trustee company* may appoint as trustees of such trusts any 2

or more persons or a trust corporation and may provide for the remuneration of any such trustee;

- (d) to the extent that the *trustee company* does not exercise the powers under paragraphs (a) and (c) within 2 years of the death of the individual, the *trustee company* shall hold that sum outside the *fund* upon trust for the personal representatives of that individual or, if there are none, the statutory next of kin of that individual; and
- (e) the *trustee company* may have regard to any document signed by the individual expressing wishes as to the disposal to or for the benefit of *nominated beneficiaries* of any sum to be held upon the *discretionary trusts*.

"Dispute Resolution Function" means the functions and powers delegated to the *advisory committee* by the *board* in connection with dispute resolution arrangements made under section 50 of *PA 95*, which may include any or all powers and duties of the *trustee company* under that section.

"Earnings Cap" means, in relation to any year commencing 6 April or to any *relevant date* falling within that year, such amount as was specified for that year in or under section 590C of the *Taxes Act*.

"Effective Date" means 1 May 2009.

"Eligible Child" means, in relation to a person, an individual who:

- (a) is a lawful or legally adopted child, alive or unborn at the death of that person, or is (or would have been if born before that person died) a *dependant* who is a *stepchild* or natural child, or is a *dependant* accepted by the person as a member of the family; and
- (b) falls within one or more of the following sub-paragraphs:
 - (i) either is under age 18, or is under age 23 and receiving full-time education or undergoing full-time training approved by the *trustee company*;
 - (ii) in respect of a *pensioner* who is an *eligible child* aged 18 or over immediately before 1 February 2011, is immediately before 1

February 2011 receiving full-time education or undergoing full-time training approved by the *trustee company*;

- (iii) at the death of that person or on ceasing to qualify under (i) or (ii) above, is physically or mentally incapable of being self-supporting; or
- (iv) having qualified under (iii) above, but having ceased to do so by becoming able to carry on remunerative employment so as to be self-supporting, is again, within 2 years or such reasonable longer period as the *trustee company* may decide, incapable of being self-supporting by reason of the same physical or mental incapacity as fell within (iii) above.

An *eligible child* to whom sub-paragraph (b)(iii) applies shall remain an *eligible child* until the physical or mental incapacity ceases and shall not become an *eligible child* again unless (b)(iv) above applies.

"Eligible Employee" has the meaning given in sub-rule 5.1.

"Eligible Employment" means employment as an *eligible employee* or, in relation to any period before 7 February 1994, employment as an "Employee" as defined in Rule 1 of the rules of the *scheme* in force at that time.

"Employer" means an *institution* participating in the *scheme*, and means, in relation to:

- (a) an *eligible employee*, the employer or prospective employer;
- (b) a *member*, the employer, or each employer if the person has more than one concurrent employment; and
- (c) a *former member*, the last *institution* (or each of the last *institutions* if that person had more than one employment terminating concurrently) to have employed that person as a *member*.

"Enhanced Incapacity Lump Sum" means a lump sum calculated in accordance with sub-rule 13.3.

"Enhanced Incapacity Pension" means a pension calculated in accordance with sub-rule 13.3.

"Enhanced Protection" has the same meaning as in paragraphs 12 to 17 of Schedule 36 to *FA 04*.

"EPBs" means equivalent pension benefits under Part 3 of the National Insurance Act 1965.

"ERA" means the Employment Rights Act 1996.

"Excluded Post Employee" means an employee of an *institution* who is in an office, post or employment, or category of employment, which the *institution* has declared to be non-pensionable under sub-rule 5.6.

"Ex-Spouse" means a former spouse or former *civil partner* of a *member* or *former member* to whom *pension credit rights* have been or are to be credited.

"Ex-Spouse Participant" means an *ex-spouse* who participates in the *scheme*.

"FA 04" means the Finance Act 2004.

"Fails to Return to Work" means, in relation to a *member* who, having commenced *MPA leave*, subsequently either:

- (a) notifies an *employer* that he or she does not intend to return to work with the *employer*; or
- (b) fails to return to work either:
 - (1) immediately after the end of the *member's MPA leave*; or
 - (2) (where applicable) immediately after the end of the *member's* additional maternity leave or additional adoption leave as defined under section 73 and section 75B of *ERA*; or
 - (3) immediately after the end of such longer period as the *member* is contractually or statutorily entitled to be absent from work pursuant to Part 8 of *ERA*.

"Fluctuating Remuneration" means, where the *employer* with the consent of the *trustee company* so determines, an amount of *salary* derived from remuneration which varies in amount over time, including *benefits in kind*, but excluding remuneration in respect of a period before 6 April 2006 unless it was assessable for that period to income tax as employment income or fell within the category of remuneration which *HMRC* generally consented to being included in *salary* before 6 April 2006.

"Former Member" means an individual who has ceased to be a *member*.

"FSAVC Scheme" (Free standing additional voluntary contributions scheme) means a scheme which was a retirement benefits scheme within the meaning that expression had under section 611 of the *Taxes Act* whilst that section was in force prior to 6 April 2006:

- (a) to which a *member* has made additional voluntary contributions;
- (b) to which the *employer* did not contribute; and
- (c) which was approved under section 591 of the *Taxes Act* before 6 April 2006.

"FSSU" means the Federated Superannuation System for Universities.

"FSSU Member" means a person who was an employee of an *institution* before 1 April 1975 and who was subject to an *FSSU* agreement until the date of joining the *scheme*.

"Full-time Service" means *service* which neither is, nor is deemed to be, *part-time service*.

"Fund" means the fund constituted by rule 3 comprising the *main section* and the *supplementary section*.

"Funding Council" means whichever of the Higher Education Funding Council for England ("**HEFCE**"), the Higher Education Funding Council for Wales and the Scottish Further and Higher Education Funding Council may make grants to the particular *institution*, or, if none of them may do so, HEFCE, and "**Funding Councils**" means all of those councils collectively.

"GMP" (Guaranteed Minimum Pension) means a guaranteed minimum pension payable under the *scheme* in accordance with *PSA 93*.

"Greater Appointment" means, in relation to an individual with 2 or more appointments, the appointment carrying the highest *salary*; where 2 or more *salaries* are equal, the *member* shall elect which appointment to treat as the greater.

"Gross", in relation to any category of a *member's* remuneration, means the full amount of remuneration in that category which the *member* would have been entitled to receive, but for absence from work and but for any deductions permitted under section 13 of the *ERA* and but for any other deduction which would have been so permitted if Part 2 of the *ERA* had applied where the *member* worked.

"Health Service Scheme" means any of the schemes governed by section 10 of the Superannuation Act 1972.

"Health Service Transfer Agreement" means such of the following as applies to a *member's employer*:

- (a) the agreement dated 1 March 1995 between the Secretary of State for Health and the *trustee company* relating to the transfer of employees to *institutions* from nurse training establishments and Colleges of Health;
- (b) the agreement dated 1 July 1996 between the Secretary of State for Scotland and the *trustee company* relating to the transfer of employees to *institutions* from Colleges of Nursing and Midwifery Education;
- (c) the agreement dated 1 September 1997 between the Department for Health and Social Services for Northern Ireland and the *trustee company* relating to the transfer of employees to *institutions* from Colleges of Nursing and Midwifery Education.

"HMRC" means Her Majesty's Revenue and Customs.

"Incapacity" means either *partial incapacity* or *total incapacity*.

"Incapacity Qualifying Employment" means an individual's employment with either:

- (a) a university domiciled in the United Kingdom;

- (b) a higher education corporation within the meaning of section 123 of the Education Reform Act 1988;
- (c) an institution designated under section 44 of the Further and Higher Education (Scotland) Act 1992; or
- (d) a comparable body in Northern Ireland,

where in each case all periods of that individual's *active membership* after first ceasing after 10 December 1999 to be a member of a *comparable scheme* would have been pensionable service within the meaning of *PSA 93* for the purposes of that scheme.

"Increase Act" means the Pensions (Increase) Act 1971.

"Institution" means a body, whether incorporated or not, which:

- (a) is resident in the United Kingdom; and
- (b) has been approved by the *trustee company* for participation in the *scheme*; and
- (c) is either:
 - (i) a university or university college or higher education institution (as defined in section 65(5) of the Further and Higher Education Act 1992) or an institution designated under section 44 of the Further and Higher Education (Scotland) Act 1992;
 - (ii) any other body which is established for the purpose of higher education or research and not for profit; or
 - (iii) any body which is under the *control* of one or more *employers* falling under (i) or (ii) above and which is established to, and does, carry on any activities which in the opinion of the *trustee company* are both conducted for the benefit, and materially support the primary objects, of each of those *employers*; and
- (d) has fulfilled the requirements of rule 41 (Admission of institutions).

"Insurer " has the same meaning as in section 180A of *PSA 93*.

"Investment" means any investment permitted under sub-rule 35.3 (Money purchase AVCs) concluded by the *trustee company* with an *AVC provider* to provide benefits in respect of *MPAVCs*.

"Investment Committee" means the sub-committee of the *board* of the *trustee company* referred to in rule 63.

"ITEPA" means the Income Tax (Earnings and Pensions) Act 2003.

"JNC" means the joint negotiating committee established and constituted in accordance with rule 61.

"KIT Days" (Keeping in touch days) means any days to which any of sections 71(3)(c), 73(3)(b), 75A(2A) and 75B(3)(b) of *ERA* applies.

"Known Medical Condition" means, in relation to a *member* who last became an *active member* 2 or more, but less than 5 years ago (with each appointment to which *active membership* relates being considered separately for these purposes), a medical condition, which was known to the *member* or the *employer* when the *member* last became an *active member*, as a result of which the *member retires* or ceases the *eligible employment*. A medical condition will be excluded from this definition if both:

- (a) the *member* or the *employer* notified the *trustee company* in writing of the condition before or at the time of (or within what the *trustee company* determined to be a reasonable period after) the date the *active membership* last commenced; and
- (b) the *trustee company* determined at that time that it was not likely to cause the *member* to *retire* or cease *eligible employment* on the grounds of *incapacity* in the 5 years from the date when the *member* last commenced *active membership*, provided that the *member* shall have the right to require the *trustee company* to make such a determination on the *member* joining the *scheme* or taking up additional employment (or within a reasonable period thereafter), if the *member* meets the reasonable expenses of the *trustee company* in obtaining a *medical opinion*.

"Land" means any interest derived from or connected with land, including an undivided share in land and any mining or mineral rights, whether developed or not and whether income producing or not, including (without limitation) buildings, structures and fixtures erected on land, any excavations and works of all kinds, and the shares and securities of any body corporate established solely for the purpose of acquiring and holding any such interest.

"Lesser Appointment" means, in relation to an individual with 2 or more appointments, the appointment carrying the lower *salary* or, where 2 or more *salaries* are equal, the appointment which the *member* elects to be treated as the lower.

"Lifetime Allowance Charge" has the meaning given in sections 214 and 215 of *FA 04*.

"Local Government Scheme" means the Local Government Pension Scheme, or a scheme within that scheme.

"Long Service Benefits" means the benefits which would fall to be paid to or in respect of a *member* if the *member* remained in *service* until and *retired* on attaining *normal pension age*.

"Lump Sum AVCs" means *added years AVCs* which are payable, as agreed by the *member* with the *trustee company*, otherwise than by regular instalments.

"Main Section" means the balance of the *fund* after deducting the amount attributable to the *supplementary section*.

"MAM" (Multiple appointment member) means a *member* who holds 2 or more separate *eligible employments*, whether with the same *institution* or not, to which sub-rule 32.11 (Concurrent Variable Time and non-Variable Time employment) does not apply.

"Material Break" means a break, which is material in the *trustee company's* opinion, between periods of *active membership* and/or membership of a *comparable scheme*.

"Maximum Contribution" means maximum total *added years AVCs* of 15% of the *member's salary* in any *reference period*.

"Medical Opinion" means an opinion on the available evidence and on the balance of probabilities which is received by the *trustee company* from one or more of the registered medical practitioners (or other medical advisers determined by the *trustee company* to be suitably qualified) who are appointed by the *trustee company*.

"Member" means:

- (a) an *eligible employee* who is a member of the *scheme* in accordance with rule 5 (Terms of entry); or
- (b) an individual who immediately before the *effective date* was a member of the *scheme* by virtue of its rules then in force, who would have remained so on the *effective date* had those rules not been superseded,

and who has in either case not withdrawn under rule 36 (Withdrawal from membership) in respect of all *eligible employments*, and **"Membership"** has a corresponding meaning.

"Member's Fund" means the amount payable to or in respect of a *member* or *former member* under any *investment* on any date on which any benefit commences to be payable, excluding any lump sum life assurance benefit.

"MHO" (Mental health officer) in relation to a *member*, has the meaning given in a *health service transfer agreement*.

"Minimum Pension Age" means, in relation to any *member*, *former member* or *ex-spouse participant*, age 55 or such lower age at which a pension may be paid to that person in accordance with the pension rules under section 165 of *FA 04* without the ill-health condition under paragraph 1 of Schedule 28 to that Act being satisfied.

"MPA Leave" (Maternity, paternity and adoption leave) means any period for which a *member* is entitled to be absent from *eligible employment* because of pregnancy, childbirth or adoption including any period during which such a *member* receives statutory maternity, paternity or adoption pay from the *employer* or is exercising statutory rights under Part 8 of the *ERA* (other than *parental leave*), or any other period to which rule 40 is applied by sub-rule 40.1, for which in either case that *member* is entitled to be absent because of pregnancy, childbirth or adoption, or any period immediately after such period during which the *member* is exercising a statutory right to *parental leave*.

"MPAVCs" means AVCs paid under rule 35 (Money purchase AVCs).

"MPAVC Fund" (Money purchase AVC fund) comprises, so far as not expended in providing benefits:

- (a) all MPAVCs;
- (b) assets transferred into the *scheme* in respect of the *member* derived from voluntary contributions paid by that *member* to secure additional benefits on a money purchase basis; and
- (c) all investments representing (a) and (b) above and the income on them.

"Nominated Beneficiary" means any individual or corporation named in a signed expression of wish relating to the disposal of any sum to be held upon the *discretionary trusts*, as referred to in paragraph (e) of the definition of "*discretionary trusts*", who is neither a *relative* nor a *dependant* of the individual expressing the wish.

"Non-Discrimination Guarantee" means a guarantee given by an *institution* to the *trustee company* in relation to an employee or class of employees on terms that:

- (a) The *institution* guarantees that the inclusion of those employees as *members* will not give rise to any breach of sections 62 to 64 of *PA 95*, or of *DDA*, or of any equal treatment or equal access laws, nor amount to unlawful discrimination.
- (b) If that guarantee can no longer be sustained because of circumstances arising after the *trustee company* has agreed to include the employees as *members*, those employees shall remain as *eligible employees*, if those circumstances are determined by the *trustee company*, after consulting with the *institution*, not to have been reasonably foreseeable at the date of that agreement. The *trustee company* may, however, attach such conditions to the continuance of those employees as *eligible employees* as it may on *actuarial advice* deem necessary or appropriate.
- (c) The *institution* guarantees that in the reasonable opinion of the *institution* the relevant designation, determination or modification under the *rules* will not

prejudice unfairly any one or more other groups of its employees or of employees of any of its *associated employers*.

"Non-Enhanced Incapacity Pension" means a pension calculated in accordance with sub-rule 13.2.1.

"Non-Standard Salary Decrease" means any decrease in a *member's* remuneration (including *benefits in kind*) which appears to the *trustee company* to have as its main object, or one of its main objects, a reduction in the amount of contributions payable to the *fund* either by the *member* or by the *employer* or both, save that the following decreases in remuneration shall not be *non-standard salary decreases*:

- (a) a decrease arising from a *member* relinquishing an appointment or taking up another with demonstrably lighter responsibilities or graded at a lower level under an appropriate job evaluation scheme; or
- (b) a decrease caused by a reduction in responsibilities or regrading under an appropriate job evaluation scheme within an existing appointment, where the reduction is not made in contemplation of *retirement*; or
- (c) a decrease that the *trustee company* has confirmed in writing, at the request of the *employer* or the *member*, that it will not treat as a *non-standard salary decrease*.

"Non-Standard Salary Increase" means any increase in a *member's* remuneration (including *benefits in kind*) which appears to the *trustee company* either:

- (a) to have as its main object, or one of its main objects, the enhancement of benefits under the *scheme* for the *member*; or
- (b) to relate to *service* with an *employer* other than, and subsequent to, a period in respect of which the *member* had agreed with the same or an *associated employer* (or with a body to any of whose functions such an *employer* has succeeded), to an abatement of *salary* in connection with an increase in the rate of that *member's* other remuneration,

save that the following increases in remuneration shall not be *non-standard salary increases* (except that the *trustee company* shall have a discretion in this regard in relation to *members* who have elected for *enhanced protection* under schedule 2):

- (i) an increase arising out of a nationally negotiated pay settlement; or
- (ii) an increase arising out of a new permanent appointment or a promotion, regrading, clinical excellence award or regular review of *salary* not made or received in contemplation of *retirement*; or
- (iii) an increase that the *trustee company* has confirmed in writing, at the request of the *employer* or the *member*, that it will not treat as a *non-standard salary increase*.

"Normal Benefit Age" means 63 years and 6 months.

"Normal Pension Age" has the same meaning as in section 180 of *PSA 93*.

"Normal Retirement Age" means age 65.

"OAL Period" (Ordinary adoption leave period) means an ordinary adoption leave period for the purposes of Chapter 1A of Part 8 of *ERA*, or such period as would be so if that Act extended to the place where the *member* is or was employed.

"Occupational Pension Scheme" has the same meaning as in section 150 of *FA 04*.

"OML Period"(Ordinary maternity leave period) means an ordinary maternity leave period for the purposes of Chapter 1 of Part 8 of *ERA*, or such period as would be so if that Act extended to the place where she is or was employed.

"Ordinary MPAL Period" (Ordinary maternity, paternity and adoption leave period) means an *OML period*, an *OAL period* or a *paternity leave period*.

"PA 95" means the Pensions Act 1995.

"PA 04" means the Pensions Act 2004.

"Paid Adoption Absence" has the meaning in paragraph 5B of Schedule 5 to *SSA 89*, and includes every *KIT day* within such a period.

"Paid Maternity Absence" has the meaning in paragraph 5 of Schedule 5 to *SSA 89*, and includes every *KIT day* within such a period.

"Paid MPA Leave" (Paid maternity, paternity and adoption leave) means a period of *paid maternity absence, paid paternity absence or paid adoption absence* and includes every *KIT day* within such a period.

"Paid Paternity Absence" has the meaning in paragraph 5A of Schedule 5 to SSA 89.

"Parental Leave" has the meaning given in section 76 of ERA.

"Part II Member" means an *eligible employee* who was an employee of an *institution* on 1 April 1975 and was a member of a *part II scheme* immediately before that date and remained a member of that scheme until the date of joining this *scheme*.

"Part II Scheme" means a *health service scheme, a local government scheme or a statutory teachers' scheme*.

"Partial Incapacity" means ill-health of, or injury to, a *member or former member*, not amounting to *total incapacity*, which causes that individual to be able for the long term to discharge the duties of neither:

(a) an *eligible employment* currently held by that individual or held immediately before last ceasing to be an *eligible employee*;

nor

(b) any other employment (whether or not available) which has a scope and a nature similar to that in (a).

"Part-Timers Regulations" means the regulations made under section 19 of the Employment Relations Act 1999.

"Part-Time Service" means a period of *service* which is notified by the *employer* to the *trustee company* to be less than a full-time commitment.

"Part-time Service Fraction" means, in relation to *part-time service* in any *eligible employment*, whichever fraction is applicable of the following (but so that the aggregate of the fractions for all concurrent *part-time service* shall not exceed 1):

(a) The fraction of a full-time commitment which the *institution* deems to be devoted to that *eligible employment* and has notified to the *trustee company*,

confirming in writing that it conforms with the *Part-timers Regulations*. Such notification shall be deemed to include a *non-discrimination guarantee*.

- (b) If (a) does not apply or where, in addition to remuneration in respect of *part-time service*, a *member* is in an *eligible employment* for which part or all of the *salary* does not reflect the part-time character of that employment because it is referable to such *member's* total employment or is not fixed remuneration for that employment:

$$\frac{A}{AS} \text{ where:}$$

S = *salary* excluding *fluctuating remuneration*; and

AS = *salary* excluding *fluctuating remuneration* of an equivalent full-time employment.

This paragraph (b) shall not apply where a value for AS cannot be ascertained.

- (c) In relation to a *VT employment* for which no notification has been made under (a) above:

$$\frac{S}{AS}$$

where:

S = the *salary* under sub-rule 32.5 (Calculation of salary); and

AS = the aggregate of the fixed annual salary and any fixed allowances for an equivalent regular full-time employment (or employments) designated by the *employer*, as specified in writing by the *employer* to the *trustee company* and the *VTE* (whether by reference to a scale or otherwise) and certified in writing by the *employer* to entail no breach of the *Part-timers Regulations*.

- (d) If none of paragraphs (a) to (c) applies, then in relation to a *VT employment*:

$$\frac{S}{D}$$

where:

S = the *salary* under sub-rule 32.5 (Calculation of salary); and

D = an amount designated by the *trustee company* in a manner consistent with the *Part-timers Regulations*.

The *trustee company* shall designate D by reference to a nationally applicable salary scale selected by the *trustee company* with the consent of the *JNC*. D shall in any *scheme year* be the same for all *VT employments* to which it is applied and shall be greater than 75%, but not greater than 90%, of the average amount of *salaries* of all *active members*, as certified by the *trustee company* on *actuarial advice*, for the *scheme year* which is 2 years before the relevant *scheme year*, increased in proportion to any increase in the *RPI* published for the last month before the relevant *scheme year* over that published for the one 12 months before that, or shall fall within such other range as the *trustee company* may determine with the prior consent of the *JNC*.

- (e) If none of paragraphs (a) to (c) applies and:
- (1) in relation to such categories of *eligible employment* as, at the request of the *employer*, the *trustee company* may agree; and
 - (2) where the *trustee company* agrees that paragraph (d) above may be disappplied in the absence under paragraphs (a) to (c) of an ascertainable *salary* for the equivalent full-time employment, or in such other circumstances as the *trustee company* may determine,

such fraction as the *trustee company* may agree at the request of the *employer* as would have been determined under (b) if notional figures could have been used by the *employer* for the amounts described in (b).

The *trustee company* may not disapply paragraph (d) above, or apply this paragraph (e), unless it has obtained a *non-discrimination guarantee*.

"Paternity Leave Period" means a period within, or coinciding with, that leave which is paternity leave for the purposes of Chapter 3 of Part 8 of *ERA*, or would be so if that Act applied to the place where that *member* is or was employed.

"Pensionable Age" has the same meaning as in section 181(1) of *PSA 93*.

"Pensionable Salary" means, subject to sub-rule 31.1.1, in respect of the *service* which ceased on the *relevant date*, the greater of:

- (a) the *member's* highest *salary* for any period of 12 complete months ending on the last day of a month during the last 3 years before the *relevant date*; and
- (b) the highest yearly average of the total *salary* of the *member* for any 3 consecutive years ending at the end of any month within the last 10 years before the *relevant date*,

increased, except for the last year before the *relevant date*, in proportion to any increase in the *RPI* between that published at the last day of the relevant year and that published at the *relevant date*, but excluding any amount in respect of *VT employment* which is concurrent with *eligible employment* which is not *VT employment* and to which sub-rules 32.12 to 32.15 apply.

"Pensionable Service" means a number of *years* consisting of the aggregate of:

- (a) *full-time service*;
- (b) *part-time service* multiplied by the *part-time service fraction*;
- (c) any period of *additional pensionable service* credited on or after *retirement* on the grounds of *total incapacity* or on death by reference to such *retirement*;
- (d) any additional period purchased by *AVCs* (including under sub-rule 35.11 (Benefits on death before retirement));
- (e) any additional period, credited by reason of a special contribution paid by an *employer* or a *member* (or a person treated as a *member*) or under rule 71 (Power to compromise claims), as a result of the *trustee company* compromising or satisfying any claim;
- (f) any additional period credited (without being attributable to any particular time period) as a result of a transfer under rule 44 (Individual transfers in) or 45 (Bulk transfers in); and

(g) any other period which counts as *pensionable service* under these *rules*, or under any of the rules formerly governing the *scheme*,

provided that *pensionable service* shall not exceed actual service save in respect of *VTEs* or *additional pensionable service* or under sub-rule 4.2.2 (Deductions from the supplementary section).

"Pension Credit" means a credit under section 29(1)(b) of *WRPA 99*.

"Pension Credit Rights" means benefits, or actual or prospective rights to benefits, under the *scheme* to or in respect of an *ex-spouse* by reference to a *pension credit* arising under the *scheme* or under a *transfer arrangement*.

"Pension Debit" means a debit under section 29(1)(a) of *WRPA 99*.

"Pensioner" means a person who is drawing a pension from the *fund* and includes a *pensioner member*.

"Pensioner Member" means a *pensioner* who is drawing a pension from the *fund* by reason of having been a *member*, or was such a person immediately before death, or would in the opinion of the *trustee company* have been so but for the pension being commuted under rule 50 (Commutation above lifetime allowance) or rule 51 (Total commutation for serious ill-health).

"Pension Scheme" has the same meaning as in section 150 of *FA 04*.

"Pension Sharing Order" means such order or provision as is mentioned in section 28(1) of *WRPA 99*.

"Perpetuity Period" means the period of 80 years from 2 December 1974 plus such further period as may be lawful, including any period during which the trusts of the *scheme* are exempt from the application of the rule against perpetuities. The entire such period shall be the perpetuity period for the purposes of the *scheme* under the rule against perpetuities for the purposes of section 1 of the Perpetuities and Accumulations Act 1964.

"Pre-1989 Act Member" means a *member* or *former member* who last joined, or with *HMRC's* consent was treated as having so last joined, the *scheme* before 1 June 1989, unless that individual elected to be a *1989 Act Member* under section 17 (Inland

Revenue limits) of the rules which governed the *scheme* immediately before the *effective date*.

"Pre-Scheme Service" means, in relation to a person who was entitled prior to 28 August 1992 to treat such service as pensionable, a period of employment which was:

- (a) prior to joining the *scheme*;
- (b) with any of the *institutions*;
- (c) in a non-academic or non-academically-related post; and
- (d) a period which does not count as a period of *pensionable service* under any other provision of the *rules*,

but excluding any such period during which the *institution* maintained an *occupational pension scheme* of which the *member* was, or was eligible to be, a member, or where a *member* had opted for *ABS* on or after 6 April 1988. Any period of *pre-scheme service* shall be reduced by such period as the *trustee company* acting on *actuarial advice* shall decide if proviso (i) to clause 3(f) of the Third Deed of Amendment dated 14 February 1995 relating to the *scheme* applies.

"Pre-Scheme University Service" means, in relation to a person who was entitled prior to 28 August 1992 to treat such service as pensionable, a period of employment with an *institution* which:

- (a) is not continuous with a period of *service* which counts as *pensionable service*;
- (b) is a period of *eligible employment*, or was a period of employment prior to the commencement of the *scheme* which had the *scheme* then been in existence would have been a period of *eligible employment*;
- (c) does not automatically count as *pensionable service* under any other provision of the *rules*;
- (d) is not a period of employment prior to joining the *scheme* of a *member* who was in *eligible employment* on 5 and 6 April 1980;

- (e) is not a period of *ABS*; and
- (f) is not a period of *service* whilst a *member* which is followed by a period of *ABS*.

Any period of *pre-scheme university service* shall be reduced by such period as the *trustee company* acting on *actuarial advice* shall decide, if proviso (i) to clause 3(f) of the Third Deed of Amendment dated 14 February 1995 relating to the *scheme* applies.

"Preservation Regulations" means the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991.

"Preservation Requirements" means the preservation requirements of Chapter 1 of Part 4 of *PSA 93*.

"Preserved Benefits" means the benefits which must be payable to or in respect of a *former member* in order that the *scheme* shall comply with the *preservation requirements*.

"PSA 93" means the Pension Schemes Act 1993.

"Qualifying Service" means such period of *service* or other qualification as entitles a *member* or *former member* to *preserved benefits*.

"Redundancy" means cessation of *eligible employment* attributable wholly or mainly to:

- (a) the *employer* ceasing, or intending to cease, to carry on the activity for the purposes of which the *member* was employed, or ceasing, or intending to cease, to carry on that activity in the place in which the *member* worked; or
- (b) the requirements of that activity for employees of the *employer* to carry out work of a particular kind, or for employees of the *employer* to carry out work of a particular kind in that place, ceasing or diminishing, or being expected to cease or diminish.

If within one month of such cessation of *eligible employment* the *member* is offered a comparable post entitling the *member* to continued *membership*, or if any successor to the business or functions of the *employer* offers the *member* comparable employment

such as to disentitle the *member* to a redundancy payment under *ERA*, there shall be deemed to be no *redundancy*.

"Reference Period" means a period of 12 months ending with 31 March.

"Registered Pension Scheme" has the meaning given in section 150(2) of *FA 04*.

"Relative" means, in respect of a deceased *member*, *former member* or *ex-spouse*, any living individual who is:

- (a) the surviving spouse or *civil partner*;
- (b) a lawful, natural or adoptive parent or the surviving spouse or *civil partner* of such parent;
- (c) a lawful, natural or adoptive child, or remoter issue, of such parent, or the spouse or *civil partner*, or surviving spouse or *civil partner*, of any such person; or
- (d) a former spouse or *civil partner*.

"Relevant Benefits" means those benefits which a *registered pension scheme* is permitted to provide under section 150 of *FA 04*.

"Relevant Date" means, in relation to a *member* or *former member*, the date of actual *retirement* in the case of late retirement under rule 10 (Late retirement), and in all other cases, whichever is the earliest of the date of cessation of *eligible employment* or of *service* or death or the day before *normal retirement age*, provided that in all cases the date is no later than the day before the individual's 75th birthday.

"Retirement" means the cessation, on or after *minimum pension age*, of employment which gives entitlement to *membership* without the *member* taking any other employment which would give entitlement to *membership*, and **"Retire"** and **"Retired"** have corresponding meanings. A *member* shall be deemed to *retire* no later than the date which is immediately before the *member's* 75th birthday.

"RPI" means the retail prices index as defined in section 989 of the Income Tax Act 2007.

"Rules" means these rules, including any schedules, as amended from time to time.

"Salary" means, in respect of *eligible employments* of a *member*, the aggregate of:

- (a) the *gross* fixed salary or salaries and fixed cash allowances (excluding those under (b)(i) below); and
- (b) where the *employer* with the consent of the *trustee company* (such consent to be given on an individual or a class basis and subject to such terms and conditions as the *trustee company* may think fit) so determines:
 - (i) any fixed cash allowances agreed between the *member* and the *employer* and taken in place of benefits in kind and all or any part of a *member's* benefits taken in kind which are, by agreement between the *member* and the *employer*, treated for the purposes of the *scheme* as being a notional fixed cash allowance; and
 - (ii) any *fluctuating remuneration* averaged over the preceding 12 months or over the whole period, if shorter.

"Salary Sacrifice Arrangement" means an arrangement whereby a *member's* contract of employment with an *institution* is varied so as to reduce the cash remuneration to which the *member* would otherwise be entitled in respect of *service* after the date of that variation and either:

- (a) the *institution* provides the *member* with non-cash benefits in respect of the *member's eligible employment* with that *institution* which are specified on a list of applicable non-cash benefits which is published from time to time by the *trustee company*; or
- (b) the *institution* has executed a supplementary deed of accession to the *scheme* with the *trustee company* relating to the arrangement in a form acceptable to the *trustee company* and the *institution* pays additional contributions in respect of the *member* under sub-rule 38.1.

"Scheme" means the Universities Superannuation Scheme established by a declaration of trust dated 2 December 1974.

"Scheme Year" means the year beginning the day after one *accounting date* and ending with the next *accounting date*.

"Service" means a period of employment as an *eligible employee* which entitles a *member* to benefits under the *rules* on or after *retirement*. *Service* must be continuous, subject to the rules relating to any suspension of *membership* or break in *service*. *Service* will be deemed to be continuous although partly performed with one *institution* and partly with another. Where a period of *service* ceases on any day, it shall be deemed to do so immediately before the beginning of the next day and no earlier.

"Special Class Member" means a *member* who is within one of the special classes as defined in a *Health Service transfer agreement*.

"Specified Employee" means an employee of an *institution* which has, subject to the agreement of the *trustee company*, specified that individual as an *eligible employee*, either by name or by reference to a class of employees to which that individual belongs.

"SSA 89" means the Social Security Act 1989.

"Statutory Teachers' Scheme" means any of the schemes governed by section 9 of the Superannuation Act 1972.

"Stepchild" means an individual other than a person's lawful, natural or adopted child who, immediately before the last occasion when that person married, or formed a *civil partnership* with, another person, was that other person's lawful, natural or adopted child.

"Supplementary Benefits" means each of the following:

- (a) the benefits in payment under *USDPS* immediately before 1 April 1988 which became payable from the *fund* on and after that date;
- (b) those of the benefits payable under the following provisions of the *rules* which are paid in respect of *supplementary service* or are expressed to be a charge on the *supplementary section*:

13.3.2 (Enhanced incapacity benefits),

20.2 (Lump sum benefits on death in active membership before normal retirement age), on the death of a *member* without leaving a spouse,

civil partner, dependant or child who is entitled to a survivor's, dependant's or children's pension,

- 21 (Lump sum benefits on death of a pensioner member),
- 23.2 (Survivor's pension for life on death of active member before normal retirement age),
- 24.1 (Initial survivor's pension on death of pensioner member),
- 24.2 (Survivor's pension for life on death of pensioner member)
- 26.2 (Dependants' pensions where the member or pensioner member was not living with the spouse or civil partner)
- 27.1.1 and 27.1.2 (Children's pensions on the death of an active or pensioner member)

Schedule 8 (Death in receipt of an incapacity pension)

together with any increases, on those of the above benefits which are pension benefits (whether currently or prospectively payable), which are awarded by the *trustee company* under sub-rule 15.4 (Pension Increases).

"Supplementary Section" means the section of the *fund* which is described in rule 4.

"Supplementary Service" means the number of *years* by which the *pensionable service* (including *additional pensionable service* (if any)) of a *member* at the *relevant date* falls short of the *pensionable service* which would have accrued to the *member* by *normal retirement age*. Where the *member* was at the *relevant date* in *part-time service*, that number shall be multiplied by the *part-time service fraction*. If *added years AVCs* have been paid in respect of the *member*, that period shall be reduced by any reduction in the number of *years' pensionable service* purchased by *added years AVCs* under sub-rule 34.4 (Actuarially reduced early benefits). If the aggregate of *pensionable service* (including *additional pensionable service* (if any)) and *supplementary service* would exceed 40 years, the *supplementary service* shall be reduced to the extent of the excess.

"Tax Code" means Chapter 1 of Part 14 of the *Taxes Act* as it stood on 5 April 2006, and any conditions laid down by *HMRC* for approval of schemes under that chapter as at 5 April 2006.

"Taxes Act" means the Income and Corporation Taxes Act 1988.

"Total Incapacity" means ill-health of, or injury to, a *member* or *former member* which causes that individual to be able for the long term to discharge the duties of neither:

- (a) the employment currently held by the *member* as an *eligible employee* or which was held by the individual immediately before last ceasing to be an *eligible employee*; nor
- (b) any other employment for which an employer would be likely to pay the individual more than a small fraction of the amount which would but for the cessation of *eligible employment* have been that individual's *salary*.

"Transfer Arrangement" means one or more *registered pension schemes* or recognised overseas pension schemes as defined in *FA 04*.

"Transfer Club" means the arrangements for a common basis of transfer payments operated by certain occupational pension schemes relating to public sector employment and by other *occupational pension schemes* which have agreed to participate.

"Transferring FSSU Member" means an *FSSU member* who elected to become a *member* before 6 April 1980 under the provisions for transfer then in force.

"Transferring Part II Member" means a *part II member* who elected to become a *member* before 6 April 1980 under the provisions for transfer then in force.

"Trivial Amount" means the sum of £260 per year or such higher amount as may be prescribed under section 21(1) of *PSA 93* and section 91(5)(c) of *PA 95*.

"Trustee Act" means the Trustee Act 1925.

"Trustee Company" means Universities Superannuation Scheme Limited or any successor trustee or trustees of the *scheme* appointed under sub-rules 59.2 to 59.4.

"UCU" means the University and College Union or any other recognised trade union which assumes the functions, rights and obligations of *UCU*.

"UCU **Appointee**" means a person appointed by *UCU* to the *JNC* or to the *advisory committee*, as the case may be.

"UCU **Director**" means an individual appointed by *UCU* to be a member of the *board* in accordance with the articles of association of the *trustee company*.

"Unpaid MPA Leave" (Unpaid maternity, paternity and adoption leave) means a period of *MPA leave* for which no statutory maternity pay, statutory paternity pay, statutory adoption pay or contractual or other remuneration is paid to the *member*, and includes every *KIT day* within such a period.

"USDPS" means the Universities Supplementary Dependants (and Ill-health Retirement) Pension Scheme, established by a declaration of trust dated 2 December 1974 under its original name of the Universities Supplementary Dependants Pension Scheme, which was amalgamated with the *scheme* on 1 April 1988.

"UUK" means Universities of the United Kingdom, a company limited by guarantee and registered as a charity (registered number 1001127).

"UUK **Appointee**" means a person appointed by *UUK* to the *JNC* or to the *advisory committee*, as the case may be.

"UUK **Director**" means an individual appointed by *UUK* to be a member of the *board* in accordance with the articles of association of the *trustee company*.

"VTE" (Variable time employee) means an *eligible employee* in relation to a *VT employment*, including an individual who holds in addition one or more employments which are not *VT employments*. The *trustee company*, having consulted the *employer*, shall determine whether an *eligible employee* is a *VTE* in any case where in the opinion of the *trustee company* doubt arises.

"VT **Employment**" (Variable time employment) means an *eligible employment* which is not remunerated either by a fixed annual salary or in such a way that it would be reasonably practicable for a *part-time service fraction* to be computed in respect of that employment under paragraph (b) of the definition of *part-time service fraction* and includes an employment which the *trustee company*, at the request of, or

after consultation with, the *employer*, has determined is to be treated as *VT employment*. The *trustee company* shall not make such a determination unless the *employer* has given a *non-discrimination guarantee* to the *trustee company* and complies with its terms.

"Withdrawing Institution" means an *institution* to which one or more of the following applies:

- (a) the *institution* ceases to be resident in the United Kingdom;
- (b) the *institution* ceases to fall within any category of body which the *trustee company* approves for participation in the *scheme*;
- (c) the *institution* or the *trustee company* finds it to be impracticable or inexpedient for the *institution* to continue to participate in the *scheme*;
- (d) the *institution* establishes, maintains or contributes to another *pension scheme* in breach of rule 42 (Exclusivity);
- (e) a proposal is made to the creditors of the *institution* by its directors, or by other duly authorised members of the *institution*, for a voluntary arrangement under Part 1 of the Insolvency Act 1986, or a trust deed is drawn up on behalf of the *institution* for its creditors;
- (f) an instrument is drawn up appointing a receiver or an administrative receiver of the *institution*, which will, if all the statutory requirements are met, have effect under Part 2 (or, as the case may be, Part 3) of the Insolvency Act 1986;
- (g) a resolution is duly proposed to the members of the *institution* under section 84 of the Insolvency Act 1986 for the winding up of that *institution*; or
- (h) a petition is presented to a court of competent jurisdiction for the winding up of the *institution* under Part 4 or 5 of the Insolvency Act 1986 or, where the *institution* is not to be treated as a company or an unregistered company for the purposes of either of those parts of that Act, an application is made, or a petition presented, to the Accountant in Bankruptcy for the sequestration of the estate of the *institution* under section 6 of the Bankruptcy (Scotland) Act 1985,

provided that:

- (A) if at any time a "relevant event" within the meaning of section 75(6A) of PA 95 occurs in relation to an *institution* which is not then a *withdrawing institution* under the foregoing provisions of this definition, that *institution* shall be treated as having become a *withdrawing institution* on the day immediately preceding the day of that event; and
- (B) if at any time it appears to the *trustee company* that the fulfilment by the *institution* of the conditions in any of paragraphs (a) to (h) above has not resulted, and is unlikely to result, in the occurrence in relation to that *institution* of a "relevant event" (as defined in (A) above), it may treat any such conditions as not having been so fulfilled.

"WRPA 99" means the Welfare Reform and Pensions Act 1999.

"Year" means any complete period of 365 days (or 366 in a leap year). In relation to *pensionable service* and *supplementary service*, any additional day or part of a day shall count (even in a leap year) as 1/365th of a year.

1.2 **General interpretation**

- 1.2.1 Unless the context otherwise requires, in these *rules* the singular shall include the plural and the plural shall include the singular; the masculine, feminine or neuter gender shall include the other genders; and persons shall include corporations and unincorporated associations.
- 1.2.2 Neither the arrangement of these *rules* nor any headings or sub-headings shall affect the interpretation of the *rules*.
- 1.2.3 Where the context so requires, in relation to a person to whom these *rules* apply under rule 2, any reference in these *rules* to a rule or provision of the scheme shall include a reference to the corresponding or equivalent rule or provision previously in force at the relevant time, and any reference in any document to a rule or provision of the scheme previously in force shall refer to the corresponding or equivalent rule or provision in these *rules*.

- 1.2.4 All references to any enactment, regulations or orders shall be deemed to include a reference to any modification or re-enactment or re-issue thereof in force and to any corresponding enactment, regulations or orders applicable to Northern Ireland.
- 1.2.5 A reference to benefits accruing or payable “in respect of” a *member* or *former member* does not include, unless expressly stated in these *rules* to the contrary, any benefits so accruing or payable, directly or indirectly, by virtue of a *pension sharing order* to which that person was a party.

2. COMMENCEMENT

- 2.1 The *scheme* commenced on 1 April 1975.
- 2.2 These *rules* apply to and in respect of all persons who are or become *active members* at any time on or after the *effective date* and to all persons claiming through such *active members*, and come into force on that date to the exclusion of all rules and other provisions relating to the *scheme* prior to that date.
- 2.3 Benefits payable to or in respect of any *former member* who does not have any *service* on or after the *effective date* shall be governed by the previous rules in force (or treated as having been in force) at the date when the *former member* last left service (as then defined for the purposes of the *scheme*).
- 2.4 These *rules* apply to benefits payable under any *pension sharing order* which is made on or after the *effective date* or, in the case of any *pension credit rights* that had been granted under a *transfer arrangement*, payable at the date (if later) on which the *trustee company* agreed to assume liability. The benefits payable under any *pension sharing order* which is made before that date shall be governed by the previous rules in force at that date of making of that order.
- 2.5 These *rules* shall not apply to the calculation of the benefits payable to or in respect of a *member* or *ex-spouse participant* by reference to a *relevant date* which is before the *effective date*.

3. FUND

The *fund* comprises all the assets held by the *trustee company* for the purposes of the *scheme* other than the *MPAVC fund*. The *fund* is allocated to two notional sections called the *main section* and the *supplementary section*.

4. SUPPLEMENTARY SECTION AND SUPPLEMENTARY BENEFITS

4.1 The supplementary section of the fund

The amount attributable to the *supplementary section* shall be the aggregate of the amounts under sub-rules 4.1.1 to 4.1.3 and 4.3, minus the aggregate of the amounts under sub-rule 4.2. The assets of the *supplementary section* shall be the aggregate of the following:

- 4.1.1 all amounts transferred from *USDPS* pursuant to the amalgamation of *USDPS* with the *fund* on 1 April 1988;
- 4.1.2 the sum of 0.35% (or such other proportion as the *trustee company* may decide after consulting the *JNC*) of each *active member's salary* received by the *trustee company* after 31 March 1988; and
- 4.1.3 such proportion of the income and capital profits of the *fund* as the *trustee company* shall decide.

4.2 Deductions from the supplementary section

The following shall be liabilities of, and payable from, the *supplementary section*:

- 4.2.1 *supplementary benefits*;
- 4.2.2 benefits payable in respect of a *member* who died in *service* with less than 5 years' *pensionable service* (calculated without applying any *part-time service fraction* for this purpose);
- 4.2.3 that part of any *pension credit rights* paid, or of any payment made to a *transfer arrangement* in respect of *pension credit rights*, which is derived from a *pensioner member's* rights to *supplementary benefits*;
- 4.2.4 such proportion of the capital losses of the *fund* as the *trustee company* shall decide; and
- 4.2.5 any amount that the *trustee company*, with the *JNC's* consent, may decide to transfer irrevocably to the *main section*.

4.3 Deficiency in the supplementary section

If the *actuary* certifies that the assets of the *supplementary section* are not sufficient to finance the *supplementary benefits* currently and prospectively payable, the *trustee company* may, after consulting the *JNC*, notwithstanding anything to the contrary in the *rules*:

4.3.1 increase the rate of contribution credited to the *supplementary section* under sub-rule 4.1.2, and thereby correspondingly increase the *members'* contributions under sub-rule 6.1 (Ordinary member contributions); and/or

4.3.2 adjust, in such manner as the *trustee company* shall on *actuarial advice* determine, the amount of the *supplementary benefits* prospectively payable,

to the intent that *supplementary benefits* shall never be financed from the *main section*.

5. TERMS OF ENTRY

5.1 Eligible employees

An *eligible employee* is an employee of an *institution* participating in the *scheme* who is either:

- 5.1.1 employed by a university or university college in an academic, research or related post; or
- 5.1.2 employed by a university or university college in a role comparable to a post under sub-rule 5.1.1 in terms of responsibility and/or salary and by reference to that *institution's* job-evaluated pay structure; or
- 5.1.3 an employee of a non-university *institution* in a post of comparable status to that of an employee under sub-rules 5.1.1 or 5.1.2; or
- 5.1.4 a *specified employee* who does not fall within sub-rules 5.1.1 to 5.1.3.

In order to become a *member*, an *eligible employee* must satisfy whichever are applicable of the following provisions of this rule.

5.2 Maximum entry age and excluded cases

- 5.2.1 An *eligible employee* shall not be entitled to become a *member* if the *eligible employee* is either:
 - (a) subject to sub-rule 5.2.2, a *pensioner member* other than a *pensioner member* who is in receipt of a pension under rule 13 (Early pensions on incapacity) or a *pensioner member* to whom sub-rule 30.5.1 applies;
 - (b) a person to whom a lump sum has been paid in total commutation of his or her benefits under rule 51 (Total commutation for serious ill-health); or
 - (c) aged 60 or over, unless the requirements of rule 33 are satisfied.

5.2.2 Notwithstanding paragraph 5.2.1(a) of sub-rule 5.2.1, an *eligible employee* who is a *pensioner member* to whom sub-rule 37.3 (Pensioner rejoining after total incapacity) applies may become a *member* only on satisfying the requirements of sub-rule 37.3.

5.2.3 Where an *eligible employee* who is a *pensioner member* (other than a *pensioner member* who is in receipt of a pension under rule 13 (Early pensions on incapacity)) may become a *member* under this sub-rule 5.2, such a *pensioner member* shall be subject to a maximum age for admission to *membership* of 50 years.

5.2.4 The following provisions of this rule 5 shall apply only to an *eligible employee* who satisfies the requirements of this sub-rule 5.2.

5.3 **Automatic entry to membership**

Except as provided in sub-rules 5.4 (Membership by application only) and 5.14 (Alternative benefits service members by application), an *eligible employee* shall become a *member* of the *scheme* immediately upon commencing an *eligible employment* unless he or she either:

5.3.1 has opted, before commencing that *eligible employment*, not to become a *member*; or

5.3.2 has the right in respect of that employment to participate in a *health service scheme* (or such a right contingent only on a statutory direction from the Secretary of State or on the equivalent direction in Northern Ireland) or another *occupational pension scheme* or other *pension scheme* to which the *employer* contributes, to which either of sub-rules 42.2.4 or 42.2.5 (Exclusivity) applies; or

5.3.3 was, immediately before 6 April 2006, disqualified from being an *eligible employee* because his or her *membership* would have prejudiced approval of the *scheme* under the *tax code* and remains in the same *eligible employment*.

For the avoidance of doubt, an individual may be (or become, or withdraw from being) a *member* in relation to more than one *eligible employment*, and/or in relation to some, but not all, of that individual's *eligible employments*.

5.4 Membership by application only

5.4.1 Individuals in eligible employment

An *eligible employee* who has remained in continuous *eligible employment* since entering *eligible employment* (or since 5 April 1980 if later) and who has been since the commencement of *eligible employment* (or 5 April 1980 if later) entitled in respect of that employment to contribute to *FSSU* or to a *part II scheme*, but who elects while so entitled to cease all such contributions, may apply to the *trustee company* to become a *member* in respect of that employment. On acceptance in writing by the *trustee company* of such an application, the *eligible employee* shall become a *member* of the *scheme* on the first day of the month following that acceptance, or on such earlier date as the *trustee company* may decide.

5.4.2 Individuals prior to or on entering eligible employment

An *eligible employee* who wishes to become a *member* in respect of an *eligible employment* in relation to which he or she has the right to participate in a *health service scheme* (or such a right contingent only on such a direction as is referred to in sub-rule 5.3.2), or other *pension scheme* to which either of sub-rules 42.2.4 or 42.2.5 (Exclusivity) applies, or to have the *employer* contribute to such scheme to which sub-rule 42.2.5 applies, may, on or before entering that employment, apply to the *trustee company* to become a *member*, confirming in writing that all contributions in respect of that individual to all other *pension schemes* (to which employer contributions have been made in respect of that employment) have ceased, or will cease prior to the *eligible employee* becoming a *member*. On acceptance in writing of such an application by the *trustee company*, the *eligible employee* shall become a *member* on the first day of the month following that acceptance, or on such earlier date as the *trustee company* may decide.

5.5 Form of application

Any application for *membership* shall be in such form as the *trustee company* may prescribe.

5.6 **Excluded post employees**

An *institution* may declare that an office, post or employment or category of employment shall not give any holder of that office, post or employment nor of employment within that category, the right to be treated as an *eligible employee*. No future holder of such office, post or employment shall have a right to be treated as an *eligible employee*, except with the consent of the *trustee company*.

5.7 **Exclusion of VTEs**

A declaration under sub-rule 5.6 shall not be effective in relation to a *VTE* unless the *institution* notifies that person in writing of the effect of that declaration within the specified time under Part 1 of *ERA* for receipt by that person of a statement of his or her terms and conditions of employment.

5.8 **Particulars to the trustee company**

The *institution* must provide full particulars of any declaration under sub-rule 5.6 or 5.7 to the *trustee company* within 14 days (or such longer period as the *trustee company* may allow) after the *institution* has first notified any of its employees or prospective employees of that declaration.

5.9 **Cross-border employees**

An individual who is or becomes a "qualifying person" for the purposes of Part 7 of *PA 04* is not an *eligible employee*, if that individual becoming a *member* would involve the *trustee company* accepting contributions from a "European employer" within the meaning of regulations under that part. Such an individual may not be an *eligible employee* without the agreement of the *trustee company*.

5.10 **Non-discrimination guarantee**

An *institution* which designates an employee or class of employees as *specified employees* shall be deemed to give a *non-discrimination guarantee* to the *trustee company*. The *institution* shall provide to the *trustee company* such supporting evidence, including any relevant legal opinion, as the *trustee company* may reasonably require, that the terms of that guarantee are, and continue to be, capable of fulfilment.

5.11 **Health service scheme members**

An individual who with effect from the date of entry into an *eligible employment* is a member of a *health service scheme* may not become a *member* of the *scheme* in respect of that *eligible employment* if the individual elects to continue in active membership of a *health service scheme* in respect of that employment.

5.12 **Members of other pension schemes**

An employee who on becoming an *eligible employee* either:

5.12.1 is a member of another *occupational pension scheme* to which either of sub-rules 42.2.4 or 42.2.5 (Exclusivity) applies, and has the right to participate in that other scheme; or

5.12.2 is a member of any other *pension scheme* to which sub-rule 42.2.5 applies to which the *employer* and employee agree that the *employer* will contribute;

shall not be eligible for *membership* of the *scheme* in respect of that *eligible employment*. An employee shall be treated as a member of another *pension scheme* for these purposes if the employee has applied for membership of that other scheme and that application has not been effectively withdrawn or refused.

5.13 **Previous alternative benefits service**

An *eligible employee* who has a previous period of *ABS* shall be entitled to become a *member* only if he or she either:

5.13.1 was a *member* on last leaving *eligible employment*; or

5.13.2 applied to become a *member* within 6 months of the later of first becoming an *eligible employee* or opting for *alternative benefits*, and has supplied a declaration in such form as the *trustee company* may require that he or she is in normal health; or

5.13.3 has ceased to be an *eligible employee* after the last previous period of *ABS* and has again become an *eligible employee*, has not been employed by an *institution* in the 6 months before again becoming an *eligible*

employee, and has supplied a declaration in such form as the *trustee company* may require that he or she is in normal health; or

- 5.13.4 has provided a declaration in such form as the *trustee company* may require that he or she is in normal health, has been subject to such medical examination as the *trustee company* shall require, and has agreed with the *trustee company* to pay such increased contributions to the *scheme* as the *trustee company* may require under sub-rule 6.2 (Special member contributions).

The *trustee company* may waive or modify the above requirements for a declaration, or other evidence, that an *eligible employee* is in normal health.

5.14 **Alternative benefits service members by application**

- 5.14.1 An *eligible employee* to whom sub-rule 5.13.1 or 5.13.3 applies shall become a *member* on the date of re-entering *eligible employment*.

- 5.14.2 An *eligible employee* to whom sub-rule 5.13.2 or 5.13.4 applies shall only become a *member* on the first day of the month following the *trustee company's* acceptance of his or her application for *membership*, after compliance with the requirements of sub-rule 5.13.2 or 5.13.4 (whichever is applicable), or on such earlier date as the *trustee company* may decide.

6. MEMBER CONTRIBUTIONS

6.1 Ordinary member contributions

A *member* shall contribute 6.35% of *salary* to the *fund* unless rule 38 applies.

6.2 Special member contributions

Instead of contributions under sub-rule 6.1, the *trustee company* may require or permit a *member* to make contributions to the *fund* at a different rate if either:

6.2.1 the *member* has had a prior period of *ABS*, did not become a *member* when first eligible to do so and in the opinion of the *trustee company* is not in a normal state of health for a person of the *member's* age and occupation, in which case a higher contribution may be payable; or

6.2.2 the *trustee company* considers that special circumstances apply to the *member*.

6.3 Contributions by a non-member

The *trustee company* may require an individual who is not a *member* to contribute to the *fund* and be treated as a *member* where an *institution* has paid, or is to pay, one or more contributions in respect of that individual under rule 47 (Special employer contributions) and contributions by that individual are required under an order of a Court or tribunal of competent jurisdiction, or under an agreement to compromise actual or potential proceedings before such a Court or tribunal.

6.4 Deduction of contributions

The *employer* shall deduct from *salary* the *member's* contributions. Those contributions shall be a debt due from the *employer* to the *trustee company*.

7. ORDINARY EMPLOYER CONTRIBUTIONS

7.1 Ordinary contributions

Each *employer* shall contribute to the *fund* while the *scheme* continues the amounts determined by the *trustee company*, acting on *actuarial advice*, to be required to satisfy the rights of *members* to benefit under the *scheme*.

7.2 Time limits and interest

7.2.1 The *trustee company* shall set the due dates for payment of contributions by *institutions* under section 227 of *PA 04* and shall inform *institutions* of those dates. The due date for payment of a contribution deducted by the *employer* from a *member's* remuneration shall not be later than the date permitted under section 49(8) of *PA 95*. Contributions under rules 6, 7, 34 (Added years AVCs) and 35 (Money purchase AVCs) shall be payable on a monthly basis. Any amount paid by an *institution* to the *trustee company* shall be applied in satisfaction of the *institution's* liability to pay amounts deducted from a *member's salary* before it is applied to any other purpose.

7.2.2 The *trustee company* may specify dates from which the *trustee company* may require the *institution* to pay interest on unpaid contributions at such rates as the *trustee company* on *actuarial advice* may decide. The *trustee company* may require an *institution* to pay an administration charge where interest is so payable. Interest may not be charged before the first day of the month following the month in respect of which the contribution is to be paid in relation to monthly contributions, or before 30 days from the due date for payment of other contributions. Notwithstanding this, interest may be charged at any time from the due date for payment of a contribution under rule 43 (Withdrawal of institutions) or section 75 of *PA 95*.

7.3 Representation of institutions for scheme funding consultations

UUK is the person nominated by the *rules* to act as the representative of the *institutions* for the purposes of the consultation required by the *trustee company* with the *institutions* under section 229 of *PA 04*.

8. BENEFITS AT NORMAL RETIREMENT AGE

A *member* who has either attained *normal retirement age* and to whom rule 10 does not apply, or (having attained age 60) is entitled to *retire* on pension in accordance with the *member's* terms of appointment or contract of employment, shall from the day after the date of *retirement* be entitled to:

8.1 a pension for life at the annual rate of:

$$\left(\frac{\text{the number of } \textit{years' pensionable service}}{80} \right) \times \textit{pensionable salary}$$

and

8.2 a lump sum of 3 times that annual pension.

9. CONTINUATION CONTRIBUTIONS

- 9.1 A *member* shall cease to contribute to the *fund* and cease to be in *service* on completing 40 years' *pensionable service*, or in the case of a *member* over the age of 55 who is either an *MHO* or a *special class member*, 45 years' *pensionable service*. *Pensionable service* purchased by *AVCs* made under rule 34 (Added years *AVCs*) or derived from an election under sub-rule 35.10 (Transfer for defined benefits) taking effect after 5 April 2006 shall not count towards those periods of 40 years' or 45 years' *pensionable service*. The cessation of contributions and *service* under this sub-rule applies unless the *member* elects with the consent of the *trustee company* to continue to pay contributions. Where a *member* is in more than one *eligible employment* and more than one year's *pensionable service* is derived from *service* in any year, the excess shall not count towards those periods of 40 years' or 45 years' *pensionable service*.
- 9.2 A *member* to whom sub-rule 9.1 applies may elect by 2 months' written notice to the *trustee company*, or such lesser notice period as the *trustee company* may accept, to recommence or continue to pay contributions under rule 6 (Member contributions) or schedule 6 (Salary reduction) until the earliest of:
- 9.2.1 *normal retirement age*;
- 9.2.2 *retirement* or cessation of *service*; or
- 9.2.3 the expiry of 2 months' written notice by the *member* to the *trustee company* to cease to contribute, or such lesser period as the *trustee company* may allow.
- 9.3 Once a *member* has so elected to cease contributions, that *member* may not subsequently elect to recommence contributions.
- 9.4 An *employer* may contribute to the *fund* in respect of a *member* who is paying contributions under sub-rule 9.2. If the *employer* does make such contributions, then the *member* shall continue to accrue *pensionable service*.
- 9.5 If the *employer* does not so contribute, the *trustee company* acting on *actuarial advice* shall decide the amount of the pension and lump sum to be paid in respect of the *member's* contributions. Insofar as those benefits are based on *pensionable service*, they shall be such proportion as the *actuary* shall determine of the benefits payable if

the *employer* had contributed. The *trustee company* shall notify the *member* of that proportion as at the time of the *member's* election to pay contributions and that proportion shall apply to the *member* for the purposes of this rule. The benefits under sub-rules 20.1 (Lump sum benefits on death in active membership), 23.1 (Initial survivor's pension on death of active member), 25.1 (Initial survivor's pension on death in deferment), and 26.1 (Dependant's pension) shall be the same as those payable if the *employer* had contributed.

10. LATE RETIREMENT

10.1 Member contribution election at normal retirement age

A *member* who was in *service* immediately before *normal retirement age* may either:

10.1.1 cease to pay contributions at that age; or

10.1.2 elect to continue to contribute until the earlier of *retirement* and cessation of *service*.

10.2 Applicability of the following provisions

This rule applies to a *member* who remains in *service* after *normal retirement age*.

Rule 8 (Benefits at normal retirement age) does not apply to such a *member*.

10.3 Benefits if employer does not contribute

If a *member* elects to continue to contribute after *normal retirement age*, but the *employer* does not so contribute, the *trustee company* acting on *actuarial advice* shall decide the amount of the pension and lump sum to be paid in respect of those contributions.

10.4 Pre-1 December 2006 normal retirement age

Where *normal retirement age* was attained before 1 December 2006 and *service* continues after 30 November 2006, the *member* shall be entitled to receive the following benefits from the day after the date of *retirement*:

10.4.1 in respect of *pensionable service* accrued or credited before 1 December 2006:

a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years' pensionable service up to normal retirement age}}{80} \right) \times (\text{pensionable salary at normal retirement age})$$

and

a lump sum of 3 times that annual pension,

increased by such amount as the *trustee company* may decide on *actuarial advice*, and

10.4.2 subject to sub-rule 10.3, in respect of *pensionable service* accrued or credited after 30 November 2006:

a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years of that pensionable service}}{80} \right) \times \text{pensionable salary}$$

and

a lump sum of 3 times that annual pension.

10.5 **Post-30 November 2006 normal retirement age**

Where *normal retirement age* is attained after 30 November 2006 and *service* continues thereafter, the *member* shall be entitled to receive the following benefits from the day after the date of *retirement*:

10.5.1 in respect of *pensionable service* accrued or credited before *normal retirement age*:

a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years of that pensionable service}}{80} \right) \times (\text{pensionable salary at normal retirement age})$$

and

a lump sum of 3 times that annual pension,

increased by such amount as the *trustee company* may decide on *actuarial advice*; and

10.5.2 subject to sub-rule 10.3, in respect of *pensionable service* accrued or credited after *normal retirement age*:

a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years of that pensionable service}}{80} \right) \times \text{pensionable salary}$$

and

a lump sum of 3 times that annual pension.

10.6 Exclusion of benefits for post-normal retirement age contributions

No increase shall be made under sub-rule 10.4.1 to any pension or lump sum which is derived from contributions paid in respect of a period after *normal retirement age*, but before 1 December 2006. The *trustee company* acting on *actuarial advice* shall decide the amount of the pension and lump sum to be paid in respect of those contributions.

10.7 Pre-6 April 2006 Revenue limits

The aggregate value of the pensions and lump sums payable on *retirement* after *normal retirement age* under sub-rule 10.4 shall not exceed the limit specified in rule 17.3(a) (Inland Revenue limits) of the rules governing the *scheme* immediately before the *effective date* in relation to a *1989 Act member* who attained *normal retirement age* before 6 April 2006.

11. EARLY RETIREMENT AT THE INSTANCE OF THE EMPLOYER

11.1 Members to whom this rule applies

This rule applies to a *member*:

- 11.1.1 who has 5 or more years' *pensionable service* (calculated without applying the *part-time service fraction* for this purpose);
- 11.1.2 who has attained *minimum pension age*;
- 11.1.3 has not in respect of that *eligible employment* become entitled to a pension under any of rules 8 (Benefits at normal retirement age), 10 (Late retirement) and 13 (Early pensions on incapacity); and
- 11.1.4 to whom rule 11.2 (Applicable circumstances of retirement) applies.

11.2 Applicable circumstances of retirement

This rule applies to a *member*:

- 11.2.1 whose *eligible employment* is terminated by reason of *redundancy*; or
- 11.2.2 whose employment is terminated in the interests of the efficient exercise of the *institution's* functions (unless the *employer* dismissed the *member* for good cause other than by reason of the physical or mental incapacity of the *member* or *redundancy*) and the *employer* gives its consent to payment of the benefits; or
- 11.2.3 who has attained age 60 and *retires* with the consent of the *employer* (such consent not to be unreasonably withheld).

11.3 Benefits

A *member* to whom this rule applies may elect to receive from the day after the date of *retirement*:

- 11.3.1 a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years' pensionable service}}{80} \right) \times \text{pensionable salary}$$

and

11.3.2 a lump sum of 3 times that annual pension.

11.4 **Adjustments to transferred in service**

That part of the benefits payable under this rule which is attributable to *pensionable service* credited to the *member* under rule 44 (Individual transfers in) shall be subject to actuarial reduction, as determined by the *trustee company* on *actuarial advice*, provided that:

11.4.1 where *pensionable service* has been credited by reference to a transfer payment which was received by the *trustee company* before 1 April 2009, this sub-rule 11.4 shall apply as if it were replaced by rule 10.5(d) of the rules of the *scheme* as they had effect immediately before that date; and

11.4.2 where the *trustee company* has, before 1 September 2009 or such later date as the *trustee company* may allow, provided the *member* with an offer of *pensionable service* in anticipation of a transfer payment, and that offer is accepted within 3 months of being made, the *member* may elect that the former rule 10.5(d) shall apply as under sub-rule 11.4.1 above.

The *employer* may pay such additional contributions to the *scheme* to remove this reduction as the *trustee company* may decide on *actuarial advice*.

12. MEMBER'S EARLY RETIREMENT

12.1 A *member* who has attained age 60, has 5 or more years' *pensionable service* (calculated without applying the *part-time service fraction* for this purpose) and leaves employment otherwise than under any of rules 8 (Benefits at normal retirement age), 11 or 13 may elect to receive from the day after the date of *retirement*:

12.1.1 a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years' pensionable service}}{80} \right) \times \text{pensionable salary}$$

and

12.1.2 a lump sum of 3 times that annual pension,

adjusted under sub-rule 12.2.

12.2 If the pension commences before the age of 63 years and 6 months (or such lower age as the *trustee company* may decide, acting on *actuarial advice* and subject to the consent of the *JNC*), the pension and lump sum shall be reduced by such amount as the *trustee company*, on *actuarial advice*, shall decide.

12.3 That part of the benefits payable under this rule that is attributable to *pensionable service* credited to the *member* under rule 44 (Individual transfers in) shall be subject to actuarial reduction, as determined by the *trustee company* on *actuarial advice*, unless the *member* has made an election under sub-rule 11.4.2.

13. EARLY PENSIONS ON INCAPACITY

13.1 Application of this rule

This rule applies to a *member* who satisfies all of the following conditions:

13.1.1 Service

The *member* has either:

- (a) completed 2 years' *active membership*;
- (b) completed 2 consecutive years in aggregate of *active membership* and membership of any *comparable scheme* in the continuous employment throughout of one or more *institutions* and during which there has been no *material break*; or
- (c) been a member of a *comparable scheme* after 10 December 1999 by virtue of *incapacity qualifying employment* and would have been entitled, on retirement on the date of ceasing *eligible employment* while satisfying the ill health, infirmity or incapacity requirements under that scheme, to an immediate early pension under that scheme, without actuarial reduction.

13.1.2 Employer agrees incapacity

In the *employer's* opinion the *member* is suffering from *incapacity* at the date of the relevant cessation of *eligible employment*.

13.1.3 Trustee company agrees incapacity type

The *trustee company* determines that the *member* is suffering from *total incapacity* or *partial incapacity*.

13.1.4 Reason for retirement or cessation of eligible employment

The *trustee company* determines that the *member* has *retired* or ceased one or more *eligible employments* on the grounds of *total incapacity* or

partial incapacity before *normal retirement age* and, in a case of *total incapacity*, without continuing in any other *eligible employment*.

13.1.5 **Application to the trustee company**

The *member* applies to the *trustee company*, in a form acceptable to the *trustee company*, for benefits under this rule, unless the *trustee company* determines that regulation 8(3) of the *Preservation Regulations* is satisfied.

13.2 **Non-enhanced incapacity benefits**

A *member* who *retires* or ceases an *eligible employment* on the grounds of *partial incapacity* or *total incapacity* shall be entitled from the day after such *retirement* or cessation of *eligible employment* to:

13.2.1 a pension for life at the annual rate of :

$$\left(\frac{\text{the number of years' pensionable service}}{80} \right) \times \text{pensionable salary}$$

and

13.2.2 a lump sum of 3 times that annual pension.

13.3 **Enhanced incapacity benefits**

A *member*, who either last became an *active member* 5 or more years ago (construed in accordance with sub-rule 13.4) or, having last become an *active member* 2 or more years before ceasing *active membership*, had no *known medical condition*, and who *retires* or ceases *eligible employment* on the grounds of *total incapacity*, shall be entitled from the day after such *retirement* to:

13.3.1 a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years' additional pensionable service (if any)}}{80} \right) \times \text{pensionable salary}$$

and

a lump sum of 3 times that annual pension.

Such a member shall also be entitled to a pension and lump sum based on the number of *years' supplementary service* (if any) calculated as follows:

13.3.2 a pension for life at the annual rate of:

$$\left(\frac{\text{the number of } \textit{years' supplementary service}}{80} \right) \times \textit{pensionable salary}$$

and

a lump sum of 3 times that annual pension.

13.4 **5 years' service qualification for enhanced incapacity benefits**

A *member* shall be treated for the purposes of sub-rule 13.3 as having last become an *active member* 5 or more years ago, if either:

13.4.1 the *member* has five or more consecutive years in aggregate of *active membership* and membership of any *comparable scheme*, throughout which the *member* has been employed by the same *institution*, or in an employment to be treated in the *trustee company's* opinion as that of the same *institution*, without any *material break*; or

13.4.2 the *member* is concurrently in receipt of a *non-enhanced incapacity pension* by reference to the cessation of one appointment ("**appointment A**") and in *active membership* by reference to another appointment ("**appointment B**") and that *member* last became an *active member* 5 or more years after the date the *member* became an *active member* by reference to *appointment A*, provided that the date of becoming an *active member* by reference to *appointment B* is no more than 2 years after the cessation of *appointment A*.

13.5 **Retrospective determination**

Where a *member* has ceased to be in *eligible employment* before the *trustee company* has determined that the *member* is, and was on last ceasing to be in that *eligible employment*, suffering from *incapacity*, and the *member* has *retired* or ceased that *eligible employment* on the grounds of *incapacity*, the *trustee company* may, after consulting with the *employer*, decide that the *member* shall benefit under this rule

from the date of cessation of *eligible employment*. Any amount that has as a result of that cessation of *eligible employment* been paid to the *former member* shall be deducted from the benefits payable to that individual under this rule.

13.6 **Withdrawal or suspension of incapacity pension**

Where a *pensioner member* entitled to a pension under this rule has not attained *normal retirement age*, the *trustee company* may:

13.6.1 withdraw or suspend the pension for any period prior to *normal retirement age* if the *trustee company* determines that the *pensioner member* is no longer suffering from *incapacity*; or

13.6.2 withdraw an *enhanced incapacity pension* but continue to pay a *non-enhanced incapacity pension* if the *trustee company* determines that the *pensioner member* is suffering from *partial incapacity* and not *total incapacity*.

13.7 **Resumption of incapacity pension**

The *trustee company* may at any time up to *normal retirement age* resume payment of a pension under this rule which it has withdrawn, if the *trustee company* determines that the *pensioner member* is suffering *partial incapacity* or *total incapacity*.

13.8 **Later finding of total incapacity**

13.8.1 If the *trustee company* determines that a *pensioner member*, who has not attained *normal retirement age* and is in receipt of a *non-enhanced incapacity pension*, is suffering from *total incapacity* and not *partial incapacity*, the *trustee company* may pay an *enhanced incapacity pension* at the level at which it would have been payable had the *pensioner member* retired on the grounds of *total incapacity* when this rule first applied to that *pensioner member*.

13.8.2 The *trustee company* may further increase the *enhanced incapacity pension* by an amount which the *trustee company* determines on *actuarial advice* to be equivalent to the *enhanced incapacity lump sum* which would have been payable if the *pensioner member* had retired on

the grounds of *total incapacity* when this rule first applied to that *pensioner member*.

13.8.3 Where the *member* has continued or resumed *active membership* while entitled to a *non-enhanced incapacity pension*, the *trustee company* may, with the consent of the *advisory committee*, modify the amount of *enhanced incapacity pension* to which the *member* is entitled, by altering either or both of the number of *years' additional pensionable service* (subject to a maximum total of 10) or *years' supplementary service*.

13.9 Pension at normal retirement age where incapacity pension withdrawn

13.9.1 Where a *pensioner member* was entitled under this rule to a pension which was withdrawn and not reinstated prior to *normal retirement age*, the *pensioner member* shall be entitled on *retirement* on or after *normal retirement age* to a pension at a rate which is equal to the *non-enhanced incapacity pension* which would have been payable to the *pensioner member* at the date of that *pensioner member's* first *retirement* under this rule.

13.9.2 Where a *pensioner member* was entitled under this rule to a pension which was withdrawn and not reinstated prior to *normal retirement age*, the *trustee company* may, in the case of a *pensioner member* who *retired* on the grounds of *total incapacity*, treat as a payment made on account of the pension under sub-rule 13.9.1 an amount determined by the *trustee company*, on *actuarial advice*, to be of equal value to the *enhanced incapacity lump sum* paid to that *member* on that *retirement*.

13.10 Minimum benefits

No pension payable under this rule at *normal pension age* shall be less than the minimum which would have been required by the *preservation requirements* if they had applied. No pension will be paid under this rule which is not a scheme pension within the meaning of Part 4 of *FA 04*.

13.11 Determinations by the trustee company under this rule

Any determination made by the *trustee company* under this rule shall be made on the balance of probabilities, having regard to a *medical opinion*.

14. PRESERVED BENEFITS

14.1 Entitlement

A *member* who on ceasing *service* has *qualifying service* shall be entitled to *preserved benefits* of:

14.1.1 a pension for life at the annual rate of:

$$\left(\frac{\text{the number of years' pensionable service}}{80} \right) \times \text{pensionable salary}$$

and

14.1.2 a lump sum of 3 times that annual pension.

Those benefits shall be reduced by the amount of any corresponding benefit which is concurrently payable under any of rules 8 (Benefits at normal retirement age), 10 (Late retirement), 11 (Early retirement at the instance of the employer), 12 (Member's early retirement) and 13 (Early pensions on incapacity) in respect of the same *pensionable service*.

14.2 Date of payment

Subject to sub-rules 14.3 to 14.6, a *deferred pensioner* shall be entitled to *preserved benefits* payable at the same time and upon the happening of the same events as the corresponding *long service benefits* would be payable.

14.3 Incapacity

14.3.1 If a *former member* so applies, in a form acceptable to the *trustee company*, or if the *trustee company* determines that regulation 8(3) of the *Preservation Regulations* is satisfied, the *trustee company* may bring *preserved benefits* into payment before *normal pension age*, without any adjustment for early payment, where the *trustee company* determines that the *former member* is suffering from *total incapacity*.

14.3.2 The *trustee company* must be satisfied, before benefits are paid under sub-rule 14.3.1, that the value of those benefits is at least equal to the value of the *former member's preserved benefits*.

14.3.3 The *trustee company* may discontinue such pension before *normal pension age* if it determines that the *former member* is no longer suffering from *total incapacity*, may reinstate that pension if it determines before *normal pension age* that *total incapacity* has returned, and shall reinstate it when the *former member* attains *normal pension age*.

14.3.4 The *trustee company* shall make any determination under this sub-rule 14.3 on the balance of probabilities, having regard to a *medical opinion*.

14.4 **Former member subsequently made redundant**

If a *former member's eligible employment* was terminated by reason of *redundancy*, or a *former member retired* in the interests of the efficient exercise of the *institution's* functions under sub-rule 11.2 (Applicable circumstances of retirement) when such *former member* was over *minimum pension age*, but did not have 5 years' *pensionable service*, and the *former member's* subsequent employment (whether or not that employment is an *eligible employment*) is terminated by reason of *redundancy*, the *trustee company* may bring the *preserved benefits* into payment, without any adjustment for early payment, on or after *minimum pension age*. Sub-rule 11.4 shall apply to any part of those *preserved benefits* that is attributable to *pensionable service* credited under rule 44 (Individual transfers in) insofar as that sub-rule would have applied on that termination of *eligible employment* or *retirement*.

14.5 **Former member entitled to early retirement benefits who initially elected not to receive them**

If a *former member* who was entitled to an immediate pension under rule 11 (Early retirement at the instance of the employer), but elected not to receive it, requests the *trustee company* to bring the *preserved benefits* into payment, the *trustee company* shall bring those *preserved benefits* into payment as soon as practicable following receipt of the request on or after the *minimum pension age*. Those *preserved benefits* shall not be adjusted for early payment, except for the application of an adjustment under sub-rule 11.4 (Adjustments to transferred in service) if such an adjustment would have been applicable at the date of cessation of *service*.

14.6 **Other former members**

In the case of a *former member* to whom sub-rules 14.3 to 14.5 do not apply:

14.6.1 the *trustee company* shall bring the *preserved benefits* into payment on request from the date specified by the *former member* where the *former member* is aged 60 or over;

14.6.2 the trustee company may bring the *preserved benefits* into payment on request from the date specified by the *former member* where the *former member* has attained *minimum pension age*, but not age 60,

on such terms as the *trustee company* shall decide, acting on *actuarial advice*, subject to complying with the *preservation requirements* and provided that the early payment of the *preserved benefits* does not result in the pension payable to the *former member* being less than the *GMP*.

15. PENSION INCREASES

15.1 Pensions, lump sums and preserved benefits

Any pension benefits currently payable, or coming into payment, out of the *fund* (except for any *supplementary benefits* and *GMPs*) shall be increased under Part I of the *Increase Act* as if those benefits were official pensions. Any lump sum (other than any *supplementary benefits*) becoming payable in respect of the death or *retirement* of a *former member*, or in respect of the coming into payment of *pension credit rights*, under the *scheme* shall be increased as if it were a lump sum benefit to which section 9 of the *Increase Act* applied.

15.2 GMP increases

GMPs shall, insofar as they are attributable to earnings in the tax years 1988/89 to 1996/97 inclusive, be increased in accordance with section 109 of *PSA 93*. If the additional pension in a pension or allowance under Part 2 of the Social Security Contributions and Benefits Act 1992, in respect of a period of *contracted-out employment* under the *scheme* or a *transfer arrangement* which was after 5 April 1978 and before 6 April 1997, is less than the aggregate of the *GMPs* for that period, as duly notified to the *trustee company*, the aggregate amount of the pension increases under this rule, on the pension in respect of that period, shall be no less than if the pension benefits including *GMPs* were increased under Part 1 of the *Increase Act*, as if the relevant direction from HM Treasury under section 59A of the Social Security Pensions Act 1975 applied to this *scheme*.

15.3 Section 8(2)(a) of the Pensions (Increase) Act 1971

Sub-rules 15.1 and 15.2 shall have effect as if section 8(2)(a) of the *Increase Act* were omitted from that Act.

15.4 Supplementary benefits

The *trustee company* may, on *actuarial advice*, increase any pension benefits currently or prospectively payable which are *supplementary benefits*, having regard to rises in the *RPI* and to the assets and liabilities of the *supplementary section*.

15.5 **Statutory increases**

Notwithstanding sub-rules 15.1 to 15.4, statutory increases under Chapters 2 and 3 of Part 4 of *PSA 93*, section 51 of *PA 95* and section 40 of *WRPA 99* shall be applied to the extent that they are greater than the increases under those sub-rules.

16. EARLY LEAVERS WITHOUT PRESERVED BENEFITS

16.1 Application of this Rule

This rule applies to a *former member* who does not have *qualifying service* on ceasing *service*.

16.2 Refund of contributions

Such a *former member* is entitled to a refund of:

16.2.1 that individual's contributions (excluding *MPAVCs*), subject to deduction of any tax and an amount in respect of any *CEP*, plus *compound interest* at the rate of 4% per annum (or such other rate as the *trustee company* may determine); and

16.2.2 an amount equal to the *MPAVCs* paid by that individual together with the investment return on those *AVCs*, subject to deduction of tax.

16.3 Pension and lump sum option

16.3.1 Notwithstanding sub-rule 16.2, a *former member* may elect, in lieu of a refund of contributions, for the amount under sub-rule 16.2 to be applied without the deductions to provide a pension and lump sum for the *former member* at *normal retirement age* (and corresponding payments on death for the *former member's* spouse or *civil partner*, *dependants* and *eligible children*) of such amounts as the *trustee company* may determine, acting on *actuarial advice*.

16.3.2 Contributions made by an *employer* under sub-rule 38.1 (Salary sacrifice) in respect of a *member* who has become a *former member* to whom this rule applies shall be included in the amount to be applied to provide the benefits payable under sub-rule 16.3.1.

16.3.3 Such a *former member* may opt to have a transfer payment, calculated by reference to *pensionable service* and *pensionable salary* at the date of cessation of *service*, made to a *transfer arrangement* as if Chapter 4 of Part 4 of *PSA 93* applied.

17. TRANSFERS OUT

17.1 Statutory right

A *former member* has the right to request a transfer payment of that individual's accrued rights under the *scheme* to a *transfer arrangement* in accordance with Chapter 4 of Part 4 of *PSA 93*.

17.2 Special reciprocal arrangements

Where the *trustee company* has entered into any special reciprocal arrangements under sub-rule 44.7 the amount transferred to another scheme that participates in those arrangements shall be calculated accordingly.

17.3 Optants out

Where a *member* has withdrawn from the *scheme* under sub-rule 36.3 (Withdrawal from membership), the *trustee company* shall, if so requested by that person, make a transfer payment to a *transfer arrangement* in respect of that part of that person's accrued rights under the *scheme* referable to *pensionable service* accrued or credited after 5 April 1988 and may do so in respect of that person's other accrued rights under the *scheme*.

17.4 Recipient of transfer payment

The *trustee company* may make a transfer payment only to the trustees or administrator of a *transfer arrangement*.

17.5 Money purchase AVC transfer

A transfer payment from the *scheme* in respect of a *member* shall include the *member's fund*. The *member's fund* may at the *member's* election be paid to any money purchase additional voluntary contribution facility maintained in conjunction with an *occupational pension scheme* to which the transfer payment is made.

18. BUY OUTS

18.1 Power to purchase insurance policy

The *trustee company*, on *actuarial advice*, may purchase from any *insurer* a policy of insurance securing any deferred or immediate benefits payable under the *rules*.

18.2 Insurance policy in the name of the beneficiary

The policy of insurance may be purchased in the name of the person for whom the benefits are secured, but only with the consent of that person, subject to sub-rule 18.4. Such an insurance policy shall not form part of the *fund* and shall be in complete satisfaction of the benefits to which that person has been entitled under the *rules*. That person shall thereafter have no claim or interest in the *fund* in respect of those benefits.

18.3 Existing allocation terms

A policy purchased under sub-rules 18.1 and/or 18.2 shall include provision for a *beneficiary* corresponding to any *allocation* made under rule 28, where the policy benefits are secured for an individual who has made such an *allocation*.

18.4 Preserved benefits

The *trustee company* may purchase a policy which satisfies the requirements of section 19 of *PSA 93* in order to discharge its liability in whole or in part in respect of a *deferred pensioner*, with or without that individual's consent, subject to complying with the *preservation requirements* and provided that the *trustee company* is reasonably satisfied on *actuarial advice* that the payment it makes to the *insurer* is at least equal in value to the *preserved benefits*.

19. CONVERSION OF LUMP SUM TO PENSION AND PENSION TO LUMP SUM

19.1 Member election

A *member* or *former member* may elect by notice in writing to the *trustee company*, no later than one month before the anticipated date of *retirement* or drawing benefits (or within such later period as the *trustee company* may allow), either to convert such part of that individual's pension to an additional lump sum (provided that the total increased lump sum shall not exceed the *authorised maximum* and that the pension shall not be reduced below the individual's *GMP*), or to convert the whole or such part of the individual's lump sum to an additional pension, as the individual may determine and specify in the notice, on a basis of conversion determined by the *trustee company* on *actuarial advice*.

19.2 Effect on death benefits

The exercise of an election to convert lump sum to pension under sub-rule 19.1 shall not result in any additional benefit becoming payable on the individual's death, except for lump sum benefits on death of a *pensioner member* under rule 21.

19.3 Revocability

The *trustee company* may permit an individual to revoke an election under this rule by written notice to the *trustee company* at least 15 days prior to the individual's anticipated date of *retirement* or drawing benefits, or within such later period as the *trustee company* may allow prior to the individual becoming entitled to actual receipt of the pension or lump sum to be converted.

19.4 Enhanced incapacity pension cases

A *pensioner member* to whom an *enhanced incapacity pension* or *enhanced incapacity lump sum* is granted under sub-rule 13.8 (Later finding of total incapacity) shall be deemed to *retire* or draw benefits on the date of the granting of those benefits for the purposes of any election to convert pension into lump sum under this rule or to revoke such an election.

20. LUMP SUM BENEFITS ON DEATH IN ACTIVE MEMBERSHIP

20.1 On the death of a *member* in *active membership*, the *trustee company* shall hold on the *discretionary trusts* a lump sum benefit of the greater of A and B, where:

A = 3 times the annual rate of *salary* of the *member* at the date of death;

B = C + D;

C = the lump sum, but calculated by reference to *pensionable service* only, which would have been payable had the *member retired* on the grounds of *total incapacity* immediately before death; and

D = where the *active member* was also a *deferred pensioner* at the date of death, the amount of the lump sum death in deferment benefit which would have been payable under sub-rule 22.1.

20.2 Where a *member* dies in *active membership* before *normal retirement age* and does not leave a spouse, *civil partner*, *dependant* or child who is entitled to a survivor's, dependant's or children's pension, the *trustee company* shall hold on the *discretionary trusts* a lump sum benefit of the sum that the *trustee company* determines, on *actuarial advice*, to be equal to the value of the pension that would otherwise have been payable to the spouse or *civil partner* based on *supplementary service* only, calculated as follows:

$$\left(\frac{\text{the number of years' supplementary service}}{160} \right) \times \text{pensionable salary}$$

21. LUMP SUM BENEFITS ON DEATH OF PENSIONER MEMBER

21.1 Amount of lump sum

Subject to sub-rule 21.3 (5 years' pension limit), on the death of a *pensioner member*, the *trustee company* shall hold on the *discretionary trusts* a lump sum benefit of A minus F, where:

A = the greater of B and C, where:

B = 3 times the annual rate of *salary* of the *member* as at the day before the date of *retirement* (or, if the *pensioner member* attained *normal retirement age* before 6 June 2007, as at the day before *normal retirement age*);

C = D + E;

D = the lump sum, but calculated by reference to *pensionable service* only, which would have been payable had the *member retired* on the grounds of *total incapacity* immediately before death;

E = where the *pensioner member* was also a *deferred pensioner* at the date of death, the amount of the lump sum death in deferment benefit which would have been payable under sub-rule 22.1; and

F = the pension and lump sum benefit received by the *pensioner member* calculated by reference to *pensionable service* only.

21.2 Death in receipt of an incapacity pension

Subject to sub-rule 21.3, the *trustee company* shall hold an additional lump sum death benefit on the *discretionary trusts*, calculated as set out in schedule 8, on the death before *normal retirement age* of a *pensioner member* who is in receipt of an incapacity pension under rule 13 (Early pensions on incapacity) and who either:

21.2.1 *retired* or ceased *eligible employment* on the grounds of *partial incapacity*; or

21.2.2 *retired* or ceased *eligible employment* on the grounds of *total incapacity* and is in receipt of an *enhanced incapacity pension*.

21.3 **5 years' pension limit**

The aggregate of the benefits payable under sub-rules 21.1 and 21.2 shall not exceed A minus B, where:

A = the amount of the lump sum and 5 years' pension at the rates applicable to the *pensioner member* in respect of each of the lump sums and pensions payable from the *scheme* to that *pensioner member*; and

B = the amount of the lump sums and pensions paid to the *pensioner member* from the *scheme* prior to the *pensioner member's* death.

22. LUMP SUM BENEFITS ON DEATH IN DEFERMENT

22.1 On the death of a person entitled to *preserved benefits*, in respect of whom no other lump sum death benefits are payable under these *rules*, a lump sum of:

$$\left(\frac{3}{80}\right) \times \text{pensionable salary} \times (\text{number of years' pensionable service})$$

shall be paid from the *fund* and held by the *trustee company* upon the *discretionary trusts*.

22.2 On the death of a *deferred pensioner* who did not have *qualifying service* on ceasing *service*, in respect of whom no other lump sum death benefits are payable under these *rules*, and who made an election to take a pension and lump sum under sub-rule 16.3 (Pension and lump sum option), the death benefits payable shall be of such amount as the *trustee company* acting on *actuarial advice* shall have specified.

23. SURVIVOR'S PENSION ON DEATH OF ACTIVE MEMBER

23.1 Initial survivor's pension

On the death of an *active member* with 5 or more years' *pensionable service* (calculated without applying any *part-time service fraction* for this purpose), a pension shall be payable to the surviving spouse or *civil partner* for the first 3 months beginning with the day after the date of the death at the rate of the *member's pensionable salary*, disregarding any *part-time service fraction*.

23.2 Survivor's pension for life on death before normal retirement age

Where an *active member* dies before *normal retirement age*, the surviving spouse or *civil partner* shall be entitled for life, from the day after the later of the date of death of the *member* and the date of expiry of any pension under sub-rule 23.1, to a pension of:

$$\left(\frac{\text{the aggregate of the number of } \textit{years' pensionable service and supplementary service (if any)}}{160} \right) \times (\textit{pensionable salary at date of death})$$

minus the amount of any discretionary dependant's pension paid under sub-rule 26.2 (Where the member or pensioner member was not living with the spouse or civil partner).

23.3 Survivor's pension for life on death after normal retirement age

Where an *active member* dies after *normal retirement age*, the surviving spouse or *civil partner* shall be entitled for life, from the day after the later of the date of death of the *member* and the date of expiry of any pension under sub-rule 23.1, to a pension of one half of the pension which would have been payable to the *member* under rule 10 (Late retirement) if the *member* had *retired* on the day before death,

disregarding any commutation for lump sum under any of the following:

sub-rule 19.1 (Member election);

sub-rule 49.2 (Reduction to pension to meet liability);

sub-rule 50.1 (Commutation above lifetime allowance);

rule 51 (Total commutation for serious ill-health);

rule 52 (Total commutation for triviality);

schedule 14 (Equivalent pension benefits); or

to make an *allocation* under rule 28 (Allocation); or

any deduction under any of:

schedule 10 (Deductions for aggregable benefits); or

rule 48 (Tax); or

rule 57 (Forfeiture/Non-Assignment and Inalienability); or

rule 58 (Charge/Lien/Set Off).

24. SURVIVOR'S PENSION ON DEATH OF A PENSIONER MEMBER

24.1 Initial survivor's pension

On the death of a *pensioner member* with 5 or more years' *pensionable service* (calculated without applying any *part-time service fraction* for this purpose), a pension shall be payable to the surviving spouse or *civil partner* for the first 3 months beginning with the day after the date of the death at the rate of pension being paid to the *pensioner member* at date of the death, disregarding any *allocation* by the *pensioner member* under rule 28 and any reduction made to this pension under any of rule 48 (Tax), sub-rule 49.3 (Lifetime allowance charge) or schedule 10 (Deductions for aggregable benefits).

24.2 Survivor's pension for life

Except where sub-rule 24.3 applies, where a *pensioner member* dies, the surviving spouse or *civil partner* shall be entitled for life, from the day after the later of the date of death of the *pensioner member* and the date of expiry of any pension under sub-rule 24.1, to a pension of:

$$\left(\frac{\text{number of years of the } \textit{pensioner member's} \textit{ pensionable service}}{160} \right) \times \textit{pensionable salary}$$

plus, if the *pensioner member* retired on the grounds of *total incapacity*:

$$\left(\frac{\text{number of years' supplementary service}}{160} \right) \times \textit{pensionable salary}$$

minus the amount of any discretionary dependant's pension paid under sub-rule 26.2 (Where the member or pensioner member was not living with the spouse or civil partner).

24.3 Survivor's pension for life on death after late retirement

Where a *pensioner member* dies and was receiving a pension under rule 10 (Late retirement):

(or would have been receiving such a pension but for any commutation under any of the following:

rule 49 (Lifetime allowance charge); or

rule 50 (Commutation above lifetime allowance); or

rule 51 (Total commutation for serious ill-health); or

for any deduction under rule 57 (Forfeiture/Non-Assignment and Inalienability),

the surviving spouse or *civil partner* shall be entitled to a pension for life, from the day after the later of the date of death and the date of expiry of any pension under sub-rule 24.1, of one-half of the pension payable to the *pensioner member* at the date of *retirement* under rule 10,

disregarding:

any commutation under any of the following:

sub-rule 19.1 (Member election);

sub-rule 49.2 (Reduction to pension to meet liability);

sub-rule 50.1 (Commutation above lifetime allowance);

rule 51 (Total commutation for serious ill-health);

rule 52 (Total commutation for triviality);

schedule 14 (Equivalent pension benefits);

any *allocation* under rule 28 (Allocation); and

any deduction under:

schedule 10 (Deductions for aggregable benefits);

rule 48 (Tax);

rule 57 (Forfeiture/Non-Assignment and Inalienability); or

rule 58 (Charge/Lien/Set Off).

25. SURVIVOR'S PENSION ON DEATH IN DEFERMENT

25.1 Initial survivor's pension

On the death of a person entitled to *preserved benefits* with 5 or more years' *pensionable service* (calculated without applying the *part-time service fraction* for this purpose), in respect of whom there is no entitlement to any other pension under these *rules*, the surviving spouse or *civil partner* shall be entitled, for the first 3 months beginning with the day after the date of the death, to a pension of:

$$\left(\frac{\text{the number of years' pensionable service}}{80} \right) \times (\text{deferred pensioner's pensionable salary})$$

25.2 Survivor's pension for life

On the death of a person entitled to *preserved benefits*, in respect of whom there is no entitlement to any other pension under any of rules 24 (Survivor's pension on death of a pensioner member) to 26 (Dependant's pension), the surviving spouse or *civil partner* shall be entitled for life, from the day after the later of the date of the death of the *pensioner member* and the date of expiry of the initial pension under sub-rule 25.1, to a pension of:

$$\left(\frac{\text{the number of years' pensionable service}}{160} \right) \times (\text{deferred pensioner's pensionable salary})$$

26. DEPENDANT'S PENSION

26.1 Where the member or pensioner member leaves no spouse or civil partner

Where a *member* or *pensioner member* dies without leaving a spouse or *civil partner*, the *trustee company* may pay to a *dependant* of the *member* or *pensioner member* a pension not exceeding:

26.1.1 for the first 3 months beginning with the day after the date of the death, that which would have been payable under sub-rule 23.1 (Initial survivor's pension) or 24.1 (Initial survivor's pension); and

26.1.2 after those first 3 months, for such period as the *trustee company* may decide, that which would have been payable under sub-rule 23.2 (Survivor's pension for life on death before normal retirement age), 24.2 (Survivor's pension for life) or 24.3 (Survivor's pension for life on death after late retirement), but calculated by reference to *pensionable service* only.

26.2 Where the member or pensioner member was not living with the spouse or civil partner

26.2.1 Where a *member* or *pensioner member* was not at the date of death living with any spouse or *civil partner*, the *trustee company* may pay a pension, for such period as the *trustee company* may decide, to any *dependant* other than an *eligible child*, not exceeding the pension payable under sub-rule 24.2 (*Survivor's pension for life*), but calculated by reference to *supplementary service* only.

26.3 Death of a deferred pensioner

Where a person entitled to *preserved benefits*, who is not entitled to any other pension under this rule, dies unmarried and no pension is payable to a *civil partner*, the *trustee company* may pay a pension to a *dependant* (other than an *eligible child*), of such an amount and for such a period as the *trustee company* shall decide, not exceeding the pension which would have been payable under rule 25 (Survivor's pension on death in deferment) if there had been a surviving spouse or *civil partner*.

26.4 **Expression of wishes**

In exercising its discretion under this rule, the *trustee company* shall have regard to, but not be bound by, any wishes of the *member, pensioner member* or *deferred pensioner* that are expressed by him or her in writing.

27. CHILDREN'S PENSIONS

27.1 Death of an active or pensioner member

Except where schedule 9 (Children's pensions where deceased was in service after normal retirement age) applies, from the next day after the death of an *active member* or a *pensioner member*, then, for any period when there are *eligible children*, there shall be payable in respect of the *eligible children* a pension at the annual rate of:

27.1.1 whilst a pension is payable to a surviving spouse, *civil partner* or *dependant*:

A plus B, where:

$$A = \left(\frac{3}{640} \right) \times \left(\begin{array}{l} \text{pensionable salary} \\ \text{at date of death} \end{array} \right) \times \left(\begin{array}{l} \text{number of years' pensionable} \\ \text{service} \end{array} \right) \times \left(\begin{array}{l} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right)$$

$$B = \left(\frac{3}{640} \right) \times \left(\begin{array}{l} \text{pensionable salary} \\ \text{at date of death} \end{array} \right) \times \left(\begin{array}{l} \text{number of years' supplementary} \\ \text{service (if any)} \end{array} \right) \times \left(\begin{array}{l} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right)$$

of which,

$$B + \left(\frac{\text{number of years' pensionable service}}{640} \right) \times \left(\begin{array}{l} \text{pensionable salary} \\ \text{at date of death} \end{array} \right) \times \left(\begin{array}{l} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right)$$

shall be a charge on the *supplementary section*; or

27.1.2 whilst no pension is payable to any surviving spouse, *civil partner* or *dependant*:

C plus D where:

$$C = \left(\frac{\text{number of years' pensionable service}}{160} \right) \times \left(\begin{array}{l} \text{pensionable salary} \\ \text{at date of death} \end{array} \right) \times \left(\begin{array}{l} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right)$$

$$D = \left(\frac{\text{number of years' supplementary service}}{160} \right) \times \left(\begin{array}{c} \text{pensionable salary} \\ \text{at date of death} \end{array} \right) \times \left(\begin{array}{c} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right)$$

of which

$$D + \left(\frac{\text{number of years' pensionable service}}{640} \right) \times \left(\begin{array}{c} \text{pensionable salary} \\ \text{at date of death} \end{array} \right) \times \left(\begin{array}{c} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right)$$

shall be a charge on the *supplementary section*.

27.2 Death of a deferred pensioner

From the day after the date of the death of a person entitled to *preserved benefits*, who is not entitled to any other pension under this rule, there shall be payable in respect of the *eligible children* a pension at the annual rate of:

27.2.1 whilst a pension is payable to the surviving spouse, *civil partner* or *dependant*:

$$\left(\frac{3}{640} \right) \times \left(\left(\begin{array}{c} \text{deferred pensioner's} \\ \text{pensionable salary} \end{array} \right) \times \left(\begin{array}{c} \text{deferred pensioner's} \\ \text{pensionable service} \end{array} \right) \times \left(\begin{array}{c} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right) \right)$$

whilst no pension is payable to the surviving spouse, *civil partner* or *dependant*:

$$\left(\frac{1}{160} \right) \times \left(\left(\begin{array}{c} \text{deferred pensioner's} \\ \text{pensionable salary} \end{array} \right) \times \left(\begin{array}{c} \text{deferred pensioner's} \\ \text{pensionable service} \end{array} \right) \times \left(\begin{array}{c} \text{number of eligible children} \\ \text{(not exceeding 2)} \end{array} \right) \right)$$

One third of the above pension amount shall be debited to and be a charge on the *supplementary section*.

27.3 Where a surviving spouse or *civil partner* is entitled to a *GMP* but not under rules 23 to 25 to any greater benefit, the benefit under sub-rules 27.1.2 and 27.2.2 shall apply subject to the deduction of the *GMP*, provided that the net benefit shall be no less than would have been payable under sub-rules 27.1.1 and 27.2.1.

27.4 Splitting of pension

The *trustee company* may split the pension payable under this rule into a number of separate pensions payable to any number of persons approved by the *trustee company*.

27.5 Payment to persons for the benefit of eligible children

The *trustee company* may pay the pension or pensions to one or more persons who undertake to apply the pension or pensions for the maintenance or benefit of one or more of the *eligible children*. The *trustee company* shall have no liability for the way in which such a pension is applied.

28. ALLOCATION

28.1 Persons who may surrender pension for another beneficiary

Any one of the following persons who has attained *minimum pension age* may make a written application to the *trustee company*, in such form as may be specified by the *trustee company*, before any pension comes into payment to that person under the *scheme*, for an *allocation* of such pension:

- 28.1.1 a *member* with 5 or more years' *pensionable service* (calculated without applying the *part-time service fraction* for this purpose) who is in *service*;
- 28.1.2 a *former member* who is entitled to *preserved benefits*, and whose benefits have not come into payment; or
- 28.1.3 an *ex-spouse participant* whose *pension credit rights* under the *scheme* have not come into payment.

28.2 Exceptions

No *allocation* may be made:

- 28.2.1 by a *member* or *former member* who has applied for a pension under rule 13 (Early pensions on incapacity);
- 28.2.2 by a *member* or *former member* during a period when *membership* is suspended under rule 39 (Temporary absence) or such person is absent from work owing to sickness;
- 28.2.3 in respect of any additional pension derived from conversion of lump sum into pension under sub-rules 19.1 (Member election); or
- 28.2.4 in respect of such part of any pension as would be required at the election of the *ex-spouse participant* to be commuted for a lump sum of 12 times its amount.

28.3 **Information to be included with the application for allocation**

An applicant for *allocation* must include with the application such information as the *trustee company* may reasonably require, including (without limitation) the following:

- 28.3.1 the name of the *beneficiary* in favour of whom the *allocation* is to be made and, where the *beneficiary* is not the applicant's spouse or *civil partner*, the nature of the *beneficiary's* dependency on the applicant;
- 28.3.2 the amount or proportion of the applicant's pension which is to be surrendered;
- 28.3.3 whether or not the *allocation* is to be calculated on the assumption that it is to be cancelled if the *beneficiary* predeceases the member;
- 28.3.4 a report from the applicant's own medical adviser (obtained by the applicant at the applicant's own expense) in a form specified by the *trustee company*.

28.4 **Number of beneficiaries**

A person may make more than one application for *allocations* either in favour of the same *beneficiary* or different *beneficiaries*.

28.5 **Amount of pension payable to the applicant and the beneficiary**

The *trustee company* shall determine on *actuarial advice* the amount of the pension payable to the *beneficiary* following the *allocation* and the amount of the remaining pension payable to the applicant.

28.6 **Procedure on receipt of application for allocation**

On receipt of an application for *allocation* complying with this rule and with the *trustee company's* requirements, and of any such further information as the *trustee company* may reasonably require, the *trustee company* shall accept the application unless:

- 28.6.1 the applicant shall in writing have withdrawn the application before issue by the *trustee company* of a written acceptance;

- 28.6.2 the medical report is not satisfactory to the *trustee company*;
- 28.6.3 the amount surrendered would, when aggregated with all other *allocations* by the applicant, exceed the pension remaining payable to the applicant;
- 28.6.4 the *allocation* would cause the applicant's pension to fall below the applicant's *GMP*; or
- 28.6.5 the person nominated to benefit from the *allocation* is not a *beneficiary*.

28.7 **Form of acceptance or rejection**

The *trustee company's* acceptance or rejection of an application for *allocation* shall be made in writing, and in the case of an acceptance, shall be binding at the time of receipt by the applicant, and in the case of a rejection, shall include the *trustee company's* reasons for the rejection.

28.8 **Medical reports**

If the *trustee company* rejects an application on the grounds that the medical report is not satisfactory to it, the applicant may, at the applicant's own expense, request a further medical report (following medical examination if the *trustee company* so requires) from a medical adviser selected by the *trustee company*.

After considering such further report, the *trustee company* may:

- 28.8.1 reject the application;
- 28.8.2 accept the application on normal terms; or
- 28.8.3 accept the application on such special terms as it considers appropriate, subject to the applicant's written agreement within 21 days of being notified of the *trustee company's* decision.

28.9 Cancellation of allocation

An *allocation* shall be cancelled:

- 28.9.1 if the *beneficiary* predeceases the *member*, where the *allocation* was calculated on the assumption that, if the *beneficiary* predeceases the *member*, it should be cancelled;
- 28.9.2 if a *member* applicant ceases to be in *service* without an immediate pension becoming payable;
- 28.9.3 at the applicant's written request with the *trustee company's* agreement, subject to the *trustee company* on *actuarial advice* recalculating the benefits payable in respect of the applicant to take account of the risk already borne by the *fund* during the period when the *allocation* was accepted and not cancelled;
- 28.9.4 if a *member* applicant dies or *retires* on the grounds of *incapacity* within 12 months of making the application, and the *trustee company* is satisfied that the medical report supplied by the *member* was misleading, or was based on misleading information supplied by the *member*; or
- 28.9.5 if a *member* applicant requests a transfer of the *member's* rights out of the *scheme*.

29. PAYMENT OF PENSIONS

- 29.1 All pensions shall be payable at such periods and in such manner as the *trustee company* shall decide. Any pension may be paid in advance if the *trustee company* thinks fit.
- 29.2 Pensions are payable only to a *pensioner's* bank account, or in such other manner as the *trustee company* thinks fit. Any agreement with the *trustee company* for any other method of payment shall be at the risk of the *pensioner* concerned.
- 29.3 Before making or sanctioning any payment out of the *fund*, the *trustee company* may require the production of such evidence as it may think fit of any material fact.
- 29.4 Where any payment due from the *trustee company* under the *rules* is not paid within 6 months (or such shorter period as the *trustee company* may decide), interest shall be payable from the expiry of that period up to the date of payment at a rate which the *trustee company*, acting on *actuarial advice*, shall decide.

30. MULTIPLE APPOINTMENTS

30.1 Contemporaneous periods of service

Subject to sub-rule 30.5, a *MAM* shall not be entitled to count contemporaneous periods of *service* in each *eligible employment* as separate period of *pensionable service*.

30.2 Member contributions

The contributions payable by a *MAM* shall be based on the aggregate *salary* from all *eligible employments*.

30.3 Calculation of pensionable service

Where a *MAM* ceases one of his/her *eligible employments* in order to take up a new *eligible employment*, the period of *service* in the employment being ceased shall count as a period of *pensionable service*. Where more than one *eligible employment* ceases, the longest period of *service* referable to any one of those *eligible employments* shall count as *pensionable service*.

30.4 Cessation of lesser appointment

30.4.1 A *MAM* who ceases to hold, or withdraws from *membership* in respect of, a *lesser appointment* that the *MAM* has held for not less than 2 years, shall be treated as ceasing *membership*, notwithstanding that the *MAM* continues in *active membership* in respect of the *greater appointment*, and may be granted on or after *minimum pension age* the following deferred benefits in respect of the *lesser appointment*:

- (1) a pension payable for life at the annual rate of:

$$\left(\frac{\text{Number of years' service in the lesser appointment}}{80} \right) \times \left(\text{pensionable salary calculated only by reference to the salary of the lesser appointment (and after deducting any actual or prospective increase in salary for the greater appointment resulting from the cessation of the lesser appointment)} \right)$$

and

(2) a lump sum of 3 times that annual pension.

30.4.2 Where benefits are payable under sub-rule 30.4.1, the *salary* and *pensionable service* in respect of the *lesser appointment* shall be disregarded for the purposes of any calculations of benefits relating to the *greater appointment* held by the *MAM*.

30.5 Cessation of greater appointment

30.5.1 Subject to sub-rule 30.5.2, a *MAM* who ceases to hold a *greater appointment* but retains a *lesser appointment*, and who would, but for the retention of the *lesser appointment*, be entitled to an immediate pension under these *rules*, may elect to take an immediate pension and lump sum, in respect of the *greater appointment*, of:

(1) a pension for life at an annual rate of:

$$\left(\frac{\text{Number of years' service in the greater appointment}}{80} \right) \times \text{PS}$$

and

(2) a lump sum of 3 times that annual pension,

where:

PS is *pensionable salary* determined only by reference to the *salary* of the *greater appointment*, after deducting any actual or prospective increase in *salary* for the *lesser appointment* resulting from the cessation of the *greater appointment*.

30.5.2 The payment of the immediate pension under sub-rule 30.5.1 is subject to the *trustee company* and the *employer* being satisfied that it is unlikely that the *MAM* will enter employment which, when aggregated with any other *eligible employment*, would amount substantially to a full-time employment.

30.5.3 If upon ceasing the *greater appointment* the *MAM* is not entitled to an immediate pension under sub-rule 30.5.1, or does not exercise the option to receive it, the *MAM* will be entitled to the *preserved benefits* set out in sub-rule 30.4, but with the substitution of "*greater appointment*" for "*lesser appointment*" and vice versa.

30.6 New pensionable appointment of significantly higher grade

Where a *MAM* to whom *preserved benefits* have been granted under sub-rules 30.4.1 or 30.5.3 subsequently takes up a new *eligible employment* of a significantly higher grade in place of, or in addition to, the remaining *eligible employments*, the *preserved benefits* will be cancelled and sub-rule 30.3 will apply to the *MAM*.

30.7 Death in deferment following cessation of lesser appointment

If any death benefits become payable in respect of a *MAM* who is prospectively entitled to *preserved benefits* under sub-rules 30.4.1 or 30.5.3, those death benefits will be computed on the basis of *pensionable salary* calculated by reference only to the *salary* of the relevant *lesser appointment* or *greater appointment* (after deducting any actual or prospective increase in *salary* for the other *eligible employments* resulting from the cessation of that appointment) and *pensionable service* by reference only to the *years of service* in that appointment.

30.8 Effect of member withdrawing or opting out

30.8.1 Withdrawal from the scheme for different appointments

Except as provided in sub-rule 30.8.2, a *MAM* may elect to withdraw from *membership*, or not to become a *member*, separately in respect of one or more *eligible employments*.

30.8.2 Withdrawal from the scheme for the greater appointment

Where a *MAM* elects to withdraw from *membership*, or not to become a *member*, in respect of a *greater appointment*, the *MAM* shall be deemed to have elected also to withdraw from *membership*, or not to become a *member*, in respect of any *lesser appointment*.

30.8.3 **Withdrawal from the scheme for the lesser appointment**

A *MAM* who elects to withdraw from *membership*, or not to become a *member*, in respect of a *lesser appointment* may become a *member* again only either:

- (1) within 6 months of the withdrawal and subject to supplying a declaration in such form as the *trustee company* may require that the *MAM* is in normal health; or
- (2) if the *MAM* is also becoming a *member* again in respect of the *greater appointment* under sub-rule 5.3 (Automatic entry to membership) or 5.13 (Previous alternative benefits service).

30.8.4 **Calculation of salary in cases of withdrawal**

Where a *MAM* cannot become a *member* again under sub-rule 30.8.3, no remuneration in respect of the *lesser appointment* shall count as *salary*.

30.9 **Trustee company's power to make regulations**

The *trustee company* may make regulations, either generally or in respect of a particular *MAM* or *institution*, in relation to the application of this rule.

31. PART-TIME SERVICE

31.1 Computation of salary

31.1.1 The *salary* of a *member* for any period of *part-time service* shall, for the purposes of calculating *pensionable salary*, be divided by the *part-time service fraction*.

31.1.2 Where, in addition to remuneration for *part-time service*, a *member* receives remuneration in *eligible employment* for which part or all of the *salary* does not reflect the part-time character of the employment, or where the employment is *VT employment*, the *part-time service fraction* shall be whichever is applicable of paragraphs (b) to (e) of the definition of that term.

31.1.3 The *trustee company* may modify the calculation of *salary* to enable any *employer* or former *employer* to satisfy any order, declaration or recommendation under the *Part-timers Regulations* or, with the consent of the *institution* and of the *member* (or *former member*), to give effect to any agreement to stay or compromise any proceedings between them or to comply with those regulations. Neither the consent of the *Funding Council* nor that of the *JNC* shall be required to any modification under this rule.

31.2 Computation of pensionable service

31.2.1 In relation to periods of *part-time service*, *pensionable service* shall consist of the period of *part-time service* multiplied by the *part-time service fraction*, subject to sub-rules 31.2.2 and 31.2.3.

31.2.2 The *trustee company* may, with the consent of the *employer* and the *member*, modify any period of *service* of a *VTE*, or of any other employee in *part-time service*, for the purposes of determining *pensionable service*, to enable any *employer* to satisfy an order, declaration or recommendation under regulation 8(7) of the *Part-timers Regulations*, or to give effect to an agreement between the *employer* and *member* to stay or compromise proceedings under those regulations. The *trustee company* shall provide the *JNC* with particulars of the exercise of

these powers, doing so, if the *trustee company* thinks fit, on an anonymised basis.

31.2.3 Unless on the last occasion on which the *member* transferred from *full-time service* to *part-time service*, it was as a result of ill-health or infirmity or at the request of the *employer* (in either case as notified to the *trustee company* at the time or such later date as the *trustee company* may allow), where a *member* who *retires* with an *enhanced incapacity pension* was in *part-time service* at the *relevant date*, the additional *years of pensionable service* to be credited to that *member* shall be multiplied by the highest of:

- (1) The aggregate of the *part-time service fractions* applicable at *retirement* to each *eligible employment* for which the individual was then an *active member*; or
- (2) $\frac{PS}{Y}$

where:

PS means *pensionable service* (excluding any purchased by AVCs) to the date of *retirement* after applying the *part-time service fractions*; and

Y means the aggregate of the number of *years' active membership*, the number of *years' service* credited as a result of being a *transferring FSSU member* or a *transferring part II member*, and the number of *years' pre-scheme service* and *pre-scheme university service* (in each case before applying any *part-time service fraction* and excluding any such *years* purchased by AVCs) and the number of *years' pensionable service* credited to the *member* under rules 44 (Individual transfers in) or 45 (Bulk transfers in); or

- (3) The highest of the *part-time service fractions*, where as a result of incapacity or at the request of the *employer* (in either case notified to the *trustee company* at the time or at such later date as the *trustee company* may allow) and after the *member's* last

period of *full-time service*, the *member* transferred from *part-time service* with a higher *part-time service fraction* to *part-time service* with a lower *part-time service fraction*.

31.2.4 If paragraph (2) of sub-rule 31.2.3 applies, the amount by which the resulting benefits exceed those which would have been payable had the additional *years* been multiplied by the *part-time service fraction* applicable at *retirement* shall be debited to and be a charge on the *supplementary section*.

31.3 **Computation of pensionable service for persons treated as MAMs**

If any of the *eligible employments* of a *MAM* is *full-time service*, or the sum of the *part-time service fractions* for the *eligible employments* of a *MAM* amounts to 1 or more, sub-rule 31.2.3 shall apply as if the periods of *pensionable service* for all the *eligible employments* of the *MAM* were a period of *full-time service* and not *part-time service*.

32. VARIABLE TIME EMPLOYEES

32.1 Where there is no concurrent non-Variable Time employment

Sub-rules 32.2 to 32.10 apply to any *member* in relation to *VT employment* who is not concurrently in *eligible employment* which is not *VT employment*. They apply to other *members* in relation to *VT employment* subject to sub-rules 32.11 to 32.15.

32.2 Automatic Membership

Subject to sub-rule 32.3, a *VTE* shall become a *member* of the *scheme* in respect of a *VT employment* immediately upon commencing that employment.

32.3 Employer election for membership by application

An *institution* which intends to employ *VTEs* may require, on written notice to the *trustee company*, that the *membership* of one or more of those *eligible employees* shall commence on the first day of the month following the *trustee company's* acceptance in writing of his or her application for *membership* in such form as the *trustee company* may prescribe (or on such earlier date as the *trustee company* may decide).

32.4 Deemed membership start date

If a *VTE* applies for *membership* within one month of first being given written notice by the *employer* that his or her continuous employment (within the meaning of *ERA*) was *eligible employment*, then that individual shall be deemed to have been a *member* throughout any such period of continuous *eligible employment* after 30 June 2000. If, however, that individual was a *member* for any period prior to 1 April 2003 by virtue of *eligible employment* with that *employer* that was not *VT employment*, then that individual shall be deemed to have been a *member* throughout any such period of continuous *eligible employment* after 31 March 2003. Any such period of continuous *VT employment* may be accepted as such by the *employer* after the individual's death, but with effect from the date of its commencement, on an application by the individual's legal personal representatives to the *trustee company*.

32.5 Calculation of salary

The *salary* of a *member* in respect of *VT employment* shall, for the period of 12 complete and consecutive months immediately before the *calculation date*, be the aggregate of:

- 32.5.1 the *member's* total cash remuneration;
- 32.5.2 any other amounts that the *member* would have been entitled to receive for that employment during that period, but for absence from work under rule 39 (Temporary absence) or 40 (Maternity, paternity and adoption leave), under contractual arrangements with the *employer*; and
- 32.5.3 if so determined by the *employer* with the consent of the *trustee company*, any *benefits in kind*.

32.6 Disregard suspended membership

Any period during which *membership* was suspended in relation to the *VT employment* shall be disregarded and the relevant period shall be the last 365 days (or 366 days if those days included 29 February) before the *calculation date* which were not days on which *membership* was suspended.

32.7 Lump sum death benefits proportionate to VT employment

Where a *member* was not in *active membership* as a *VTE* at the start of the relevant period under sub-rule 32.5, *salary* shall for the purposes of calculating lump sum benefits on death in service be calculated as follows:

$$\left(\frac{\text{length of } \textit{active membership} \textit{ in that period}}{\text{total period}} \right) \times (\textit{salary for the total period})$$

32.8 Salary enhancement

Notwithstanding sub-rule 32.7, where a *member* dies in *active membership* as a *VTE* and without *qualifying service*, that *member's salary* as a *VTE* shall, if the benefit payable would as a result be increased, be calculated as if that *member* had survived until the next *accounting date* after the date of the *member's* death and had received the *salary* appropriate to the duties as a *VTE* which the *member* had contracted to discharge up to that date, or which the *member* would in the opinion of the *trustee*

company have been asked to discharge in that period if the *member* had been capable of doing so. This paragraph shall also apply where such a *member* has *qualifying service* because either:

- 32.8.1 the *member* has *preserved benefits* under the *scheme*, has rejoined the *scheme* and has elected not to cancel those *preserved benefits*; or
- 32.8.2 the *member* ceased to be a *member* before 6 April 2006 because his or her continued *membership* would have prejudiced approval of the *scheme* under the *tax code*, and has rejoined the *scheme*; or
- 32.8.3 the *member* has opted out of *membership* by giving 28 days' written notice under sub-rule 36.3 (Withdrawal from membership) and has rejoined the *scheme*.

32.9 **Partial withdrawal from the scheme**

A *member* who holds one or more *VT employments* may withdraw from *membership* under rule 36 (Withdrawal from membership) in respect of one *VT employment* whilst remaining an *active member* in respect of any other *eligible employments*, and may rejoin the *scheme* in respect of one *VT employment* whilst not rejoining in respect of any other *eligible employments*.

32.10 **Modifications for persons treated as VTEs**

Where the *trustee company* at the request of, or after consultation with, the *employer* has determined that an *eligible employment* is to be treated as *VT employment*:

- 32.10.1 the references in sub-rule 32.4 to 30 June 2000 and 31 March 2003 or 1 April 2003 shall be construed in each case as a reference instead to the date from which the *trustee company* determines that the employment is to be treated as *VT employment*; and
- 32.10.2 the *trustee company* may specify the date from which rule 39 (Temporary absence) and sub-rules 32.5 to 32.7 shall apply with such modifications as the *trustee company* may decide.

32.11 Concurrent Variable Time and non-Variable Time employment

This sub-rule and the following provisions of this rule apply to any *member* in relation to any period for which the *member* is concurrently in *VT employment* and *eligible employment* which is not *VT employment*.

32.12 Pre-1 October 2003 service benefits

Where this rule applies in relation to a *member* who was an *active member* immediately before 1 October 2003, the benefits payable in respect of that *member* for *pensionable service* prior to 1 October 2003 shall be the higher of the benefits that would have been payable under the rules in force immediately prior to that date and the benefits payable under rule 4.2A of the then rules as it stood on that date.

32.13 VTE pensionable service credit

The *pensionable service* credited under paragraph (g) of the definition of that term to a *member* in respect of a *VT employment* for any year starting immediately after an *accounting date* shall be determined by the *trustee company* using the following formula:

$$PS = (A \div B) \times C$$

Where:

PS is the amount of *pensionable service* to be credited;

A is the *member's average salary* for *VT employment*, adjusted (if applicable) under schedule 3 (Adjustments to pensionable salary), but not adjusted by reference to the *part-time service fraction* or for salary reduction (schedule 6);

B is that fraction of the *member's salary* which bears the same relation to the whole as the length of time defined below as C bears to a complete year, and for this purpose the *member's salary* shall be the *member's greatest salary* for any *eligible employment*, determined at the end of the relevant year or, if earlier, when this rule ceases to apply to the *member*, adjusted by reference to the *part-time service fraction*;

C is the duration of the *service* within the relevant year.

32.14 Non-discrimination guarantee for rule modifications

An *institution* which executes a deed under sub-rule 41.4 (Admission of institutions) modifying or disapplying sub-rule 32.13 shall be deemed to give a *non-discrimination guarantee* to the *trustee company* in relation to that deed.

32.15 Multiple appointments

No employment to which sub-rule 32.11 applies shall cause the *member* to be treated for the purposes of rule 30 (Multiple appointments) as holding 2 or more appointments. If an individual is a *member* in respect of a *VT employment* and more than one other concurrent *eligible employments* that are not *VT employment*, then the benefits in respect of those other *eligible employments* shall nevertheless be computed in accordance with rule 30.1 (Multiple appointments), and the benefits in respect of the *VT employment* shall be calculated as determined by the *trustee company*, treating the other *eligible employments* as if they were a single concurrent *eligible employment* for the purposes of sub-rule 32.13.

33. ENTRANTS OVER 60

33.1 Notwithstanding sub-rule 5.2 (Maximum entry age and excluded cases), an *eligible employee* who is aged 60 or over shall become a *member* if:

33.1.1 the *eligible employee* is neither a *pensioner member* (other than one to whom sub-rule 37.3 (Pensioner rejoining after total incapacity) applies) nor a person to whom a lump sum has been paid in total commutation of his or her benefits under rule 52 (Total commutation for triviality);

33.1.2 the *trustee company* so decides with the *employer's* consent; and

33.1.3 the *eligible employee* agrees to such terms and conditions as the *trustee company* may on *actuarial advice* impose, which may include payment of increased contributions.

33.2 [This provision was deleted by the Third Deed of Amendment to the *rules*.]

34. ADDED YEARS AVCS

34.1 Agreed contributions

A member may pay *added years AVCs* not exceeding the *maximum contribution* by regular instalments or *lump sum AVCs*, as agreed between the *member* and the *trustee company*, so that the *member* is credited with *pensionable service* or other benefits in such form as the *trustee company* may decide on *actuarial advice*, based on tables of rates of contributions and corresponding amounts of additional *pensionable service* which the *trustee company* will issue from time to time.

34.2 Previously agreed benefit terms

The benefits derived from regular instalment *added years AVCs* which have already commenced, or *lump sum AVCs* which have already been paid, shall be based on the tables of rates of contributions and the corresponding amounts of additional *pensionable service* which the *trustee company* has issued on *actuarial advice*, prior to those regular instalment *added years AVCs* having been commenced or *lump sum AVCs* having been paid.

34.3 Unreduced benefits on death or incapacity retirement

If a *member* has died or is entitled to receipt of an *enhanced incapacity pension* when the *member's added years AVCs* are used to buy additional benefits, then there shall be no reduction in those additional benefits, provided that:

34.3.1 any *lump sum AVC* was paid at least one year prior to death or *retirement*; and

34.3.2 the *member* began paying regular instalment *added years AVCs* at least 5 years prior to death or *retirement*.

34.4 Actuarially reduced early benefits

If sub-rule 34.3.1 and/or sub-rule 34.3.2 are not satisfied, there shall be a reduction in those additional benefits to be decided by the *trustee company*, acting on *actuarial advice*.

34.5 Benefits on early retirement or leaving service

If a *member* is entitled to receipt of a pension, other than an *enhanced incapacity pension*, when the *member's added years AVCs* are used to buy additional benefits, or the *member* ceases to be in *service*:

34.5.1 where the *member* has *retired* on an immediate pension before *normal retirement age* (or before a later age specified by the *member* for *added years AVCs* to cease), the *trustee company* may reduce the additional benefits for early payment, acting on *actuarial advice*;

34.5.2 where the *member* has left *service* and is entitled to benefits under rule 14 (Preserved benefits), the *trustee company* may not reduce the additional *years of pensionable service* in respect of regular instalment *added years AVCs* paid up to the cessation of *service* to less than:

$$\frac{N}{NS} \times PS$$

where:

N is the period from the date when the first *AVC* payment became due to the date of cessation of *service*;

NS means the whole period over which regular instalment *added years AVC* payments were to be made under the *member's* agreement with the *trustee company*; and

PS means the additional *years of pensionable service* which the *trustee company* had agreed to credit to the *member* under sub-rule 34.1.

35. MONEY PURCHASE AVCS

35.1 Member election

A *member* may elect by written notice to an *employer* to pay *MPAVCs* to secure additional *relevant benefits* on a money purchase basis on *retirement*, or following deferral of purchase of an annuity, or death.

35.2 Notice requirements

A *member* must give at least 2 months' written notice to an *employer* ending before the *member* attains age 75 (unless the *trustee company* agrees to a shorter notice period) of his or her intention to commence *MPAVCs*, detailing the *AVC providers* with which the *MPAVCs* are to be invested and whether or not the *MPAVCs* are to be made by one or more lump sums, and such other matters as the *trustee company* may require. A *member* may vary the proportions in which *MPAVCs* are paid between 2 or more *AVC providers* by at least 2 months' written notice to the *employer*, or such shorter notice period as the *trustee company* may allow. The *employer* must transmit all this information promptly to the *trustee company*.

35.3 Investment

The *trustee company* shall make arrangements with an *AVC provider* so that *MPAVCs* paid by a *member* are applied to the *investments* specified in the notice given by the *member* under sub-rule 35.2, but the *trustee company* may decline to invest *MPAVCs* as so specified if the *trustee company* believes that such application would or could put the *trustee company* in breach of any legal duty.

35.4 Transfers between investments

A *member* or *former member* may elect by written notice to the *trustee company* before a *relevant benefit* becomes payable from the *member's fund* to transfer all or part of the assets of the *member's fund* from one *investment* to another, provided that the *trustee company's* agreement with the *AVC provider* so allows.

35.5 **Input periods**

A *member* may not without the prior written consent of the *trustee company* select a nominated date for the end of any input period for the purposes of section 238 of *FA 04* in relation to any *MPAVCs*.

35.6 **Trustee company liability**

Subject to sections 33 and 34(4) of *PA 95*, the *trustee company* shall be under no obligation or liability in respect of any loss or reduction in value of a *member's fund* which results from the investment of *MPAVCs* in accordance with the *member's* specification under sub-rule 35.2, nor in respect of any delay in the investment of *MPAVCs* which results from a failure by the *member* to specify the application of those *AVCs*.

35.7 **Deductions from salary**

The *employer* shall deduct *MPAVCs* payable by a *member* from *salary*. The *trustee company* shall decide which *employers* shall make this deduction, and in what proportions, if there is more than one *employer*. The *trustee company* may require *employers* to pay *MPAVCs* so deducted directly to the *AVC provider* as agent for the *trustee company*.

35.8 **Cessation**

A *member* may pay *MPAVCs* until the earliest of:

35.8.1 the day before the *member's* 75th birthday; or

35.8.2 the date when the *member* ceases to be in *membership*; or

35.8.3 the date which the *member* has notified to the *employer* in writing as the date of cessation of those *AVCs*.

The *member* must give at least 2 months' written notice to the *employer* of the cessation of the *MPAVCs*, or such shorter notice period as the *trustee company* may allow.

35.9 **Lump sum or pension**

The benefits provided in respect of *MPAVCs* may be either in lump sum or pension form and shall be of at least such value as the *trustee company*, acting on *actuarial advice*, considers reasonable having regard to the *MPAVCs* paid by the *member*. Any lump sum benefits payable in respect of *MPAVCs* shall not cause the lump sum benefits payable to the *member* to exceed the *authorised maximum*.

35.10 **Transfer for defined benefits**

A *member* or *former member* may elect by written notice to the *trustee company* not more than 3 months, nor less than one month, before a *relevant benefit* becomes payable to that person, or such shorter notice period as the *trustee company* may allow, that all or part of the *member's fund* be transferred to the *main section* of the *fund* to purchase such additional *pensionable service* or other benefits as the *trustee company* shall determine on *actuarial advice*. The *trustee company* shall, at the written request of that person, as soon as reasonably practicable issue to that person a quotation of the *conversion rate* it has determined on *actuarial advice* to apply to that person as at the date of issue of the quotation. The *trustee company* shall apply that *conversion rate* in determining the additional *pensionable service* or other benefits to be awarded. The *trustee company* may recover from the *member's fund* or that person such charges as it may require in accordance with tables it shall have published before that person's request. Unless the *trustee company* so permits, a *member* or *former member* may not vary or revoke an election under this sub-rule and may not make more than one such election.

35.11 **Benefits on death before retirement**

On the death of a *member* before *retirement* or of a *former member* with a deferred right to an annuity in respect of *MPAVCs*, the *member's fund* shall be applied in accordance with the directions of that individual or, if there are none, of that individual's personal representatives. In the absence of such directions, the *trustee company* shall hold the *member's fund* on the *discretionary trusts*.

35.12 **Benefits on retirement**

On the *retirement* of a *member*, or on deferred benefit becoming payable to a *former member*, the *trustee company* shall apply the *member's fund* in accordance with the

directions of the *member* or *former member*, or, in the absence of such directions, the *trustee company* may apply the *member's fund* to provide such *relevant benefits* for the *member* or *former member*, or that individual's *relatives, dependants* or personal representatives as the *trustee company* may decide.

35.13 **Deferral of purchase of annuity**

A *member* or *former member* may, by written notice to the *trustee company* and the *AVC provider* of the period of deferral, defer the purchase of an annuity in respect of any *investment* for a period ending before the individual's 75th birthday. Such an individual may however apply by not more than 2 months' nor less than 14 days' written notice (or within such other notice period as the *trustee company* may allow) to the *AVC provider* and the *trustee company* to purchase the annuity before the previously notified date.

35.14 **Benefits on death after retirement**

On the death of a *member* or *former member* after *retirement* and after any period of deferral of an annuity, the *member's fund* shall be applied in accordance with the directions of that individual or, if there are none, in providing such *relevant benefits* of a kind payable on death in *retirement* as the *trustee company* may determine.

35.15 **Annual limit on MPAVCs**

A *member* may not pay in any tax year any *MPAVC* of an amount which would cause the total contributions by that *member* to the *scheme* in that year to exceed the *salary* of that *member* for the *reference period* for that year, or the annual allowance specified for that year under section 228 of *FA 04*, on the assumption that the *member's membership* and *salary* remain unaltered throughout that *reference period*, or are changed only to such extent as could reasonably be foreseen by the *trustee company*.

36. WITHDRAWAL FROM MEMBERSHIP

- 36.1 An individual who becomes a *member* immediately upon becoming an *eligible employee* may within 3 months of becoming a *member* give notice in writing to the *trustee company* of retrospective withdrawal from the *scheme*. The *trustee company* shall repay to the individual his or her contributions, subject to any deduction in respect of any tax under rule 48 (Tax) and any *CEP* and subject to such other deductions on account of tax either by the *trustee company* or the *employer* as will not prejudice the continued treatment of the *scheme* as a *contracted-out scheme* in relation to the *employer*. The individual shall then be deemed never to have been a *member* in respect of that *eligible employment*.
- 36.2 The *trustee company* may make to the *employer* such repayment of contributions as would not be an unauthorised employer payment under section 160(4) of *FA 04*.
- 36.3 A *member* to whom sub-rule 36.1 does not apply may give not less than 28 days' written notice to the *employer* and the *trustee company* to cease to be a *member* with effect from the end of the month in which the notice expires. The individual shall then be entitled:
- 36.3.1 To benefits under rule 14 (Preserved benefits) or sub-rule 16.3.1 (Early leavers without preserved benefits). If the withdrawal takes effect at or after the date when he or she attains age 65, benefits under rule 14 (Preserved benefits) or sub-rule 16.3.1 (Early leavers without preserved benefits) shall come into payment on the day following the earlier of the day after he or she ceases *eligible employment* or the day immediately before he or she attains age 75, as if that earlier date were his or her *normal retirement age*.
- 36.3.2 To rejoin the *scheme* in accordance with sub-rule 5.13.
- 36.4 A notice under this rule shall be in such form as the *trustee company* may prescribe and shall be deemed to be given on the date of delivery to the *employer* by recorded delivery post or personally or on such earlier date as the *trustee company* may allow.

37. REJOINERS

37.1 Former member rejoining after absence not exceeding one month

37.1.1 Where a *former member* rejoins the *scheme* after a break in *service* not exceeding one month, that break in *service* shall not cause a break in the *member's* continued *membership*, unless the *former member* was not in *contracted-out employment* immediately before the break.

37.1.2 The break in *service* shall not count as *pensionable service*.

37.1.3 A break in *service* and *membership* shall, unless the *trustee company* decides otherwise, be treated as having occurred, where an individual is or becomes or has been a "qualifying person" for the purposes of Part 7 of *PA 04* and falls within either sub-rule 37.1.4 or 37.1.5.

37.1.4 An individual falls within this sub-rule when the individual commences *contracted-out employment* after having been a *member* by virtue of *eligible employment* which was not then *contracted-out employment*.

37.1.5 An individual falls within this sub-rule when the individual commences *eligible employment* which is not *contracted-out employment* after having been a *member* by virtue of *eligible employment* which was then *contracted-out employment*.

37.2 Deferred pensioner rejoining

37.2.1 If a *deferred pensioner* becomes an *eligible employee* and again becomes a *member* under the age of 60, the *preserved benefits* and any benefits under sub-rule 16.3 to which that individual is entitled as a *deferred pensioner* shall be cancelled and the *pensionable service* counted for the purpose of calculating those benefits shall count as *pensionable service* for the purpose of calculating that individual's aggregate *pensionable service* upon future cessation of *service*.

37.2.2 Neither the *preserved benefits* nor such benefits under sub-rule 16.3 shall be cancelled if that *eligible employee* has a period of *ABS* after the period of *pensionable service* to which they are attributable, unless that *eligible*

employee again becomes a *member* within 6 months of commencing that *ABS*.

37.2.3 Neither the *preserved benefits* nor such benefits under sub-rule 16.3 shall be cancelled if that *eligible employee* rejoins the *scheme* after a break in the continuity of *membership*, if, before any payment has been made in respect of that *membership*, that *eligible employee* has given written notice to the *trustee company* that those *preserved benefits* are not to be cancelled.

37.2.4 Neither the *preserved benefits* nor such benefits under sub-rule 16.3 shall be cancelled, except where the *trustee company* determines otherwise, in relation to a *member* who is in *contracted-out employment* but was not in such service when the last previous period of *membership* ended.

37.2.5 If a *deferred pensioner* aged 60 or over again becomes a *member*, only the *preserved benefits* and such benefits under sub-rule 16.3 in respect of that part of that *member's pensionable service* which accrued or was credited after 30 November 2006 shall be cancelled.

37.2.6 In so far as neither the *preserved benefits* nor such benefits under sub-rule 16.3 are cancelled, those benefits shall be payable in accordance with sub-rule 14.2 (Date of payment) and *pensionable service* which counts for the purpose of calculating those *preserved benefits* shall not count for the purpose of calculating the benefits payable following the cessation of the new *membership*.

37.3 Pensioner rejoining after total incapacity

Notwithstanding sub-rule 5.2 (Maximum entry age and excluded cases), the *trustee company* may permit a *pensioner* who has been in receipt of a pension on the grounds of *total incapacity*, which has been withdrawn or suspended and who has subsequently become an *eligible employee*, to resume *active membership* on such terms and conditions and subject to such increased contributions as the *trustee company*, acting on *actuarial advice*, may decide, provided that the *preservation requirements* are complied with and that *pensionable service* on which the *total incapacity* pension was based cannot count towards the benefits referable to the new period of *active membership*.

38. SALARY SACRIFICE

38.1 Employer contributions

Where a *member* has entered into a *salary sacrifice arrangement* under which the *employer* has agreed to pay additional contributions to the *scheme*, the *member* shall not be required to pay any contributions to the *scheme*, save for AVCs. The *employer* shall pay additional contributions to the *scheme* equal to the amounts of those contributions which the *member* would have been liable to pay. The *employer* shall in addition pay such further amounts to the *scheme* as are required under a supplementary deed of accession.

38.2 Continuation contributions/late retirement

A *member* to whom sub-rule 38.1 applies shall nevertheless be treated as being required to pay such contributions for the purposes of rules 9 (Continuation contributions) and 10 (Late retirement), so that such a *member* may elect to be treated as ceasing or continuing or recommencing to pay contributions under those rules in the same way as any other *member*.

38.3 Calculation of salary

38.3.1 In respect of any period of *eligible employment* during which a *salary sacrifice arrangement* is effected, *salary* for that period of *eligible employment* shall be calculated as if there were no *salary sacrifice arrangement*, as determined by the *trustee company* (so far as appears to the *trustee company* to be reasonably practicable).

38.3.2 The *employer* of such a *member* shall provide to the *trustee company* such information as the *trustee company* may require to enable the *trustee company* to calculate a *member's salary*, including (without limitation) an *auditor's certificate*.

39. TEMPORARY ABSENCE

39.1 Involuntary absence due to sickness or other causes

During a period of a *member's* absence from any *eligible employment* which is due to sickness or the exercise of an express statutory right to time off work (other than in respect of *MPA leave*), or any other cause which is beyond the control of the *member* and is approved by the *employer* and the *trustee company*:

39.1.1 Subject to sub-rule 39.4, whilst the *member* is in receipt of any remuneration from the *employer*, the *membership* shall not be suspended, *pensionable service* shall continue to accrue, and contributions shall continue to be paid in respect of the *salary* of the *member*, as if the *member* was not absent.

39.1.2 A *member* who is receiving Statutory Sick Pay but no other remuneration from the *employer* may opt, but is not obliged, to continue to pay contributions under sub-rule 39.1.1.

39.1.3 After the *member* has ceased to receive remuneration from the *employer*, or if the *member* opts to cease contributions under sub-rule 39.1.2, the *employer* with the consent of the *member* and the *trustee company* may pay the contributions which would have been payable by the *member* but for the absence, so that *membership* is not suspended and *pensionable service* continues to accrue as if the *member* was not absent. On the *member* resuming employment, the *employer*, with consent of the *trustee company*, may recoup any such contributions plus reasonable interest by a reduction in the *member's* remuneration or a deduction from the benefits payable to the *member*.

39.1.4 If neither sub-rule 39.1.2 nor sub-rule 39.1.3 applies, the *membership* and *pensionable service* shall be suspended until contributions are again made to the *fund* in respect of the *member*, but such suspension shall neither break the continuity of *membership* nor the accrual of *pensionable service* nor mean that the *member* leaves *service*.

39.1.5 Where a *member* ceases *eligible employment* on the grounds of *incapacity*, or dies, during a suspension of *membership*, the pension

under rule 13 (Early pensions on incapacity) or death benefits shall be payable from the day after the date of cessation of that *eligible employment* or death, but calculated as if that *eligible employment* had ceased, or the *member* had died, on the day before the suspension started.

39.1.6 Where, during a period of suspended *membership*, a *member* leaves an *eligible employment* other than under sub-rule 39.1.5 or withdraws from the *scheme*, *pensionable service* and *salary* shall be calculated as if the *member* left that *eligible employment* on the date of suspension of *membership*.

39.2 Voluntary absence and secondment

39.2.1 Where a *member* is either:

- (1) absent or seconded from any *eligible employment* with an *employer*, other than under rule 40 (Maternity, paternity and adoption leave), sub-rule 39.1 or sub-rule 39.4 (Family leave), for any reason of which that *employer* approves, and intends to return to *eligible employment*; or
- (2) absent from any *eligible employment* with an *employer* in contemplation or furtherance of a lawful trade dispute or pursuant to industrial action in accordance with the Trade Union and Labour Relations (Consolidation) Act 1992, and in that case the *employer* does not terminate the *member's* contract of employment and the *member* resumes *eligible employment* after the absence,

that *member* shall remain an *eligible employee*, and *membership* and *pensionable service* shall be suspended and not terminated, for the *appropriate period*. *Membership* and *pensionable service* shall continue if contributions are continued in respect of the *member* under sub-rule 39.2.3. Any such *pensionable service* and any suspension of *membership* shall cease at *normal retirement age* unless the *member* makes an election under rule 10.1.2 (Continuation contributions). Such suspension shall neither break the continuity of *membership* nor the accrual of *pensionable service*, nor mean that the *member* leaves *service*.

- 39.2.2 If the *member* leaves the employment with the *employer*, the *member* shall be treated as having left *eligible employment* on the date *membership* was suspended. For the purposes of section 8(2) of the *Increase Act* a pension in respect of a *member* to which this paragraph applies shall be deemed to begin on the day following the last day of the *appropriate period*.
- 39.2.3 The *employer* may with the *member's* agreement contribute to the *fund* in respect of the *member* during the *appropriate period* so long as the *member* does not become an active member of another *registered pension scheme* to which the *employer* contributes in respect of that *member*. If the *employer* makes such contributions, the *member* shall be required to contribute during the *appropriate period* under rule 6 (Member contributions) based on the *salary* to which the *member* would have been entitled but for the absence or secondment, save that the *employer* and the *member* may agree that those contributions are not to be deducted from the *member's salary*, provided that the *employer* has agreed to pay those contributions to the *trustee company* on the *member's* behalf. On payment in full of those contributions by *member* and *employer*, the *pensionable service* of the *member* shall continue to accrue as if the *member* were not absent. Such *employer* and *member* contributions shall be mandatory in the case of a *VT employment*. The *employer* may agree with the *member* to pay *AVCs* on the *member's* behalf during any period for which other contributions are made under this sub-rule 39.2.3.
- 39.2.4 Notwithstanding sub-rule 39.2.3, if a *member* remains in *active membership* at the end of a *scheme year* at whose commencement arrangements were in effect under sub-rule 39.2.3, and if the *salary* of that *member* for that employment for that *scheme year* did not exceed £260, then those arrangements shall be treated as having come to an end immediately before that *scheme year*, *membership* by virtue of that employment shall be suspended for that *scheme year*, and the value of any contributions deducted from the *salary* of that employment shall be aggregated with the *member's* benefits in such manner as the *trustee company* may decide.

39.2.5 Where sub-rule 39.2.3 does not apply to a period, a *member* or the *employer*, or both, may enter into a written agreement with the *trustee company* to make such additional contributions in respect of the *appropriate period* as the *trustee company* may reasonably require to secure that if, during the period of such agreement, the *member* dies, or becomes incapacitated so that the *member* would have become entitled to benefits under rule 13 (Early pensions on incapacity) but for the absence, benefits are payable in respect of the *member* as if *active membership* had continued until such death or incapacity, but no period of suspension of *membership* shall count as *pensionable service*. No such agreement shall have effect after the *member* has become an active member of a *registered pension scheme* (other than this *scheme*) to which the *employer* makes contributions in respect of that *member*.

39.2.6 If a *member* is absent from employment with an *employer* and the absence is not one for which that *employer* and the *trustee company* have agreed that sub-rule 39.2.1 shall apply, that individual shall cease to be a *member* at the beginning of that absence. The *preservation requirements* shall be complied with for the purposes of determining *qualifying service*.

39.3 Calculation of salary

39.3.1 The following paragraphs apply where a *member* is absent from an *eligible employment* under sub-rules 39.1.1, 39.1.3 or 39.2.1.

39.3.2 Any reduction in the *gross* fixed salary or fixed allowance in respect of any *eligible employment* (other than *VT employment*) held by that *member*, whether at the commencement of or during the absence, shall not affect the calculation of *salary* unless and to the extent that the *trustee company* is satisfied that the reduction would have occurred at that time if the *member* had not been absent from that employment.

39.3.3 The *employer* of such a *member* shall provide to the *trustee company* such information as the *trustee company* may require to enable the *trustee company* to be satisfied of a *member's salary*, including (without limitation) an *auditor's certificate*.

39.4 **Family leave**

For any period of paid family leave by a *member* (within the meaning of paragraph 6 of Schedule 5 to SSA 89) to which rule 40 does not apply:

39.4.1 the *member* shall pay *member* contributions under rule 6 (Member contributions) based on actual contractual remuneration; and

39.4.2 the employer shall pay employer contributions under rule 7 (Ordinary employer contributions) on what the *member's salary* would have been but for the absence from work.

40. MATERNITY, PATERNITY AND ADOPTION LEAVE

40.1 Scope of the rule

This rule applies to any *eligible employment* in respect of which a *member* has a period of *MPA leave*.

The *trustee company* shall comply with the requirements of paragraphs 5, 5A and 5B of Schedule 5 to *SSA 89*. Where the *employer* notifies the *trustee company* that this rule is to apply to additional periods of *MPA leave* from any employment (other than periods to which rule 39 (Temporary absence) applies), to which those requirements would not otherwise apply, the *trustee company* shall apply this rule to such periods provided that the *employer* pays such additional contributions to the *scheme* as the *trustee company* acting on *actuarial advice* may decide. This rule shall apply to periods of *eligible employment* outside the United Kingdom in the same way as to *eligible employment* within the United Kingdom, or to periods in which the *member* is not resident, or has a spouse or *civil partner* or partner who is not resident, in the United Kingdom, or in the same part of the United Kingdom in which the member is in *eligible employment*, subject to such modifications as the *trustee company* may think fit.

40.2 Continuous service before and after leave

The *member's* period of *service* immediately before the period of *MPA leave* and the *member's* period (if any) of *service* immediately after the period of *MPA leave* shall be deemed to be continuous.

40.3 Contributions during maternity, paternity and adoption leave

40.3.1 A *member* shall continue to make *member* contributions under rule 6 (Member contributions) and rule 34 (Added years AVCs) during *paid MPA leave* as if the *member's salary* was limited to no more than the aggregate of the *member's* actual statutory maternity, paternity or adoption pay and actual contractual remuneration. Such a *member* shall continue to accrue *pensionable service* throughout such period of continued contributions as if the *member* were not absent.

40.3.2 The *employer* shall contribute, while such *pensionable service* is continuing to accrue, the aggregate of A plus B, where:

A means contributions at the rate specified under rule 7.1 (Ordinary contributions) based on the *salary* of the *member* determined as if the *member* had continued working in the employment held by the *member* immediately before the *MPA leave* started;

B means C minus D minus E, where:

C means the contributions (other than *MPAVCs*) which would have been payable by the *member* on that *salary* but for the *MPA leave*;

D means the contributions payable by the *member* under sub-rule 40.3.1; and

E means the additional contributions required by the *trustee company* from the *employer* under sub-rule 40.5.3 during contractual periods which extend beyond ordinary or additional maternity leave.

40.3.3 A *member* may elect in writing to the *employer*, before the commencement of *MPA leave*, not to make contributions for the period of that leave. *Membership* and *pensionable service* will then be suspended from the commencement of the *member's MPA leave*. On returning to work, and with the consent of the *employer*, the *member* may make such additional contributions as are determined by the *trustee company*, on *actuarial advice*, so that all or a specified part of the *member's MPA leave* shall count as *pensionable service*. If the *member* elects to make such contributions, the *employer* shall make contributions to the *fund* under rule 7 appropriate to the *salary* of the *member*.

40.4 **Suspension of membership**

Membership shall be suspended and *pensionable service* shall cease to accrue on the date contributions under sub-rule 40.3 cease to be payable. *Membership* and *pensionable service* shall resume upon the resumption of contributions. Such suspension of *membership* shall neither break continuity of *membership* nor mean that the *member* leaves *service*.

40.5 Failure to return to work

- 40.5.1 Subject to sub-rules 40.5.2 and 40.5.3, a *member* who *fails to return to work* shall be treated as having left *service* on the first day of suspended *membership* after the earlier of the date of his or her notice to the *employer* that he or she no longer intends to return to work with the *employer* and the expiry of the *member's* additional maternity leave or additional adoption leave as defined under section 73 and section 75B of *ERA*.
- 40.5.2 Notwithstanding sub-rule 40.5.1, a *member* who *fails to return to work* shall be treated as having left *service* only on the first day of suspended *membership* after the expiry of any longer period of *MPA leave* during which the *member* is statutorily entitled to return to work with the *employer* under Part 8 of *ERA*.
- 40.5.3 Notwithstanding sub-rules 40.5.1 and 40.5.2, a *member* who *fails to return to work* shall be treated as having left *service* only on the first day of suspended *membership* after the expiry of any longer period of *MPA leave* during which the *member* is contractually entitled to return to work with the *employer*. Any such contractual time limit shall be notified by the *employer* to the *trustee company*. That *employer* shall pay such additional contributions as the *trustee company* determines on *actuarial advice* to be necessary to provide benefits to the *member* by reason of such a time limit.
- 40.5.4 If the *member* would otherwise be treated as *failing to return to work* and there is a subsisting right under Chapter 2 of Part 8 of *ERA*, or a corresponding contractual right to return to work at the end of an extended period, the relevant time under this rule shall be extended until the end of that period.
- 40.5.5 If, apart from this rule, the *member's* absence from an *eligible employment* would, on the date on which he or she would have been treated under the foregoing provisions of this sub-rule 40.5 as having left *service*, have fallen within rule 39 (Temporary absence) (other than sub-rule 39.1.6 or 39.2.6), then notwithstanding the foregoing provisions of

this sub-rule 40.5, he or she shall not be treated as having *failed to return to work*, but his or her *MPA leave* shall nevertheless come to an end.

40.5.6 The *member's* benefits under rule 14 (Preserved benefits) shall be calculated as if that *member* left *service* on the date his or her *membership* was suspended or, if not suspended, ceased.

40.6 **Incapacity or death during maternity, paternity or adoption leave**

40.6.1 Where the *member* ceases any *eligible employment* due to *incapacity* or dies whilst *membership* is suspended under this rule, the pension under rule 13 (Early pensions on incapacity) or death benefits to which the *member* is entitled shall be payable from the day after the cessation of that *eligible employment* or death, but calculated as if the *eligible employment* had ceased, or the *member* had died, on the day before the suspension started.

40.6.2 Where a *member* dies during *MPA leave*, *salary* for the purposes of the lump sum death in service benefit under sub-rule 20.1 shall be the *salary* the *member* would have had immediately prior to the *member's* death had the *member* continued working in the *eligible employment* he or she had immediately prior to commencing *MPA leave*.

40.7 **Calculation of salary**

40.7.1 Where a *member* is absent from *eligible employment* under this rule, any reduction in the *gross* fixed salary or fixed allowance in respect of that *eligible employment* (other than *VT employment*) held by that *member*, whether at the commencement of or during the absence, shall not (unless *membership* is suspended under this rule) affect the calculation of *salary* unless and to the extent that the *trustee company* is satisfied that the reduction would have occurred at that time if the *member* had not been absent from that employment.

40.7.2 The *employer* of such a *member* shall provide to the *trustee company* such information as the *trustee company* may require to enable the *trustee company* to be satisfied of a *member's salary*, including (without limitation) an *auditor's certificate*.

41. ADMISSION OF INSTITUTIONS

- 41.1 The *trustee company* may admit a body which has employees who would satisfy the terms of entry under rule 5 (Terms of entry) to participate in the *scheme* in relation to those employees, subject to the body entering into a deed of covenant with the *trustee company* to comply with the *scheme* and the *rules*.
- 41.2 Subject to first consulting with any *institutions* which *control* that employer, the *trustee company* may impose special terms and conditions before admitting an employer which falls within paragraph (b)(iii) of the definition of *institution* to participate in the *scheme*, including (without limitation) the giving of undertakings, guarantees or assurances by those *institutions* and/or by those employers.
- 41.3 If the *employer* is, in the *trustee company's* opinion, in breach of any such term or condition, the *trustee company* may, after consulting with that *employer* and with any *institutions* which *control* that *employer*, resolve that that *employer* shall become a *withdrawing institution*.
- 41.4 The *trustee company* may modify the *rules* in relation to an *institution* and its employees, by deed entered into by the *trustee company* and the *institution*, without the consent of the *JNC* or of the *Funding Council*, as a condition of admitting the *institution* to participate in the *scheme*, or to participate (or continue to participate) in relation to *specified employees* or *accepted employees*, or in such other circumstances as the *trustee company* may decide subject to the prior consent of the *JNC*. The *trustee company* shall send a copy of each such deed to each member of the *JNC* and to the *Funding Council*. Such modification may (without limitation) involve excluding such employees from being *eligible employees*, or disapplying provisions of the *scheme* to such employees, or requiring the *institution* to pay additional contributions. Such modification may not prejudice any benefits accrued before a *member* was employed by the *institution* or cause the *scheme* to breach the *preservation requirements*.
- 41.5 Where an *institution* has *controlled* another, but ceases to do so, or where one *institution* takes *control* of another, both shall inform the *trustee company* immediately.
- 41.6 The *trustee company* may, subject to the *DDA*, decide on *actuarial advice* that any class of *specified employee* shall not be eligible for *membership*, or shall be so

eligible subject to terms and conditions specified by the *trustee company*, having regard to the overall age profile of that class and/or to an increased risk of mortality and/or to an increased risk of the provision of early benefits under rule 13 (Early pensions on incapacity). The *institution* shall provide such information to the *trustee company* as the *trustee company* may require to decide that question.

42. EXCLUSIVITY

- 42.1 An *institution* shall not be entitled to participate, or to continue to participate, in the *scheme*, if it establishes, maintains or contributes to any other *pension scheme* for *eligible employees* or *excluded post employees*. An *institution* which breaches this requirement shall become a *withdrawing institution* and shall cease to participate in the *scheme*.
- 42.2 Notwithstanding sub-rule 42.1, an *institution* may participate in the *scheme* even though it participates in or contributes to any of the following:
- 42.2.1 *FSSU* in respect of *eligible employees* who were members of *FSSU* at 5 April 1980 and have continued as members thereof since that date;
 - 42.2.2 any *part II scheme* in respect of *eligible employees* who were members of such scheme at 5 April 1980 and have continued as members of such scheme since that date;
 - 42.2.3 a *health service scheme* in respect of *eligible employees* entitled to be members of that scheme;
 - 42.2.4 any *occupational pension scheme* for any *eligible employee* of which that person has a statutory right to membership, which is not subject to the consent of any other person or to contractual arrangements between the *institution* and any third party; or
 - 42.2.5 any *pension scheme* in other circumstances agreed to by the *trustee company*.

43. WITHDRAWAL OF INSTITUTIONS

43.1 Cessation of participation by institutions and members

43.1.1 An *institution* shall cease to participate in the *scheme* with immediate effect on becoming a *withdrawing institution*, unless the *trustee company* determines that it may continue to participate for such period as the *trustee company* may decide.

43.1.2 During such continuing participation, the *trustee company* may exclude *eligible employees* of that *institution* from becoming *members*.

43.1.3 Those persons who were *active members* employed by the *withdrawing institution* immediately before its withdrawal from the *scheme* under sub-rule 43.1.1 shall become *deferred pensioners* on the effective date of that withdrawal. If an *institution* withdraws from the *scheme*, no further AVCs may be paid in respect of employment with that *withdrawing institution*.

43.1.4 Those persons shall remain *active members* if they immediately commence *active membership* in the employment of another *institution*, provided that the *trustee company* decides their continued *active membership* to be appropriate.

43.1.5 The *trustee company* may require an *institution* to withdraw from the *scheme* with effect from such date and subject to such terms as the *trustee company* may decide, if in the *trustee company's* opinion the *institution* has persistently failed to pay contributions in accordance with rule 7 (Ordinary employer contributions).

43.1.6 Neither the *trustee company* nor any *institution* shall have any power to effect a partial winding up of the *scheme*.

43.2 Liability for employer contributions

43.2.1 A *withdrawing institution* shall as soon as practicable make any payment for which it is liable under rules 7 (Ordinary employer contributions) and 47 (Special employer contributions) and under section 75 of PA 95.

43.2.2 The *trustee company* may enter into a scheme apportionment arrangement (as defined under section 75 of *PA 95*) on such terms as the *trustee company* may decide.

43.2.3 If no debt is immediately payable by an *institution* under section 75 of *PA 95* when the *institution* withdraws from the *scheme*, that *institution* shall make such additional immediate contributions to the *scheme* as the *trustee company*, acting on *actuarial advice*, shall determine to be required to meet the costs and expenses to the *fund* of that *institution's* withdrawal.

43.3 **Trustee company power to demand additional employer contributions**

43.3.1 The *trustee company* may on *actuarial advice* require a *withdrawing institution* to pay additional contributions to the *scheme* under rule 7 (Ordinary employer contributions) where in the *trustee company's* reasonable opinion that *institution* has, in contemplation of withdrawing from the *scheme*, taken any action or pursued any policy with regard to the employment, *retirement* or *redundancy* of any of its *eligible employees* which has had as its main object, or one of its main objects, an increase in the accrued rights in respect of those *eligible employees* as at the effective date of its withdrawal from the *scheme*.

43.3.2 In determining the additional contributions payable under sub-rule 43.3.1, it shall be assumed that the *supplementary section* shall bear such part of the increased liabilities as relates to *supplementary benefits* (so that the *withdrawing institution* shall not be liable to pay additional contributions in respect of that part) and the *trustee company* shall deduct from the amount of such additional contributions any additional contributions attributable to the action or policy which are paid under schedule 4 (Non-standard salary increases) or under rule 47 (Special employer contributions) and any payment received by the *trustee company* under a contribution notice under section 38 of *PA 04*.

43.3.3 If the *trustee company* determines that sub-rule 43.3.1 applies to a *withdrawing institution*, it shall allow the *withdrawing institution* to make representations to it as to whether sub-rule 43.3.1 applies. A determination by the *trustee company* under sub-rule 43.3.1 shall be final

and binding provided that the *trustee company* gives due consideration to such representations. The *trustee company* may vary or revoke any determination made under sub-rule 43.3.1.

44. INDIVIDUAL TRANSFERS IN

- 44.1 The *trustee company* may at the written request of a *member* accept a transfer payment into the *fund* in respect of the rights of that individual under a *transfer arrangement* other than a transfer consisting only of additional voluntary contributions paid on a money purchase basis to another *occupational pension scheme*.
- 44.2 The benefits to be provided in respect of such transfer payment shall, subject to sub-rule 44.4 and except to the extent attributable to a *pension credit*, be calculated as additional *pensionable service* by the *trustee company* on *actuarial advice*.
- 44.3 Unless the *member* has in connection with the transfer made an election under sub-rule 11.4.2, those benefits shall be calculated (and, if applicable, actuarially reduced) on the assumption that they will be brought into payment at *normal retirement age*, except where the *member* ceases *eligible employment* or *retires* on the grounds of *incapacity*.
- 44.4 The *trustee company* may at the written request of the *member* include in the *money purchase AVC fund* any part of a transfer payment from an *occupational pension scheme* which is derived from the *member's* voluntary contributions paid to secure additional benefits on a money purchase basis.
- 44.5 The *trustee company* may on *actuarial advice*:
- 44.5.1 participate in the *transfer club* and receive transfer payments in accordance with its provisions;
 - 44.5.2 agree to any amendment to the *transfer club*;
 - 44.5.3 withdraw from the *transfer club* upon giving any required notice; and/or
 - 44.5.4 enter into any special arrangements with schemes participating in the *transfer club* where the balance of advantage would not be equitable between this *scheme* and any other of such schemes.
- 44.6 So long as the *trustee company* participates in the *transfer club*, it shall give effect to the *transfer club's* requirements in priority to any other transfer procedures and in particular to this rule.

44.7 The *trustee company*, acting on *actuarial advice*, may for the purpose of facilitating transfers between any schemes from whom transfer payments are regularly received enter into reciprocal or other arrangements for transfers to and from the *scheme* and any such arrangements shall override any other provision of this rule.

45. BULK TRANSFERS IN

- 45.1 Subject to sub-rules 45.2 and 45.3, the *trustee company* may accept some or all of the assets and liabilities (as it may determine on *actuarial advice*), in respect of active members and/or, subject to the agreement of the relevant *institution*, other beneficiaries, of any *transfer arrangement* in respect of which any *institution* is or has been the principal or a participating employer.
- 45.2 Before accepting such a transfer the *trustee company* must:
- 45.2.1 be satisfied on *actuarial advice* that at the effective date of the transaction the amount of assets transferred from the *transfer arrangement* is likely, together with any additional sum which the *trustee company* shall have required the relevant *institution* to contribute to the *scheme*, to be sufficient in the normal course of events, and in such other contingencies as the *trustee company* may determine, to provide the benefits required under sub-rule 45.3; and
- 45.2.2 obtain the consent of the affected members of the *transfer arrangement* to the transfer, where the rules of the *transfer arrangement* so require, or, in so far as no such consent is required, ensure that the *preservation requirements* and the requirements of section 101D(4) of *PSA 93* are met.
- 45.3 The *trustee company* shall on *actuarial advice* grant to any *member*, *ex-spouse participant* or *deferred pensioner* for whom liability has been so assumed, such transfer credits by way of additional *pensionable service* or by the grant of *relevant benefits* of equivalent actuarial value as the *trustee company* may on *actuarial advice* think fit. In respect of any pensioner under such *transfer arrangement*, the *trustee company* shall grant a pension under the *scheme* of the same amount and on identical or substantially the same terms as the pension previously payable under the *transfer arrangement*, or with such modifications as the *trustee company* may determine and that pensioner may agree, without diminishing the actuarial value of those pension rights, as determined by the *trustee company* on *actuarial advice*.
- 45.4 The *trustee company* may indemnify the trustees of the *transfer arrangement*, in respect of such liabilities as the *trustee company* may think fit, up to the value of the assets received from the *transfer arrangement*, with an addition for investment return, as determined by the *trustee company* on *actuarial advice*.

46. AMALGAMATION OF EMPLOYERS

- 46.1 This rule shall apply if an *institution* has absorbed, or been amalgamated with, an organisation engaged in higher education as defined in the Education Reform Act 1988 or in research, and which is not an *institution*, or has acquired some or all of the teaching or research function of such an organisation, or proposes to enter into any such transaction, and as a result of such transaction the *institution* becomes, or will become, the employer of employees who would become *eligible employees* apart from this rule.
- 46.2 Such an *institution* shall notify the *trustee company* in writing of such transaction or proposed transaction.
- 46.3 Such employees may become *eligible employees* only if the *trustee company* notifies the *institution* in writing of the *trustee company's* agreement to this.
- 46.4 The *trustee company* may modify the *rules* in relation to the *institution* and those employees in the same way as if sub-rule 41.4 applied.
- 46.5 The preceding provisions of this rule shall apply to a transaction under sub-rule 46.1 only if the number of individuals consequently becoming employees of the *institution* exceeds the lower of:
- 46.5.1 50; and
- 46.5.2 10% of those persons who, on 31 March prior to the date of that transaction, were *active members* employed by the *institution*.

47. SPECIAL EMPLOYER CONTRIBUTIONS

- 47.1 An *employer* may pay one or more additional special contributions to the *scheme* either for the general purposes of the *scheme* or for a particular purpose specified by the *employer*.
- 47.2 The *employer* shall state the purpose for which the payment is made, which must be consistent with the provision of *relevant benefits*.
- 47.3 The *trustee company*, acting on *actuarial advice*, shall determine the nature and amount of benefit provided by such contributions. Neither the amount of any such lump sum nor the initial rate of any such pension may exceed such reasonable maximum as the individual may specify by written notice to the *trustee company*.
- 47.4 The *trustee company* may decline to accept such contributions if to accept them would not be administratively practicable.

48. TAX

The *trustee company* may deduct from any amount payable under the *rules* a sum equal to its liability to *HMRC* as trustee of the *scheme* in respect of that payment.

49. LIFETIME ALLOWANCE CHARGE

49.1 Additional contributions to meet liability

The *trustee company* may require a *member* to pay such additional contributions to the *fund* as the *trustee company* may determine where:

- 49.1.1 a *benefit crystallisation event* has occurred in relation to the *member*;
- 49.1.2 the additional contributions are paid in order to discharge the liability of the *trustee company* for the *lifetime allowance charge* in relation to the benefits payable in respect of that *member*; and
- 49.1.3 where in the opinion of the *trustee company* that liability will not otherwise be discharged from those benefits.

49.2 Reduction to pension to meet liability

A *member* may elect, prior to becoming entitled to a pension under the *scheme*, by written notice to the *trustee company*, and subject to the approval of the *trustee company*, to meet an expected liability to a *lifetime allowance charge*, specified by the *member* in the notice, by reducing the pension payable by an amount whose capitalised value is equal to that expected liability. The *trustee company* may only give its approval to such an election if it determines that the entitlement to receive the pension would give rise to liability to the *lifetime allowance charge*.

49.3 Trustee company discharge of liability

To the extent that any liability to the *lifetime allowance charge* is not discharged by an election by the *member* under sub-rule 49.2, the *trustee company* may, before making payment of a pension (including in respect of an *ex-spouse participant*), and subject to sections 67 to 67I and 92 to 94 of *PA 95*, withhold such proportion of that pension (insofar as the pension exceeds the *GMP*) as it determines on *actuarial advice* to be equivalent to any *lifetime allowance charge* that it estimates will fall due in respect of that pension and shall apply that amount in or towards the discharge of the *lifetime allowance charge*.

50. COMMUTATION ABOVE LIFETIME ALLOWANCE

- 50.1 A *member* may elect in writing to the *trustee company*, at least one month (or such other time as the *trustee company* may allow) before the *member* becomes entitled to actual receipt of a pension under the *scheme*, to convert into an additional lump sum the whole pension or such part of it as the *trustee company* deems to be equal in value to the *chargeable amount* less the *lifetime allowance charge*, provided that the pension is not reduced below the *member's GMP*. The additional lump sum shall be payable when the *member* becomes entitled to actual receipt of the pension.
- 50.2 A *member* may not convert all or any part of the additional lump sum payable under this rule into a pension.

51. TOTAL COMMUTATION FOR SERIOUS ILL-HEALTH

51.1 Where the *trustee company* receives a *medical opinion* that a *member* or *former member* is expected to live for less than one year from the date of the *medical opinion*, and no pension has become payable to that individual by virtue of an arrangement under the *scheme*, the *trustee company* may at its discretion commute the benefits referred to in below for a lump sum whose actuarial value shall not exceed:

$$\left(\begin{array}{l} \text{the actuarial value of all benefits payable} \\ \text{(or prospectively payable) to that individual} \\ \text{under that arrangement} \end{array} \right) + \left(\begin{array}{l} \text{the actuarial value of any lump sum to be held} \\ \text{on the } \textit{discretionary trusts} \text{ under that} \\ \text{arrangement on the death of that individual} \end{array} \right)$$

51.2 The individual shall be deemed to be in normal health for the purposes of calculating those actuarial values.

51.3 Payment of a lump sum under sub-rule 51.1 shall extinguish all claims of that individual in respect of that arrangement.

51.4 Where a lump sum is paid under sub-rule 51.1:

51.4.1 no amount shall be held on the *discretionary trusts* under that arrangement on the death of that individual; and

51.4.2 a *member* shall cease to be in *service*, and no further contributions may be made by that *member*, in respect of that arrangement.

52. TOTAL COMMUTATION FOR TRIVIALITY

52.1 The *trustee company* may, when a pension becomes payable from the *fund*, commute for a lump sum payment, not exceeding the actuarial equivalent of the relevant pensions:

$$\left(\begin{array}{l} \text{(all the pension benefits payable in respect} \\ \text{of an employment of an individual)} \end{array} \right) + \left(\begin{array}{l} \text{(any pension credit rights} \\ \text{of that individual)} \end{array} \right) + \left(\begin{array}{l} \text{(the pension equivalent of} \\ \text{any lump sum benefits)} \end{array} \right)$$

if the aggregate value of those benefits does not exceed the *trivial amount*.

52.2 For the purpose of determining whether the benefits under sub-rule 52.1 exceed the *trivial amount*, the *GMP* must be revalued to *pensionable age* in accordance with *PSA 93*.

52.3 No lump sum payment shall be made under sub-rule 52.1 unless:

52.3.1 the individual to whom the lump sum is paid is aged 60 or over; and

52.3.2 the payment of the lump sum is an authorised payment under *FA 04*.

52.4 Payment of a lump sum under sub-rule 52.1 to an individual will extinguish all rights to any benefits under the *scheme* to or in respect of that individual, arising from that individual's participation in the *scheme* as a *member* or as an *ex-spouse participant*.

53. INCAPACITY OF BENEFICIARY

If the *trustee company* is of the opinion that any person entitled to benefit under the *scheme* is incapable of managing his or her own affairs due to physical or mental infirmity, the *trustee company* may pay any such benefit to any person approved by it who undertakes to apply the benefit for the maintenance or benefit of the person so entitled. The *trustee company* shall have no liability for the way in which such a benefit is applied.

54. RESTRICTION OF MEMBERS' RIGHTS

- 54.1 No person shall have any claim or right to any benefit save in accordance with the *rules* and so far as the *fund* allows.
- 54.2 Nothing in these *rules* shall restrict the rights of the *institutions* to terminate the employment of any *member*.
- 54.3 Notwithstanding any other provision of these *rules* or of the *scheme*, no person shall have any claim or right to any sum which has become due to that person under the *rules* if that sum is not claimed within 6 years from the date when it became due, save that if the sum formed one payment of a pension or annuity the right to such pension or annuity shall not thereby be extinguished.
- 54.4 Notwithstanding any other provision of these *rules* or of the *scheme*, the *scheme* and the *rules* are modified, in accordance with regulation 6(1) of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006, so as to achieve the same effect as all of the modifications in regulations 3 to 8 of the Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006 ("**Modification of Existing Schemes Regulations**"), but without limitation as to the transitional period as defined in regulation 1(2) of the latter regulations, and so that the *Modification of Existing Schemes Regulations* themselves no longer apply in relation to the *scheme*.

55. EFFECT OF MISSTATEMENTS

If any person entitled to benefit makes any statement as to any of the matters referred to in the *rules* which the *trustee company* discovers to be incorrect, untrue or misleading, the *trustee company* may, on *actuarial advice*, make such adjustments as it considers fair to any pension, annuity or other money payable out of the *fund*.

56. DISCLOSURE OF INFORMATION

Each *institution* shall take all such steps as the *trustee company* may reasonably require to disseminate to *members* or prospective *members* in that *institution's* employment all such information as the *trustee company* may be required to provide to comply with its statutory disclosure obligations and any further information which the *trustee company* may determine to be necessary or desirable for such *members* to have in connection with the *scheme*.

57. FORFEITURE/NON-ASSIGNMENT AND INALIENABILITY

57.1 Non-assignment and inalienability of benefits

No benefits under the *scheme* may be assigned, commuted, surrendered, charged, forfeited, set off, made subject to a lien or otherwise applied in a manner prohibited by sections 91 and 92 of *PA 95* or under section 21(2) or 32 of *PSA 93*.

57.2 Termination of benefits by the trustee company

The *trustee company* may by written instrument terminate with immediate effect all or any *relevant benefits* under the *scheme* (whether or not in payment) which a *member, former member, pensioner, beneficiary* or *ex-spouse participant* has purported to apply in a manner prohibited under sub-rule 57.1, or in a manner which otherwise has no legal effect.

57.3 Forfeiture of benefits where unlawful killing

The *relevant benefits* payable in respect of an individual to a person under the *rules*, including under the *discretionary trusts*, shall be forfeit if that person is convicted of an offence involving the unlawful killing of that individual, as provided under section 92(6) of *PA 95*.

57.4 Discretion to pay benefits on forfeiture

The *trustee company* may pay an amount equal to the value (as determined by the *actuary*) of any *relevant benefits* forfeited under sub-rule 57.2 or 57.3 to any person to whom the *relevant benefit* could have been paid but for the forfeiture.

58. CHARGE/LIEN/SET OFF

- 58.1 The *trustee company* or an *employer* shall, subject to sections 91 and 92 of *PA 95*, be entitled to a charge, or lien on, or a right of set off against, and to forfeit, any benefit under the *scheme* to which a *member, former member, pensioner member* or *ex-spouse participant* is (or is prospectively) entitled under the *rules*, in order to discharge a monetary obligation owed by that individual to the *trustee company* or the *employer*, as the case may be, arising out of a criminal, negligent or fraudulent act or omission by that individual.
- 58.2 Notwithstanding sub-rule 58.1, neither the *trustee company* nor an *employer* may assign or charge any *GMP* or protected rights, save as permitted by section 159 of *PSA 93*. Sub-rule 58.1 shall not be taken to confer on any *employer* any power in relation to benefits to which any person is (or is prospectively) entitled as an *ex-spouse participant*.
- 58.3 Notwithstanding sub-rule 58.1, no exercise of the power under that sub-rule by the *trustee company* shall:
- 58.3.1 prejudice any exoneration or indemnity under rule 72 (Indemnity);
 - 58.3.2 be exercised where the *trustee company* has a right of action against the *institution* which currently employs, or formerly employed, that individual and the act or omission of that individual was carried out within the actual or ostensible scope of that individual's authority as a current or former employee or officer of that *institution*; or
 - 58.3.3 be exercised where under section 91(5)(e) of *PA 95* the monetary obligation arises out of a breach of trust by that individual and the Court has under section 61 of the *Trustee Act* relieved that individual wholly or partly from liability.

59. TRUSTEE COMPANY

- 59.1 The *trustee company* is the trustee of the *scheme*.
- 59.2 The statutory power of appointing new trustees shall apply subject to sub-rules 59.3 and 59.4.
- 59.3 A corporate body may be appointed a sole trustee of the *scheme*, notwithstanding that it is not a trust corporation.
- 59.4 No new trustee shall be appointed unless and until the *JNC* has approved the appointment by resolution.
- 59.5 Subject to the *rules*, the *trustee company* shall have sole and absolute control of the *fund* and its administration.
- 59.6 The *trustee company*, or any other corporate body which is a trustee of the *scheme*, shall be repaid out of the *fund* all expenses and costs which may be incurred by it and shall be entitled to such remuneration (if any) as may be agreed between the *trustee company* (or that other body) and the *JNC*.
- 59.7 The *trustee company* may act by resolution of the *board*. The *trustee company* may enter into any document or instrument by the signatures of any 2 directors of the *trustee company*, or of any one director and the secretary of the *trustee company*.
- 59.8 No director or officer of the *trustee company* shall be disqualified from exercising any power or discretion vested in the *trustee company* by reason of their being actually, prospectively, or contingently entitled to any *relevant benefit* under the *scheme* or being a *member*, *eligible employee* or officer of an *institution*.
- 59.9 The *trustee company* may appoint as officers of the *scheme* such persons as the *trustee company* may require for its proper administration and may pay the remuneration and other expenses properly attributable to their employment out of the *fund*.

60. ADMINISTRATOR

The *trustee company* is the administrator of the *scheme* for the purposes of section 270 of *FA 04*, unless the *trustee company*, with the *JNC's* consent, decides otherwise.

61. JOINT NEGOTIATING COMMITTEE

61.1 Functions

The functions of the *JNC*, in addition to other functions prescribed in these *rules*, are:

- 61.1.1 to approve any amendment to the *rules* proposed by the *trustee company*;
- 61.1.2 to initiate or consider amendments to the *rules*; and
- 61.1.3 to consider any amendments to the *rules* proposed by the *advisory committee* arising out of the operation of the *rules*.

61.2 Constitution

- 61.2.1 The *JNC* shall consist of 11 persons, 5 of whom shall be *UUK appointees* and 5 of whom shall be *UCU appointees*. There shall be one independent member to act as chairman.
- 61.2.2 If a significant number of non-university *institutions* participate in the *scheme*, *UUK* and *UCU* may agree that one each of their respective nominees shall be appointed to represent the interests of such non-university *institutions* and their *eligible employees*.
- 61.2.3 Neither *membership* of the *scheme* nor being a member of any one or more of the *board*, the *advisory committee* or the *investment committee* shall disqualify a person from membership of the *JNC*.

61.3 Appointment and removal of UUK and UCU appointees

- 61.3.1 The appointment of any member of the *JNC* (except of the independent committee member) may be terminated at any time by the body which made it.
- 61.3.2 That body may appoint any other person in place of one whose appointment is terminated or who has died, retired or resigned.
- 61.3.3 Any removal or appointment to the *JNC* shall take effect only if it has been notified in writing to the chairman of the committee under the hand of a person duly authorised by the appointing body.

61.4 Appointment and removal of the independent committee member

61.4.1 The independent committee member may be appointed or removed by resolution of the *JNC* at which at least 3 *UUK appointees* and 3 *UCU appointees* vote in favour of the appointment or removal.

61.4.2 Where the *JNC* cannot agree upon an appointment, the Secretary of State for Innovation, Universities and Skills shall be asked to nominate the independent committee member.

61.5 Resignation of a committee member

A committee member (except the independent committee member) may resign from office by notice in writing to both the chairman of the *JNC* and the body by which the person was nominated. The independent committee member may resign by notice in writing to the *JNC*.

61.6 Appointment of an alternate

61.6.1 Any committee member may by notice in writing to the *JNC* appoint any other person to act as an alternate at a meeting of the *JNC* from which that committee member is absent.

61.6.2 The independent committee member may only appoint an alternate to act if the alternate is acceptable to a majority of both the *UUK appointees* and the *UCU appointees*.

61.6.3 An alternate appointed under sub-rule 61.6.1 shall be entitled, during that appointment, to receive notice of meetings of the *JNC* and to attend and vote in place of the committee member who made the appointment. A committee member who is appointed as an alternate by another committee member shall be entitled to vote at a meeting of the *JNC* on behalf of the committee member who makes the appointment, in addition to the vote which the alternate has as a committee member, and shall be considered as 2 committee members for the purpose of making a quorum.

61.6.4 A committee member who appoints an alternate under sub-rule 61.6.1 may remove the alternate from office by written notice to the *JNC*. That

alternate may also be removed from office by written notice from the other committee members to the chairman.

61.7 **Conduct of meetings**

- 61.7.1 The *JNC* may regulate its meetings as it thinks fit and may determine the quorum necessary for the transaction of business. Until otherwise determined by the *JNC*, 5 committee members, comprising 2 *UUK appointees*, 2 *UCU appointees* and (except at any meeting to remove or appoint the independent committee member) the independent committee member, shall constitute a quorum.
- 61.7.2 A meeting of the *JNC* at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in the *JNC*.
- 61.7.3 A committee member may convene a meeting of the *JNC* to be held at the offices of the *trustee company* or at such other place as the *JNC* may determine. A meeting shall be convened at the request of the *trustee company* to consider any proposal by the *trustee company* which requires the consent of the *JNC*.
- 61.7.4 Questions arising at any meeting shall be decided by a majority of votes. The chairman shall have a second or casting vote in the case of an equality of votes.
- 61.7.5 A resolution in writing signed by each member of the *JNC*, or on that member's behalf by a duly appointed alternate member, shall be valid and effective as if it had been passed at a meeting of the *JNC* duly convened and held. Such a resolution may consist of several documents in like form signed by one or more members of the *JNC* (or the alternate of any such member).
- 61.7.6 A committee member normally resident in the United Kingdom is not entitled to require that notice of any meeting of the *JNC* be served on him or her at an address outside the United Kingdom.
- 61.7.7 The *JNC* shall cause proper minutes to be kept of its meetings. Such minutes shall be prima facie evidence of the matters stated in them.

61.8 Delegation to a sub-committee

The *JNC* may delegate the exercise of any of its powers to a sub-committee of its members, provided that the sub-committee includes at least one *UUK appointee*, or that member's alternate, and at least one *UCU appointee*, or that member's alternate. The business of the sub-committee shall be conducted in such manner as the *JNC* may stipulate, but otherwise at the sub-committee's discretion. A written resolution signed by the members of the sub-committee shall be as valid and effective as a written resolution of the *JNC*.

61.9 Expenses and provision of services

The *trustee company* shall make available to the *JNC* such services as the *JNC* shall reasonably require. The reasonable expenses of the *JNC*, including the cost of seeking independent professional advice, shall be payable out of the *fund*.

62. ADVISORY COMMITTEE

62.1 Functions

The functions of the *advisory committee* shall be to advise the *trustee company* on any matters on which it requires advice, including:

- 62.1.1 the exercise of its powers and discretions (except for any matter falling within the jurisdiction of the *investment committee*, save in exercising its *dispute resolution function*);
- 62.1.2 matters of difficulty in the interpretation or application of the *rules*; and
- 62.1.3 any complaints received from *members*, *former members*, *pensioner members* or *ex-spouse participants* or from *institutions* and to recommend how such complaints shall be dealt with.

The *advisory committee* shall also exercise its *dispute resolution function*.

62.2 Constitution

- 62.2.1 The *advisory committee* shall have an ordinary membership of 6 persons, of whom 3 shall be *UUK appointees* and 3 shall be *UCU appointees*.
- 62.2.2 When exercising its *dispute resolution function*, 2 additional members shall be appointed, one by the *UUK directors* and one by the *UCU directors*, each from among their number. Those additional members shall participate in the business of the *advisory committee* only for the purposes of its *dispute resolution function* and only whilst they are members of the *board*.
- 62.2.3 If neither of the additional members and neither of their alternates is able to participate in the exercise of the *dispute resolution function*, the *board* may appoint any *co-opted director* (who is not otherwise a member of the *advisory committee*) to the *advisory committee* on a temporary basis to enable the relevant business to be concluded.
- 62.2.4 Subject to sub-rule 62.6, the *board* shall resolve any doubt or disagreement as to whether or not the *advisory committee* is exercising its *dispute resolution function* in any particular case.

62.3 Appointment and removal of members, additional members and co-opted directors

Members of the *advisory committee* may be appointed and removed in accordance with the provisions of sub-rules 61.2.3, 61.3 (Appointment and removal of UUK and UCU appointees) and 61.5 (Resignation of a committee member), as if it applied to the *advisory committee*, except that:

- 62.3.1 the additional members of the *advisory committee* may be removed only by the *UUK directors* or the *UCU directors*, dependent on which was the appointing body;
- 62.3.2 a *co-opted director* may be removed by the *board* (excluding the *co-opted director* to be removed); and
- 62.3.3 the *UUK directors* and the *UCU directors* shall each be treated for the purposes of sub-rule 62.2 (Constitution) and this sub-rule as a single continuing body, notwithstanding any changes in composition, and each body may act by written agreement of the majority of its members.

62.4 Appointment of an alternate

- 62.4.1 A member of the *advisory committee* may appoint a person to act as an alternate at a meeting of the *advisory committee*, as if sub-rule 61.6 (Appointment of an alternate) applied to the *advisory committee*, subject to sub-rules 62.4.2 and 62.4.3.
- 62.4.2 An additional member of the *advisory committee* may not appoint an alternate from the ordinary membership of that committee and may only appoint an alternate who is a member of the *board*. Such an alternate may be removed only by that additional member or by the *board* (excluding the alternate being removed). Such an alternate shall be automatically removed on ceasing to be a member of the *board*.
- 62.4.3 A *co-opted director* appointed to the *advisory committee* to serve in the exercise of its *dispute resolution function* may not appoint an alternate.

62.5 Conduct of meetings

- 62.5.1 The *advisory committee* may regulate its meetings as it thinks fit and may determine the quorum necessary for the transaction of business. Until otherwise determined, 4 ordinary members (comprising 2 *UUK appointees* and 2 *UCU appointees*) shall constitute a quorum.
- 62.5.2 When exercising its *dispute resolution function*, no meeting of the *advisory committee* shall be quorate without the presence of either an additional member (or an alternate of such a member) or a duly appointed *co-opted director*.
- 62.5.3 A decision of the *advisory committee* may be made either by a majority of those members present and voting, or by a written resolution signed by each member who would have been entitled to vote at such a meeting (or by a duly appointed alternate member). Such a written resolution shall be valid and effective as if it had been passed at a meeting of the *advisory committee*. The written resolution may consist of several documents in like form each signed by one or more members of the *advisory committee* (or the alternate of any such member). The signature of a member who is also alternate for another shall be treated as the signature of both. All decisions of the *advisory committee* shall be notified to the *trustee company*.
- 62.5.4 Sub-rules 61.7.2, 61.7.3, 61.7.6, 61.7.7 and 61.9 (Expenses and provision of services) shall apply to regulate the meetings of the *advisory committee* in the same manner as they are expressed to regulate meetings of the *JNC*, subject to sub-rule 62.5.5.
- 62.5.5 The *advisory committee* shall appoint one of their own number to be chairman. The chairman shall not have a casting vote.
- 62.5.6 At the request of the *board* or of a duly authorised officer of the *trustee company*, a meeting of the *advisory committee* shall be convened to consider any matter on which the *board* requires advice or a decision from the *advisory committee*.

62.6 Issues of principle or policy in exercising the dispute resolution function

- 62.6.1 Where, in the opinion of both of the additional members of the *advisory committee* or of any *co-opted director* duly appointed to that committee (whether or not this opinion is shared by any of the remaining members of the *advisory committee*), a decision by the *advisory committee* in the exercise of its *dispute resolution function* would or does involve a significant issue of principle or policy, the additional members or the *co-opted director* (as the case may be) may require the *advisory committee* to refer the matter to the *board*, together with the *advisory committee's* views (if any).
- 62.6.2 The power in sub-rule 62.6.1 may be exercised at any time prior to a decision of the *advisory committee* on the matter in question, or subject to sub-rule 62.6.3, within 2 days (excluding any Saturday, Sunday or bank holiday) following the day of the decision. The power shall be deemed to have been exercised as soon as notification of its exercise has been given by each additional member of the committee participating in the business, either orally at a meeting of the committee or in writing to the *trustee company*.
- 62.6.3 No decision of the *advisory committee* in exercising its *dispute resolution function* shall take effect when the power under sub-rule 62.6.1 may still be exercised in respect of it. Where that power of referral is exercised, any decision of the *advisory committee* on the matter shall, subject to sub-rule 62.6.4, be suspended and revocable pending consideration of the matter by the *board*. The *board* may confirm, revoke or vary the decision or remit it for further consideration and determination by the *advisory committee*.
- 62.6.4 The *advisory committee* may, with the consent of the additional member and of the *co-opted director*, determine that its decision in that case shall take immediate effect. Where the *advisory committee* has made that determination, no power of referral to the *board* may be exercised under sub-rule 62.6.1 after a decision has been made on it by the *advisory committee*.

62.7 **Power to inform JNC of matter in dispute**

If the *trustee company* declines to accept the advice of the *advisory committee* in any case, the *advisory committee* may inform the *JNC* of the matter in dispute. If the matter can be rectified by an amendment of the *rules*, the *advisory committee* may request the *JNC* to propose such an amendment under sub-rule 76.7 (Amendment).

63. INVESTMENT COMMITTEE

63.1 Function

The *investment committee* of the *board* is established under the articles of association of the *trustee company* to advise the *trustee company* on all questions relating to the investment of the assets of the *fund*.

63.2 Constitution

The *investment committee* shall consist of not fewer than 3 nor more than 10 persons. At least one of those persons shall be a member of the *board* ("*ordinary committee member*"). Not more than 5 of those persons shall be persons whom the *board* may decide to co-opt because they have special skills or are able to give competent advice to the *trustee company* on the investment policy of the *fund* ("*special committee members*"). A member of the *board* with the requisite skills may be appointed a *special committee member*.

63.3 Appointment and removal of members

63.3.1 The *board* may for any reason which it considers adequate remove a member of the *investment committee* from office.

63.3.2 A vacancy in the membership of the *investment committee* may be filled or left vacant as the *board* shall decide.

63.3.3 The *board* may appoint additional members of the *investment committee*, subject to the requirements of sub-rule 63.2.

63.4 Conduct of meetings

63.4.1 The *investment committee* shall meet at least once in every quarter and shall make a written report to the *board* of its deliberations and decisions, including any changes to the investment policy of the *fund*.

63.4.2 The articles of association of the *trustee company* shall regulate the conduct of meetings of the *investment committee*. Unless and until otherwise determined, the quorum shall be 3 members of the *investment committee*, of whom at least one shall be an *ordinary committee member* and 2 shall be *special committee members*.

63.5 **Delegation**

The *board* shall retain the overall power of investment in relation to the *fund* but may delegate, on such terms as it may impose, to the *investment committee* the power of the *trustee company* to decide the investment policy of the *fund*.

63.6 **Appointment of investment manager**

63.6.1 The *trustee company*, acting on the advice of the *investment committee*, may appoint one or more investment managers of the *scheme*, who shall be paid out of the *fund*. The *trustee company*, acting on the advice of the *investment committee*, may remove and replace any such investment manager. The *trustee company* may delegate to such an investment manager all or any of its investment powers, other than the power to decide overall investment policy.

63.6.2 The investment manager shall, if required, report to each meeting of the *investment committee* all details of transactions authorised by the investment manager since the date of the investment manager's last report and produce such further information as the *investment committee* shall require. The investment manager's report (if any) shall be included in the *investment committee's* report to the *board* under sub-rule 63.4.1.

63.6.3 Subject to the approval of the *board*, the investment manager may employ such persons as the investment manager considers necessary to carry out the investment manager's duties effectively. Such persons shall be remunerated for their services out of the *fund*.

64. INVESTMENT POWERS

64.1 Power to invest as beneficial owner

All trust moneys in the *fund* shall either be placed on current or deposit account with a bank, or invested in the name or under the legal control of the *trustee company* in the purchase, or at interest upon the security, of such investments or property, whether involving liability or not, and whether producing income or not, or upon such personal credit, with or without security, as the *trustee company* shall think fit, to the intent that the *trustee company* shall have the same full and unrestricted powers of investing and transposing investments as if it was absolutely entitled to the *fund* beneficially.

64.2 Particular types of investment

Without prejudice to the generality of sub-rule 64.1, trust moneys may:

- 64.2.1 be invested in or upon any securities the holding of which is restricted to a particular class of persons, the *trustee company* being a member of that class;
- 64.2.2 be invested in or upon any securities of any of the *institutions* or of any corporate body which is a trustee of the *fund*;
- 64.2.3 be lent (with or without security) to any body corporate which is a trustee of the *fund* and whose business comprises the business of banking, without such trustee being liable to account for any profits made in respect thereof;
- 64.2.4 be invested in holdings of foreign currencies or in loans, bonds or other investments denominated in such currencies;
- 64.2.5 be used for entering into or meeting liabilities under underwriting or sub-underwriting contracts of all kinds and whether resulting in the actual investment of trust moneys or not;
- 64.2.6 be used for entering into or meeting liabilities under any other contracts (including traded options, financial futures and forward currency transactions) which the *trustee company* shall consider appropriate for the

purpose of augmenting the capital or income of the *fund*, or protecting the *fund* against the possibility of loss of capital or income, and such as not to expose the *fund* to undue risks, and notwithstanding that any such contract may not involve the acquisition of pre-existing property or rights or may require the temporary deposit, or a temporary delegation of, the management of assets forming part of the *fund*;

64.2.7 be invested by effecting with one or more *insurers* deferred annuity policies, annuity policies or contracts for the purpose of providing pensions or benefits (whether immediate or future and whether contingent or otherwise) for the purposes of the *scheme* and the *trustee company* shall have full power to deal with and dispose of any such policy, whether by sale surrender or otherwise in such manner as the *trustee company* shall think fit; and

64.2.8 be applied in any form of investment which may come to be developed, recognised and adopted as a new form of investment in reputable financial circles.

64.3 **Lending assets**

The *trustee company* shall have the like powers of lending property other than money comprised in the *fund* at interest, or using it for the purpose of effecting or facilitating contracts or otherwise applying it, as if it were money.

64.4 **Delegation**

The *trustee company* may delegate all or any of its powers of making and managing investments, and of keeping a register of them, to any person, firm or company whom it considers competent to do so, and to pay to such person, firm or company such fees as the *trustee company* considers to be reasonable in the circumstances. Where any asset held for the benefit of the *fund* is vested in a partnership in which the *trustee company* is a partner, the *trustee company* may arrange or agree that the management of that partnership and its investments be carried on by another person who is a partner therein (or by a person appointed by such partner as the manager of that partnership) subject to such terms and conditions as the *trustee company* may think fit (which may include remuneration for that management, wholly or partly by a share in the profits of that partnership).

64.5 **Nominees**

The *trustee company* may permit all or any part of the assets of the *fund* to be held in the name of nominees for the *trustee company*, if it considers it expedient to do so for the efficient management of the investment of the *fund*.

64.6 **Land**

64.6.1 The *trustee company* shall, in relation to any *land* held as an investment of the *fund*, have the same full and unrestricted powers of dealing with and disposing of it as if it were the absolute beneficial owner.

64.6.2 Without prejudice to the generality of its investment powers, the *trustee company* may enter into or form any partnership (whether a general partnership or a limited partnership) which has as its objective investment in *land* or the development of *land* for investment purposes and may transfer any *land* to any partner of such partnership (or nominee of such partnership) to be held on the terms of such partnership.

64.7 **Stock lending arrangements**

64.7.1 Without prejudice to the generality of the powers conferred on the *trustee company* under sub-rules 64.1 to 64.4, the *trustee company* may conclude and implement any stock lending arrangements (within the meaning of section 263B of the Taxation of Chargeable Gains Act 1992). The *trustee company* may appoint a bank or other financial institution authorised by law as its agent or delegate in connection with the carrying into effect of those arrangements and may authorise the sub-delegation of its powers by such institution.

64.7.2 The *trustee company* may conclude such agreements in connection with those arrangements and for the protection of the *fund* (including, without limitation, the provision to the *trustee company* of appropriate collateral to secure the obligations owed to it under those arrangements) as the *trustee company* may think fit.

64.8 **Indemnities and guarantees**

The *trustee company* may enter into such indemnities and provide such guarantees as it may consider requisite or desirable in connection with any exercise of its powers of investment, including the retention or development of any freehold or leasehold property in which it has any interest.

65. BORROWING POWERS

- 65.1 The *trustee company* shall have power, in the same manner and to the same extent as if it were the absolute and beneficial owner, to borrow any money required for the purposes of the *scheme* by the sale, conversion, calling in, mortgage or charge of all or any part of the *fund*.
- 65.2 The *trustee company* may delegate the exercise of its borrowing power under sub-rule 65.1 to any person to whom the *trustee company's* investment power has been delegated under sub-rule 64.4 (Delegation), upon such terms and subject to such limitations as the *trustee company* shall think fit, for the purpose of facilitating the making and transposing of investments by such person on its behalf. All interest on such borrowing shall be paid out of the *fund*.

66. PERSONAL INTEREST

Any officer of the *trustee company* or member of the *board*, the *JNC*, the *advisory committee* or the *investment committee* who is engaged in any profession or business may act (either alone or jointly with one or more partners or through any person, firm or company) in a professional capacity for the *trustee company* or those committees and shall be entitled to be paid for all such work done.

67. PERSONAL DEALING IN INVESTMENTS

67.1 Adoption and applicability of the code of conduct

67.1.1 The *board* (or a duly authorised sub-committee of the *board*) shall adopt (and may amend) a code of conduct to regulate the terms on which any officer or employee of the *trustee company* may engage in dealings in any investment otherwise than for or on behalf of the *scheme* or the *trustee company*.

67.1.2 Subject to sub-rule 67.2, the code shall apply to such employees and officers of the *trustee company* as the *trustee company* may think fit, whether or not the *trustee company* has delegated to, or conferred upon, them the authority to exercise any of the *trustee company's* powers under rule 64 (Investment powers).

67.1.3 The code may impose on any officer or employee of the *trustee company* an obligation to use best endeavours to secure that any other person with a connection to that person of a kind specified in the code complies with the code.

67.1.4 For the purposes of this sub-rule, officers of the *trustee company* shall include its directors and members of any sub-committee of the *board*. "Director" shall have the meaning it has in the Financial Services and Markets Act 2000 in relation to bodies corporate.

67.2 Content of the code of conduct

67.2.1 The code shall comply with the relevant requirements (whether or not legally binding) of the Financial Services Authority and of any other regulatory body exercising functions under the Financial Services and Markets Act 2000 in relation to the *trustee company*.

67.2.2 The code shall expressly prohibit any personal dealing by any person to whom it applies which would amount to a breach of Part 5 of the Criminal Justice Act 1993 (Insider Dealing).

67.2.3 The code may contain such provisions as the *board* shall consider appropriate where any personal dealing is proposed that could give rise to a conflict with the interests of the *scheme* or of the *trustee company*.

67.2.4 The code may confer authority on any person approved by or on behalf of the *board* to give or withhold the consent of the *trustee company*, on such terms and conditions as the *board* may think fit, to personal dealings in accordance with the code. Such person may include (without limitation) any officer or employee of the *trustee company*, whether or not that person is subject to the code, and any members of the *board* or of any duly authorised sub-committee of the *board*.

67.3 **Ongoing review of the operation of the code of conduct**

67.3.1 The *board* (or a duly authorised sub-committee on its behalf) shall keep under review the operation of the code.

67.3.2 Where the *board* entrusts such a review to any sub-committee, the *board* shall require that sub-committee to report to it at least annually on that review or at such more frequent intervals as the *board* may decide.

67.3.3 The *board* (or a duly authorised sub-committee on its behalf) may relax any provision of the code and ratify a personal dealing made otherwise than in accordance with the code (including power retrospectively to give consent which was required under the code but which was not obtained by any individual).

67.4 **Personal dealing in accordance with the code of conduct**

Where an individual to whom the code applies makes a personal dealing in accordance with the code, or where any breach of the code is ratified by (or otherwise remedied to the satisfaction of) the *trustee company* under sub-rule 67.3.3 above, no such individual shall be required to account to the *trustee company* for any investment acquired by virtue of that personal dealing nor for any profit or benefit derived from the retention of, or subsequent dealing with, that investment.

67.5 Amendments to the code of conduct

67.5.1 Amendments to the code by a sub-committee of the *board* may be made by an individual member of the sub-committee (to whom that function has been delegated by that sub-committee), but no such amendment made by such an individual member shall continue to have effect unless it has been confirmed or ratified by that sub-committee, or by the *board*, within 4 months of the date on which it was made.

67.5.2 If the amendment is not subsequently so confirmed or ratified, any personal dealing made during the interim period, pursuant to that code as so amended, shall not be in breach of the code, provided that the amendment does not itself breach any legal requirement imposed on the *trustee company*.

68. ACCOUNTS, AUDITS AND REPORTS

- 68.1 The *trustee company* shall keep proper books of account showing all the dealings with the assets of the *fund*. An income and expenditure account and balance sheet of the *fund* made up to the *accounting date* shall be prepared and audited in accordance with section 41 of *PA 95*.
- 68.2 There shall be annexed to the accounts and balance sheet a report of the *trustee company* on the *scheme*, including its administration, and a report of the activities of the *JNC*, the *advisory committee* and the *investment committee*.
- 68.3 As soon as possible after the accounts and balance sheet of the *fund* have been audited, the *trustee company* shall circulate to the *employers*, *UUK* and *UCU* a copy of the accounts and balance sheet of the *fund*, together with a copy of the auditor's report, the reports referred to in sub-rule 68.2, and the report and accounts of the *trustee company* prepared in accordance with Part 15 of the Companies Act 2006.

69. REMUNERATION OF COMMITTEE MEMBERS

The *trustee company* may, with the approval of the *JNC*, remunerate members of the *board*, the *JNC*, the *advisory committee* and the *investment committee* out of the *fund* for their services and reimburse them (whether remunerated or not) for all expenses properly incurred in connection with the *scheme*.

70. COSTS AND EXPENSES

- 70.1 Subject to section 256 of *PA 04* and to paragraph 13 of schedule 7 (Pension sharing on divorce etc), all costs and expenses of managing and administering the *scheme* incurred by the *trustee company* shall be paid out of the *fund* (except to the extent that they may be paid by the *institutions*), including any sum which the Pensions Ombudsman (or any of its successors) directs the *trustee company* to pay, or to consider for payment, by way of compensation or otherwise, for any act or omission for which the *trustee company* is found responsible by that ombudsman.
- 70.2 Where any such costs and expenses arise from the breach by an *institution* of any law requiring treatment of part-time workers which is no less favourable than that accorded to full-time workers, or from the failure of an *institution* to provide timely and accurate information to enable the *trustee company* to determine a *part-time service fraction*, those costs and expenses shall be payable by that *institution*.

71. POWER TO COMPROMISE CLAIMS

71.1 The *trustee company* may compromise or satisfy any claim brought against it by any *member, former member, ex-spouse participant* or *pensioner*, or by any person claiming in respect of any such individual, in relation to any loss or other injustice suffered by such person (including distress or inconvenience) that arises from any act or omission in good faith by the *trustee company* in the actual or purported administration of the *scheme* (including any act or omission on its part which could give rise in its opinion to a sustainable claim against the *trustee company* under Part 10 of *PSA 93*), subject to sub-rules 71.4 to 71.6.

71.2 The power under sub-rule 71.1 may be exercised without prejudice to:

71.2.1 the power of the person or persons appointed by the *trustee company* for the purposes of section 50 of *PA 95*;

71.2.2 the powers of the *advisory committee* under the *rules* and in particular its *dispute resolution function*;

71.2.3 the powers of the *trustee company* under section 15 of the *Trustee Act*, which may be exercised concurrently with the power conferred under this sub-rule;

71.2.4 the obligation of the *trustee company* to pay interest on payments which are due from it under the *rules* under sub-rule 29.4 (Payment of pensions).

Compensation under sub-rule 71.1 shall not be paid twice in respect of the same loss.

71.3 The *trustee company* may exercise its power under sub-rule 71.1 by augmenting or providing *relevant benefits* under the *scheme*, or by making any other payment out of the *fund*.

71.4 The power under sub-rule 71.1 shall not be exercised in respect of a claim in relation to which the *advisory committee* may exercise its *dispute resolution function*, unless the *advisory committee* shall have agreed either to the exercise of the power in respect of that claim, or to its exercise in relation to a specified class of claims within which, in the written opinion of the chairman of the *advisory committee*, the particular claim

falls. Consideration by the *advisory committee* whether so to agree shall be treated as exercising its *dispute resolution function*.

- 71.5 The power under sub-rule 71.1 shall not be exercised in relation to any claim so as to involve a cost to the *scheme* or to any *institution*, unless the *Funding Council* shall have agreed either to such exercise in that case, or to such exercise in relation to a class of cases within which that case falls. Membership of such a class shall be defined by reference to one or more specified criteria, which may include the cost to the *scheme* of exercising the power in a case, as determined by the *trustee company* (on *actuarial advice* where appropriate), or the facts and circumstances giving rise to the claim.
- 71.6 Where, in the opinion of the *trustee company*, loss has arisen to any person by reason of an act or omission that was wholly or partly attributable to an act or omission by an *institution* and the *trustee company* decides to exercise its power under sub-rule 71.1, the *trustee company* may, after consulting with that *institution*, require that *institution* (which for this purpose shall be deemed to be the *employer*) to make a contribution to the *fund* (or to the *MPAVC fund*) of an amount which the *trustee company* determines to be no more than the amount of its costs arising from that exercise of its power as are attributable to that act or omission of the *institution*, disregarding any indemnity in favour of the *trustee company* under rule 72 (Indemnity).

72. INDEMNITY

72.1 Without prejudice to any right of indemnity given to them by law, the *trustee company* and the members of the *board*, the *JNC*, the *advisory committee* and the *investment committee* shall be entitled to an indemnity against the assets of the *fund* in respect of:-

72.1.1 all liabilities incurred in the performance or purported performance of their obligations under, or in the administration of, the *scheme*, so long as those liabilities are incurred in good faith and without any fraudulent or wrongful intent or culpable negligence and to the extent that such indemnification would not be prohibited by section 256 of *PA 04*; and

72.1.2 all expenses properly incurred by them in the execution of the trusts of the *scheme*, including in connection with any liability for which they may be indemnified under sub-rule 72.1.1 or in connection with any breach of trust for which they are exonerated from liability under sub-rule 72.2.

72.2 Neither the *trustee company* nor the members of the *board*, the *JNC*, the *advisory committee* or the *investment committee* shall be liable for any breach of trust, provided that no director or employee of the *trustee company* nor any member of such committees shall be released from any liability in respect of:-

72.2.1 that person's fraud or deliberate or culpable disregard of the interests of those actually, prospectively or contingently entitled to any *relevant benefit* under the *scheme*; or

72.2.2 any liability for breach of an obligation under any rule of law to take care or exercise skill in the performance of any investment functions under the *scheme* in the circumstances referred to section 33 of *PA 95*,

but neither any director or employee of the *trustee company* nor any member of such committees shall be liable for any act or default of any fund manager (within the meaning of section 47 of *PA 95*) where the requirements of section 34(4) or (6) of *PA 95* have been met.

72.3 The *trustee company* may enter into such agreements and give such undertakings, indemnities or guarantees which are binding upon the *fund* as the *trustee company*

may decide to be necessary or desirable for the proper and efficient administration of the *scheme*.

- 72.4 The *trustee company*, in making any investment which requires an indemnity to be given by the *trustee company* against liabilities arising in the event that the investment involves or results in the de-registration of the *scheme* under section 157 of *FA 04*, has power to give such an indemnity so as to bind the *fund*, notwithstanding that the indemnity may only become operative by reason of a breach of trust on the part of the *trustee company*.

73. ACTUARIAL INVESTIGATION

- 73.1 There shall be an actuarial investigation of the *scheme* by the *actuary* appointed for that purpose at intervals of not more than 3 years. Following each actuarial investigation, the *actuary* shall report to the *trustee company* on the financial condition of the *scheme* and shall make such recommendations as the *actuary* shall think fit, including as to the contributions to be payable by the *employers* under rule 7 (Ordinary employer contributions).
- 73.2 The actuarial valuation and actuarial statement to be prepared by the *actuary* shall comply with Part 3 of *PA 04* and be sufficient to enable the *trustee company* to comply with its obligations under that Part.
- 73.3 In the event of the actuarial investigation disclosing that an alteration in or addition to the *scheme* is desirable, the *trustee company*, in consultation with the *JNC* and in accordance with rule 76 (Amendment), shall take such steps as it shall consider appropriate to achieve such alteration or addition.

74. LIABILITY OF INSTITUTIONS

No *institution* shall have any liability in connection with the *scheme*, except as expressly provided in the *rules* and except for any liability incurred under *PA 95* or other duty which may not by law be excluded.

75. DISPUTE RESOLUTION

75.1 Dispute resolution procedure

The *trustee company* shall operate an internal dispute resolution procedure in accordance with section 50 of *PA 95*. Until all stages of that procedure have been exhausted in relation to any disagreement within its scope, including those contemplated under the *advisory committee's dispute resolution function* and referred to under sub-rules 62.6.1 and 62.6.2, the *trustee company* shall not, subject to sub-rule 75.3, consent to the disagreement being referred to outside arbitration.

75.2 Referral to arbitration

Except in so far as the resolution of any disagreement or other matter of doubt is otherwise provided for by these *rules* or Part 10 of *PSA 93*, any disagreement arising under the *rules* may, by consent of the parties to or affected by it, be referred to arbitration in accordance with the Arbitration Act 1996. If the *trustee company* is a party to such disagreement, then, unless the parties otherwise agree, the seat of arbitration shall be in England and there shall be a single arbitrator appointed by the President of the Law Society of England and Wales.

75.3 Dispute relating to contractual pension age

Where the disagreement is between a beneficiary under the *scheme*, the *trustee company* and/or any *employer*, or any employer which formerly participated in the *scheme*, and relates to:

75.3.1 the existence or nature of a right to a *CPA* or its effect on entitlements under the *scheme*;

75.3.2 the adequacy of the evidence required to establish a *CPA*; or

75.3.3 the amount of any adjustment to any *relevant benefits* or of any compensatory cash sum payable in relation to a *CPA* (other than matters of actuarial science and practice, which shall be determined by the *actuary*),

the parties to the disagreement may, without prejudice to their rights to seek a Judgment or order of the Court or of a tribunal of competent jurisdiction, agree to

refer the matter to arbitration by an appropriately experienced independent Counsel of at least 10 years' standing, nominated by the *trustee company*, to act as an arbitrator and not as an expert. The costs of such referral shall be borne by such parties in such proportions as the arbitrator shall see fit.

76. AMENDMENT

76.1 Power of amendment

Subject to the provisions of this rule, the *trustee company* may by deed repeal, alter or add to all or any of the *rules*.

76.2 Not to affect existing benefits

No amendment shall prejudice or affect any pension or annuity payable at the date of such amendment under the *scheme*, or the rights of any *member, former member, ex-spouse participant* or *pensioner* who is at the date of such amendment excused from or not liable for contributions under the *scheme*.

76.3 Not to affect purpose of the scheme

No amendment shall have the effect of altering the purpose of the *scheme*, which shall continue to be the provision of *relevant benefits* for *eligible employees, relatives, dependants* and *ex-spouses*.

76.4 Not to return to institutions any part of the fund

No amendment shall result in the return to any *institution* of any part of the *fund*, save under rule 79.4.5.

76.5 Consent of the JNC and Funding Council

76.5.1 Subject to sub-rule 76.5.2, no amendment shall be made without the written consent of the *JNC* and of the *Funding Councils*.

76.5.2 The written consent of the *Funding Councils* shall not be required where the amendment relates to or affects only supplementary benefits.

76.5.3 Subject to sub-rule 76.5.4, an amendment shall be effective from the date of execution of the deed of amendment under sub-rule 76.1, or from any earlier or later date specified in that deed.

76.5.4 If the *JNC* and/or any of the *Funding Councils*, in consenting to an amendment, make that consent subject to an express stipulation that the amendment is not to operate until all relevant consents have been

obtained, the amendment shall not take effect until all such consents have been obtained.

76.6 Statutory subsisting rights provisions

Any modification of the *scheme* must satisfy the requirements of sections 67 to 67I of *PA 95*.

76.7 Power of JNC to recommend amendment

Where the *JNC* recommends to the *trustee company* any amendment of the *rules*, the *trustee company* shall, in accordance with this rule, take steps to implement the recommendation, unless it appears to the *trustee company*, acting on *actuarial advice*, to:

76.7.1 prejudice unfairly any one or more groups of *members* or *former members* when compared with another or other groups;

76.7.2 impose any unfair liability upon any one or more of the *institutions* or upon the *trustee company*;

76.7.3 be likely to result in *HMRC* having grounds to de-register the *scheme* under section 157 of *FA 04*;

76.7.4 be inconsistent with the constitution of the *scheme* as an irrevocable trust; or

76.7.5 be undesirable for any other reason which the *trustee company* shall notify in a reasoned written statement to the *JNC*.

76.8 Section 37 of the Pension Schemes Act 1993

No amendment shall be made to the *rules* which would be an alteration of the rules of a *contracted-out scheme* which is prohibited by section 37 of *PSA 93*.

77. EVENTS TRIGGERING SCHEME WIND-UP

The *scheme* shall be wound up if:

- 77.1 all the *institutions* so agree in writing;
- 77.2 a majority of the *institutions* so agree in writing and the *trustee company* and the *JNC* concur;
- 77.3 the *trustee company* and the *JNC* so decide on the grounds that the objects for which the *scheme* was established no longer exist or that the administration of the *scheme* cannot conveniently be carried on;
- 77.4 the *perpetuity period* expires; or
- 77.5 an order to that effect is made by the Pensions Regulator under section 11 of *PA 95*.

The effective date of commencement of the winding-up of the *scheme* shall be such date as the *trustee company* may decide, and shall be no earlier than the date of the event triggering the winding-up of the *scheme* and no later than the first date after that event on which there are no *members in service*.

78. CONTINUATION OF SCHEME AS FROZEN SCHEME

On the occurrence of any of the events in rule 77 (Events triggering scheme wind-up), the *trustee company* may, with the prior written consent of the *Funding Councils* and the *JNC* (and of the Pensions Regulator where sub-rule 77.5 applies), defer the winding-up of the *scheme*. The *trustee company* shall then continue to administer the *scheme* as a scheme closed to new entrants and to further accrual of benefits.

79. APPLICATION OF SCHEME ASSETS ON SCHEME WIND-UP

79.1 Active members who have not attained normal retirement age

79.1.1 Subject to sub-rules 79.1.2 and 79.1.3, on the commencement of the winding-up of the *scheme*, *active members* who have not attained *normal retirement age* shall be treated as *former members* to whom rule 14 (Preserved benefits) or rule 16 (Early leavers without preserved benefits) applies.

79.1.2 Unless the *former member* elects otherwise, the contributions paid to the *scheme* by a *former member* who does not have *qualifying service* shall be applied to provide a pension and lump sum at *normal retirement age* (and corresponding payments on death) under sub-rule 16.3.1.

79.1.3 A *former member* shall have the same rights to a cash equivalent transfer value during the course of the winding-up of the *scheme* as if Chapter 4 of Part 4 of *PSA 93* applied and the *trustee company* may extend the time limit for payment of a guaranteed cash equivalent for such period as the *trustee company* may decide.

79.2 Active members who have attained normal retirement age

Active members who attained *normal retirement age* on or before the effective date of the commencement of the winding-up of the *scheme* under rule 77 (Events triggering scheme wind-up) shall be treated as if they had *retired* on that date.

79.3 Application of the fund on a winding-up

79.3.1 On the winding-up of the *scheme*, the *fund* shall be converted into money and, subject to the payment of all costs, charges and expenses then owing and to the discharge of all liabilities to third parties, the *trustee company* shall apply that money in securing the liabilities of the *scheme* in the order required under section 73 of *PA 95*.

79.3.2 The provisions of schedule 15 (Winding-up priority order under scheme rules) shall apply in so far as section 73 of *PA 95* does not apply.

79.3.3 Sub-rule 79.3.1 shall not apply to any *member's fund* (including in respect of an *ex-spouse participant*). No part of any surplus on a winding up of the *scheme* shall be applied to augment any of the benefits payable under rule 35 (Money purchase AVCs), including any benefits in respect of an *ex-spouse participant* to which that rule applies.

79.4 **Apportionment of assets and liabilities on winding-up**

79.4.1 The *trustee company* shall apportion the liabilities referred to in sub-rule 79.3.1 between the *main section* and the *supplementary section* according to the section on which the benefits to be secured would in its opinion have become a charge. If the resources of that section are insufficient to meet the liabilities apportioned to it, those liabilities shall be met from the other section, subject to section 73 of *PA 95* and sub-rule 79.3 (Application of the fund on a winding-up) being complied with.

79.4.2 If after the *trustee company* has secured out of the *supplementary section* the liabilities apportioned to it under sub-rule 79.4.1, there remain resources apportioned to the *supplementary section*, those resources shall be applied first under sub-rule 79.4.3 and secondly under sub-rule 79.4.4.

79.4.3 The *trustee company* may, on *actuarial advice*, and after consulting with the *JNC*, augment the *relevant benefits* payable to or in respect of *ex-spouse participants*, subject to the limits in paragraph 11 of schedule 7 (Pension sharing on divorce etc).

79.4.4 Subject to sub-rule 79.4.3, so far as the resources of the *supplementary section* are sufficient for this, the *trustee company* shall augment the *relevant benefits* payable to or in respect of *members, deferred pensioners* and *pensioner members*, subject to the limits in section 17 of the rules of the *scheme* in force at 5 April 2006. In so far as the resources of the *supplementary section* are insufficient to secure those benefits up to those limits in all cases, the *trustee company* may select such *relevant benefits* as it thinks fit for augmentation, having regard to *actuarial advice* and having consulted the *JNC*, in relation to that selection.

79.4.5 Subject to sub-rules 79.4.3 and 79.4.4, the *trustee company* shall distribute the remaining resources of the *fund* to those bodies which were

institutions immediately before commencement of the winding-up of the *scheme* in such proportions as it shall on *actuarial advice* decide, subject to deduction of any tax charge under Chapter 5 of Part 4 of *FA 04*.

79.5 **Continuance of scheme provisions during scheme wind-up**

Such of the provisions of the *scheme* as the *trustee company* shall consider requisite or desirable to facilitate the winding-up of the *scheme* (including all powers of amendment and of modification of the *scheme* vested in the *trustee company*, subject to the consents required by rule 76 (Amendment)) shall remain in force and be exercisable after the effective date of commencement of the winding-up of the *scheme* until the winding-up of the *scheme* has been completed.

80. SECURING OF BENEFITS ON SCHEME WIND-UP

80.1 The *trustee company* shall satisfy its obligations under sub-rules 79.3 (Application of the fund on a winding-up) and 79.4 (Apportionment of assets and liabilities on winding-up) and (so far as applicable) schedule 15, and be discharged from any further liability in respect of those benefits, by securing the benefits of the relevant *members, former members, ex-spouse participants, pensioners* and *beneficiaries* in accordance with section 74(3) of *PA 95*.

80.2 The *trustee company* may secure benefits for any person under sub-rule 80.1 by:

80.2.1 the acquisition of rights for that person under a *transfer arrangement*, but only if that *transfer arrangement* satisfies the requirements of section 95 or 101F of *PSA 93*, as if the transfer were a transfer at the request of that person of the guaranteed cash equivalent of that person's accrued rights or *pension credit rights* under the *scheme*; or

80.2.2 transferring to that person the benefits of an insurance policy, but only if that policy satisfies the requirements of section 19(4) or 101E of *PSA 93*.

81. NOTICES

81.1 Notice may be given to any person in receipt of or entitled to any benefit from the *scheme* by sending written notice through the post addressed to that person at their last known place of abode. Any notice so sent shall be deemed to be served on the second day following that on which it is posted.

81.2 Every *member, pensioner, former member* and *ex-spouse participant* prospectively entitled to benefit under the *scheme* shall give written notice to the *trustee company* of the address of their residence on first falling within such a description of beneficiary under the *scheme* and also immediately of any change of residence.

IN WITNESS of which this deed has been executed and delivered on the date first shown above.

EXECUTED as a deed and delivered)
by Universities Superannuation Scheme)
Limited by the affixing of its common)
seal in the presence of:)

Authorised Signatory

Authorised Signatory

SCHEDULE 1

Pre-6 April 2006 Revenue limits

1. Scope of this schedule

This schedule applies to any *member* or *former member* who had a period of *active membership* before 6 April 2006 and has (or has had) a period of *active membership* on or after that date, if there was no break in *membership* between those periods, or if *pensionable service* has been credited to that person under rule 37 (Rejoiners) in respect of *membership* before such a break.

2. Pre-6 April 2006 service

In determining, in relation to *pensionable service* or *service* of a *member* or *former member* prior to 6 April 2006, whether or not that individual's *salary* was subject to the *earnings cap*, the *trustee company* shall apply the provisions of section 17 (Inland Revenue limits) and section 17A (Capping of salary) of the rules which governed the *scheme* immediately before the *effective date*.

3. Earnings cap

Subject to paragraph 6, the *salary* of a *1989 Act member* shall not exceed the *earnings cap* for any year ending before 6 April 2006.

4. Pre-6 April 2006 relevant date

The calculation of the benefits payable to or in respect of a *member* or *ex-spouse participant* under the *scheme* by reference to a *relevant date* which is before 6 April 2006 shall be subject to the provisions of section 17 (Inland Revenue limits) of the rules which governed the *scheme* immediately before the *effective date*.

5. Augmentation to pre-6 April 2006 limits

If any of the benefits payable from the *fund* in respect of a *member* or an *ex-spouse participant* under the *scheme* would fall to be reduced by any of the limits in section 17 (Inland Revenue limits) of the rules which governed the *scheme* immediately before the *effective date* then, subject to the other limits in that section, the *trustee company* shall, so far as practicable, augment, by the amount it determines on *actuarial advice* to be equivalent to that reduction, such other benefits as it shall select in respect of that *member* or *ex-spouse*

participant, having regard to any written expression of wish by the *member* or *ex-spouse participant*.

6. Election to remove earnings cap for pre-6 April 2006 service

6.1 Scope of election

This paragraph applies to any *member* or *former member* who has both a period of *active membership* prior to 6 April 2006 and a period of *active membership* on or after that date, provided that there was no break in *membership* between those periods and there is continuity of *membership* under rule 37 or otherwise. This paragraph shall not apply to any *member* to whom benefits (other than a refund of contributions) are or have been in payment from the *fund* by reference to a *relevant date* before 6 April 2006. An election cannot be made under this paragraph unless any election under paragraph 7 has been revoked.

6.2 Employer election

An *employer* may, with the consent of the *member* or *former member*, elect by written notice to the *trustee company* that the *earnings cap* shall not apply to the *salary* or *pensionable salary* of that individual as at any subsequent *relevant date*. Such an election in respect of an individual who has ceased to be in the *eligible employment* of that *employer* must be made within six months of that individual so ceasing, or within such longer period as the *trustee company* may allow.

6.3 Additional employer contribution

An election under this paragraph shall not take effect unless and until the *trustee company*:

6.3.1 has secured written agreement from the electing *employer* that an additional special contribution will be paid by the *employer* under rule 47 (Special employer contributions) (on such terms as the *trustee company* may require) which the *trustee company* shall have determined on *actuarial advice* to be sufficient to meet the cost to the *fund* of disapplying the *earnings cap*; and

6.3.2 is satisfied that the requirements of rule 47 have been met.

6.4 **Additional member contribution**

Where an *employer* makes an election under this paragraph, the *member* or *former member* may elect, with the *employer's* agreement, to pay an additional special contribution to the *scheme*. The amount of that contribution, once paid, shall be deducted from the amount of the contribution payable by the *employer* under subparagraph 6.3 or set off against other contributions falling due to the *trustee company* from that *employer*. Such additional contribution from the individual need not be deducted from *salary*.

6.5 **Total or partial election**

Any election under this paragraph may apply to the whole or any specified proportion of the individual's *pensionable service* for which the *salary* was subject to the *earnings cap*. Where an election has been made under this paragraph in relation to an individual, no such further election may be made in relation to that individual, unless all elections under paragraph 7 below (or section 17C of the rules governing the *scheme* immediately before the *effective date*) have been revoked. Where more than one *employer* has made elections under this paragraph in relation to an individual, second and subsequent elections by *employers* (other than the first *employer* to make an election) shall apply only to the proportion of the individual's *pensionable service* for which no election has already been made under this paragraph.

6.6 **Multiple employments**

An *institution* may make an election under this paragraph in respect of an individual by reference to that individual's *eligible employment* by that *institution*, even if that individual, on or after ceasing such *eligible employment*, remained or became a *member* by reference to *eligible employment* by another *institution*.

7. **Application of scheme specific cap for post-5 April 2006 service**

The *employer* may elect that the scheme specific cap shall apply to the *member's salary* in respect of *pensionable service* completed on or after 5 April 2006 in accordance with section 17C of the rules governing the *scheme* immediately before the *effective date*.

SCHEDULE 2

Enhanced protection option

1. A *member* may elect to discontinue accrual of *pensionable service* by one month's written notice to the *trustee company*, or such other notice period as the *trustee company* may agree, where the *trustee company* is satisfied that the *member* has given, or will give, notice of intention to *HMRC* to rely on paragraph 12 of Schedule 36 to *FA 04*.
2. A *member's* election under paragraph 1 shall not terminate that person's *membership*. The value of the benefits payable in respect of the *member* shall not exceed the maximum compatible with the availability of *enhanced protection*. The benefits payable in respect of the *member* shall be determined by reference to the *member's pensionable service* up to the effective date of the *member's* election under paragraph 1 above and to the *member's pensionable salary* determined as at the date of the *member's retirement* or death or earlier withdrawal from *membership*.
3. Subject to rules 9 (Continuation contributions) and 10 (Late retirement), a *member* to whom this schedule applies shall, from the effective date of the *member's* election, contribute 1% of *salary* to the *fund* or such other rate as may be determined by the *actuary*.
4. Provided that the *member* pays the contributions required by paragraph 3 above, the death benefits payable under each of rules 20 (Lump sum benefits on death in active membership), 24 (Survivor's pension on death of a pensioner member), 25 (Survivor's pension on death in deferment), 26 (Dependant's pension) and 27 (Children's pensions) in respect of a *member* to whom this schedule above applies shall be determined by reference to the *member's pensionable service* up to the effective date of the *member's* election under paragraph 1 above together with any *additional pensionable service* and *supplementary service* that would have been credited to the *member* under rule 13 (Early pensions on incapacity) if that effective date had been the *relevant date* and by reference to the *member's pensionable salary* as at the date of the *member's* death.
5. Benefits will be payable under rules 13 (Early pensions on incapacity) and 21 (Lump sum benefits on death of pensioner member) to or in respect of a *member* to whom this schedule applies who *retires* on the grounds of *total incapacity*, but those benefits shall be determined by reference to the *member's pensionable service* up to the effective date of the *member's* election under paragraph 1 above and to the *member's pensionable salary* determined as at the date of the *member's retirement* or death or earlier withdrawal from *membership*.

6. A *member* may not revoke or vary an election under this schedule, but the *trustee company* may revoke its approval of such an election.

SCHEDULE 3

Adjustments to pensionable salary

Notwithstanding the definitions of *salary* and *pensionable salary*, for the purposes of calculating *pensionable salary* of any *member* or *former member*:

1. Suspension of membership

- 1.1 If *membership* has been suspended at the *relevant date*, *pensionable salary* shall be calculated at the date on which the *member's* contributions to the *scheme* ceased.
- 1.2 Where *membership* is not suspended at the *relevant date*, but has been suspended for any period during the 13 years ending on the *relevant date*, the *member's salary* shall be deemed to have been nil during such periods for the purposes of computing *pensionable salary*.

2. A member with less than one year's continuous service

- 2.1 Where a *member's service* has ceased and there is less than one *year's salary* on which to calculate *pensionable salary*, *salary* shall be computed as if the *member's service* had continued at the same rate of *salary* as at the date of cessation of *service* for a complete year.
- 2.2 Notwithstanding sub-paragraph 2.1, where a *deferred pensioner* rejoins the *scheme* and is entitled to treat as *pensionable service* a prior period of employment that ended no more than 6 months before *active membership* recommenced, the *member's salary* for the purposes of paragraph (a) of the definition of *pensionable salary* shall be:
 - 2.2.1 *salary* in respect of the last 12 months of *service*; and
 - 2.2.2 any part of that *salary* which is in respect of a period which is more than 12 months before the cessation of *service* is to be increased by reference to *RPI*.

3. Remuneration for alternative benefits service

Remuneration for *ABS*, or for any prior period of *pensionable service* for which a *member* is entitled to benefits as a *deferred pensioner*, in respect of which a payment, refund or transfer has been made from the *scheme* and to which schedule 10 (Deductions for aggregable

benefits) continues to apply, shall not count as *salary* for the purposes of the calculation of *pensionable salary*.

4. Notional higher salary

A notional higher amount may be substituted for actual *salary*, either generally or for such limited period or in such limited circumstances as the *trustee company* thinks fit, provided that:

4.1 this is by agreement between the *institution* and the *trustee company*; and

4.2 no increases to such a notional *salary* shall be made by reference to the *RPI*.

5. Temporary increases

Where an increase in remuneration arises from a substantial, but temporary, increase in responsibilities undertaken by the *member* (other than in contemplation of *retirement*), that increase shall count as *salary*, but on the *retirement* or death of the *member* within 3 years of the temporary increase being terminated, the *pensionable salary* shall be the higher of:

5.1 the amount calculated under paragraph (a) of the definition of *pensionable salary* excluding the increase from *salary*; and

5.2 the amount calculated under paragraph (b) of the definition of *pensionable salary*, including the increase as *salary*.

6. Profit-related pay

Where on the application of a body that was then an *institution HMRC* registered a profit-related pay scheme under Chapter 3 of Part 5 of the *Taxes Act*, the *salary* of a *member* or *former member*, for any period of service (as defined under the rules then governing the *scheme*) for which he or she was (within the meaning of that Act) an employee to whom that scheme related, shall be determined in accordance with paragraphs (e) and (f) of rule 6.1 of those rules.

SCHEDULE 4

Non-standard salary increases

1. Where the *trustee company* determines that there is a *non-standard salary increase*, the *trustee company* may:
 - 1.1 disallow all or part of the *non-standard salary increase* as *salary*;
 - 1.2 compute *pensionable salary* under paragraph (b) of the definition of that term to the exclusion of paragraph (a) of that definition; and/or
 - 1.3 require the *employer* and/or the *member* to make such additional contributions to the *fund* as the *trustee company*, acting on *actuarial advice*, determines to be the cost of the increase in benefits payable to the *member* by reason of the *non-standard salary increase* being treated as *salary*.
2. A determination under paragraph 1 above may be made retrospectively by the *trustee company*. An amount which is so disallowed shall be deemed never to have been *salary*. All contributions paid by reference to the *non-standard salary increase* will be refunded to the *employer* and the *member*, after making such deductions under rule 48 (Tax) as the *trustee company* shall determine, or offset against other contributions.
3. The preceding provisions of this schedule shall not apply (save, at the discretion of the *trustee company*, in relation to a *member* who has elected for enhanced protection under schedule 2) for the purposes of calculating *pensionable salary* on the death of a *member* in *active membership*, unless the *non-standard salary increase* falls within paragraph (b) of the definition of that term.

SCHEDULE 5

Non-standard salary decreases

1. Where the *trustee company* determines that there is a *non-standard salary decrease*, the *trustee company* may:
 - 1.1 disregard all or part of the *non-standard salary decrease*, provided that there is no adverse effect on the entitlement or accrued rights of the *member* in respect of *service* prior to the purportedly effective date of the *non-standard salary decrease*; and/or
 - 1.2 require the *employer* and/or the *member* to make such additional contributions to the *fund* as the *trustee company*, acting on *actuarial advice*, determines to be the amount of the loss to the *fund* arising from the *non-standard salary decrease*.
2. A determination under paragraph 1 above may be made retrospectively by the *trustee company*. An amount which is so disallowed shall be deemed to have been *salary* throughout the relevant period.

SCHEDULE 6

Salary reduction

1. An *active member* who on any day in the 10 years before *normal retirement age* has a *salary* lower than that on the previous day may elect by written notice to the *employer* and to the *trustee company*, within 3 months of that reduction becoming effective, or such longer period as the *trustee company* may allow, to be treated as retaining the higher *salary* until the election is revoked by the *member* by written notice. Such an election shall not affect the limit on *AVCs* under rule 35 (Money purchase *AVCs*).
2. No election under this schedule may be made without the consent of the *trustee company* and of the *employer* if:
 - 2.1 there is a break of more than 8 months in the continuity of the *member's membership* between the employments to which the higher and lower rates of *salary* relate; or
 - 2.2 if the higher *salary* related in whole or in part to employment by an *institution* which was not the *member's employer* at the effective date of the *member's* election under this schedule and if the *member's* current *employer* was neither the successor of an undertaking of the former *institution* or of an *associated employer* of that former *institution*, nor was itself an *associated employer* of that *institution*, nor had *control*, nor was under the *control*, of that *institution*.
3. An election under this schedule shall cease to apply if the *member* enters the *eligible employment* of an *institution* which was not that *member's employer* at the effective date of that election, unless either:
 - 3.1 that *institution* and the *trustee company* consent to the election remaining in force;
 - 3.2 that *institution* is an *associated employer* of an *employer* of the *member* at that date, or of an *employer* which has *control* over, or is under the *control* or is a successor of, any such *employer*; or
 - 3.3 sub-paragraph 3.2 above would apply if the references to an *employer* at that date were to an *institution* which previously gave its consent under sub-paragraph 3.1 above in relation to the same election or to an *institution* in respect of *eligible employment* in respect of which the *member* has previously made contributions under this schedule under the same election.

4. For the purposes of this schedule *salary* shall exclude *salary* in relation to which rule 32 (Variable time employees) applies.

SCHEDULE 7

Pension sharing on divorce etc

1. Application of this schedule

Paragraphs 2 and 4 to 13 of this schedule apply where a person has acquired entitlement to a *pension credit* as against the *trustee company* or has sought to acquire *pension credit rights* by arranging for a transfer payment to the *trustee company*. Paragraph 3 of this schedule applies where rights of any person under the *scheme* have become subject to a *pension debit*.

2. Discharge of liability for pension credits

2.1 The *trustee company* shall by written notice offer to the *ex-spouse* to transfer, and shall if accepted transfer, the *pension credit* to a *transfer arrangement* chosen by the *ex-spouse* (by completing such form of instruction and discharge as the *trustee company* may specify) or, in the absence of such choice, the *trustee company* may offer to the *ex-spouse* to transfer the *pension credit* to a *transfer arrangement* chosen by the *trustee company*.

2.2 In the absence of such an instruction and discharge, or if such an instruction and discharge is cancelled by the *ex-spouse* and the cancellation is accepted by the *trustee company* before a transfer payment has been made, *pension credit rights* shall be conferred on the *ex-spouse*.

2.3 Neither an *ex-spouse* with *pension credit rights*, nor a person whose *pension credit rights* derive from an *ex-spouse*, shall be entitled to *membership* of the *scheme* by virtue of their *pension credit rights*.

2.4 The *trustee company* shall by written notice offer to the *ex-spouse* the opportunity to elect that a guarantee period shall apply to any pension payable to the *ex-spouse* under paragraph 4 or 5. Subject to section 41 of *WRPA 99*, the *trustee company* may make such charges as it considers appropriate for providing information or taking other steps necessary to facilitate the making or implementation of any *pension sharing order* or of any pension attachment order under section 23 of the Matrimonial Causes Act 1973 or described in section 24 of *WRPA 99*.

3. Discharge of liability for pension debits

The benefits payable in respect of a *member*, *former member*, *pensioner member* or *ex-spouse participant* shall be reduced by any relevant *pension debit*.

4. Benefit for ex-spouse participants from normal benefit age

4.1 An *ex-spouse participant* shall be entitled from *normal benefit age* (or such later date as the *ex-spouse participant* becomes entitled to draw *pension credit rights*) to a pension for life of such amount as is determined by the *trustee company* on *actuarial advice*, including an amount attributable to any transfer payment received from a *transfer arrangement* in respect of *pension credit rights* which is accepted by the *trustee company*. Regard shall be had to any election for a guarantee period under sub-paragraph 7.2.

4.2 Except where immediately before the *ex-spouse participant* became so entitled the individual from whose rights the *pension credit* was derived was a *pensioner member*, an *ex-spouse participant* may elect, by written notice to the *trustee company* before becoming entitled to actual receipt of pension, to commute part of that pension for a lump sum of 12 times the amount commuted, subject to a maximum of one-fifth of the pension, or such other multiple of the amount commuted as the *trustee company* shall on *actuarial advice* have determined, excluding any amount attributable to any disqualifying pension credit (as defined in paragraph 2(3) of Schedule 29 to *FA 04*) from the amount commuted and from the pension for this purpose.

5. Early payment of pension credit rights

5.1 The *trustee company* may, at the *ex-spouse participant's* request, bring all of that individual's *pension credit rights* into payment on or after *minimum pension age*.

5.2 An *ex-spouse participant* who is aged 60 or over may by written notice require the *trustee company* to bring all of that individual's *pension credit rights* into payment between age 60 and *normal benefit age* inclusive, from a date which is no more than 2 months before the date when the *trustee company* receives the notice.

5.3 Benefits under sub-paragraphs 5.1 and 5.2 shall be brought into payment on such terms as the *trustee company* on *actuarial advice* shall decide, provided that the *trustee company* is reasonably satisfied on *actuarial advice* that the benefits brought into payment are at least equal in value to the corresponding *pension credit rights*

which could have been brought into payment at the *ex-spouse's normal benefit age* under sub-paragraph 4.1.

- 5.4 Where an *ex-spouse participant* is also a *member* who is to *retire* on the grounds of *incapacity* under rule 13, that *ex-spouse participant* may by written notice (given before or after that individual's *service* has ceased) require the *trustee company* to bring the *pension credit rights* into payment without actuarial reduction from the date the pension under rule 13 is payable. The *trustee company* may withdraw or suspend payments of the *pension credit rights* prior to *normal benefit age* if it has determined, having regard to a *medical opinion*, that the *ex-spouse participant* is no longer suffering from *incapacity*. Where the *pension credit rights* have been withdrawn or suspended, the pension shall be resumed at *normal benefit age* in such amount as the *trustee company* may decide, having obtained *actuarial advice*.

6. Benefits on the death of an ex-spouse participant before pension credit rights payable

If an *ex-spouse participant* dies without *pension credit rights* having become payable to that person, the following benefits shall be payable:

- 6.1 A lump sum to be held on the *discretionary trusts* of:
- 2.4 x the annual rate of pension which would have been payable to the *ex-spouse participant* at *normal benefit age* under sub-paragraph 4.1 (disregarding any commutation or *allocation*) if that age had been attained immediately before death.
- 6.2 A pension for life for the surviving spouse or *civil partner* from the date of the death of 40% of the annual rate of pension to which the *ex-spouse participant* would have been entitled at *normal benefit age* under sub-paragraph 4.1 (disregarding any commutation or *allocation*) if that age had been attained immediately before death.
- 6.3 Where there is no surviving spouse or *civil partner*, the *trustee company* may pay a pension to a *dependant* of the *ex-spouse participant* (other than an *eligible child*), for such period as it shall determine, of an amount not exceeding the pension which would have been payable to a surviving spouse or *civil partner*, having regard to, but not being bound by, any written expression of wishes by the *ex-spouse participant*.

6.4 Pensions in respect of *eligible children* of the *ex-spouse participant* of in aggregate:

$$\left(75\% \text{ of the spouse's or } \textit{civil partner's} \right) \times \left(\text{the number (not exceeding two)} \right) \\ \left(\text{pension under sub - paragraph 6.2} \right) \left(\text{of } \textit{eligible children} \right)$$

Whilst no pension is payable to a surviving spouse, *civil partner* or *dependant* under sub-paragraph 6.2 or 6.3, this percentage shall increase to 100%.

6.4.1 **Splitting of pension**

The *trustee company* may split the pension payable in respect of *eligible children* into a number of separate pensions payable to any number of persons approved by the *trustee company*.

6.4.2 **Payment to persons for the benefit of eligible children**

The *trustee company* may pay the pension or pensions in respect of *eligible children* to one or more persons who undertake to apply the pension or pensions for the maintenance or benefit of one or more of the *eligible children*. The *trustee company* shall have no liability for the way in which such a pension is applied.

7. **Benefits on the death of an ex-spouse participant after pension credit rights payable**

7.1 On the death of an *ex-spouse participant* to whom a pension had become payable under paragraph 4 or 5, the pension benefits payable under sub-paragraphs 6.2 to 6.4 shall be payable.

7.2 Where an *ex-spouse* has elected by written notice to the *trustee company* prior to *pension credit rights* being conferred on the *ex-spouse*, or within such other period as the *trustee company* may allow, that a guarantee period shall apply to the pension payable to that person under paragraph 4 or 5, the *trustee company* shall on the *ex-spouse's* death determine on *actuarial advice* an amount to be held upon the *discretionary trusts* equal to the lump sum death benefit payable on the death of a hypothetical *pensioner member* of the same age as the *ex-spouse*.

8. **Death before implementation of pension sharing order**

If a person who is an *ex-spouse* by virtue of a *pension sharing order* dies after it has taken effect but before the *trustee company* has conferred *pension credit rights* on the *ex-spouse*,

death benefits shall be payable in accordance with paragraph 6 as if that person had been an *ex-spouse participant*.

9. Inward transfers of rights attributable to pension credits

9.1 The *trustee company* may in respect of an *active member* accept a transfer payment which consists of or includes rights to *pension credits* from a *transfer arrangement*.

9.2 The *trustee company* shall separately identify the proportion of any *pension credit rights* conferred in respect of a transfer payment received by the *scheme*.

9.3 Where any part of the transfer payment in respect of *pension credits* accepted under sub-paragraph 9.1 is attributable to voluntary contributions made to secure additional benefits on a money purchase basis, then that part shall be paid by the *trustee company* as the *active member* may direct by notice in writing to the *trustee company*, and within such period as the *trustee company* may determine, into the *fund* or into the *MPAVC fund*, but, in the absence of a direction, into the *fund*. Where that part is paid into the *MPAVC fund*, the *member* shall detail the matters specified in rule 35.2 (Money purchase AVCs: Notice requirements) by written notice to the *employer* and the *employer* must transmit those details to the *trustee company*.

10. Pension credit rights in respect of money purchase AVCs

10.1 An *ex-spouse participant* shall be deemed to be a *member* for the purposes of rules 35.3 (Investment) and 35.4 (Transfers between investments) in relation to any part of that individual's *pension credit rights* which are referable to a transfer payment made into the *MPAVC fund*, which shall be treated as that individual's *investment*.

10.2 *Pension credit rights* referable to a transfer payment made into the *MPAVC fund* shall be of such amounts and in such form as will ensure that the *scheme* conforms to the requirements of Schedule 5 to *WRPA 99*.

10.3 Subject to sub-paragraph 10.2 and paragraph 12, on the death of an *ex-spouse participant* without *pension credit rights* having become payable to that person, the amount which would be the *member's fund* if that *ex-spouse participant* were treated as a *member* shall be applied in accordance with the directions of the deceased, or, if there are no such directions, with those of that individual's legal personal representatives. In the absence of any directions, the amount shall be held upon the *discretionary trusts*.

10.4 On *pension credit rights* becoming payable to an *ex-spouse participant*, the amount which would be the *member's fund* if the *ex-spouse participant* were treated as a *member* shall be applied in the same way that it would be applied if the *ex-spouse participant* were *retiring* as a *member*, with the *ex-spouse participant* having the right (without limitation) to transfer the *member's fund* to the *main section* of the *fund*, as under sub-rule 35.10 (Transfer for defined benefits), to purchase such additional *pensionable service* or other benefits as the *trustee company* shall determine on *actuarial advice*.

11. Outward transfers of pension credit rights

11.1 An *ex-spouse participant*, who is at least one year below *normal benefit age* and to whom no part of his or her individual's *pension credit rights* are payable, may require the *trustee company* to use the cash equivalent of the *pension credit rights* in accordance with Chapter 2 of Part 4A of *PSA 93*, within 3 months after the date by reference to which the cash equivalent has been calculated.

11.2 An *ex-spouse participant* may exercise the right under sub-paragraph 11.1 notwithstanding that he or she remains a *member*, *deferred pensioner* or *pensioner member* after the transfer payment has been made under that sub-paragraph.

11.3 The *trustee company* may decline to make a transfer payment in respect of a *deferred pensioner* with *pension credit rights* if no notice has been given in accordance with paragraph 11.1 above or section 101F of *PSA 93* to use the cash equivalent if the *pension credit rights* for a purpose authorised under that Act, and shall decline to do so if the proposed *transfer arrangement* is an unfunded public service pension scheme to which paragraph 2 of Schedule 5 to the *WRPA 99* applies and the *deferred pensioner* is an active member (within the meaning of Part 1 of *PA 95*) of that scheme.

11.4 Where *pension credit rights* are transferred from the *scheme* to a *transfer arrangement*, the *trustee company* shall confirm to the trustees or administrator of the *transfer arrangement* that the transfer value consists wholly or partly of *pension credit rights*.

12. Limits on pension credit rights

- 12.1 The limits set out in this paragraph shall apply notwithstanding the preceding provisions of this schedule.
- 12.2 Any *pension credit rights* payable to an *ex-spouse* shall come into payment no later than the *ex-spouse's* 75th birthday.
- 12.3 No pension under this schedule may be commuted, surrendered or assigned except in accordance with the *rules*. Any pension payable to an *ex-spouse participant* shall be paid for life unless it is commuted in full under rule 51 (Total commutation for serious ill-health) or 52 (Total commutation for triviality) or is withdrawn or suspended under sub-paragraph 5.4.
- 12.4 No lump sum payment may be made to any *ex-spouse participant*, in connection with a pension becoming payable to that individual under this schedule, which would result in the *authorised maximum* being exceeded.
- 12.5 Where an *ex-spouse participant* dies after a pension under this schedule has come into payment to that person, no lump sum may be paid by way of *pension credit rights* if it would be a scheme chargeable payment within the meaning of section 241 of *FA 04*.

13. Charges

The *trustee company* may make such charges as it considers appropriate for providing information or taking other steps to facilitate the making or implementation of any *pension sharing orders* or pensions attachment orders under the Matrimonial Causes Act 1973 or as described in section 24 of *WRPA 99*, subject to the Pensions on Divorce etc (Charging) Regulations 2000.

SCHEDULE 8

Death in receipt of an incapacity pension

1. On the death before *normal retirement age* of a *pensioner member* to whom sub-rule 21.1 applies,

the *trustee company* shall hold on the *discretionary trusts* a lump sum benefit of A minus I, where:

A = B + C - F, where:

B = 3 x *pensionable salary* (calculated without dividing by any *part-time service fraction*) at the date of *retirement* as at the date of *retirement*, increased in proportion to any increase in the *RPI* between the last published as at that date and the last published as at the date of the *pensioner member's* death;

C = D minus E, where:

D = $3/12$ x *pensionable salary*;

E = $3/12$ x $1/80$ x *pensionable salary* x the aggregate of the number of *years' pensionable service* and *supplementary service* (if any);

F = G minus H, where:

G = the total amount of pension and lump sum received by the *member* from the *fund*;

H = the aggregate *salary* payable to the *member* for the period from *retirement* to death, had the *member* worked throughout that period in the same employment as before;

I = J minus O, where:

J = the greater of K and L, where:

K = 3 times the annual rate of *salary* of the *member* at the date of *retirement*; and

L = M plus N, where:

M = the lump sum, but calculated by reference to *pensionable service* only, which would have been payable had the *member* retired on the grounds of *total incapacity* immediately before death;

N = where the *pensioner member* was also a *deferred pensioner* as at the date of death, the amount of the lump sum death in deferment benefit which would have been payable under sub-rule 22.1;

O = the pension and lump sum benefit received by the *pensioner member* calculated by reference to *pensionable service* only.

2. Any benefits payable under this schedule shall be a charge on the *supplementary section*.

SCHEDULE 9

Children's pensions where deceased was in service after normal retirement age

1. Paragraphs 2 and 3 apply where either a *pensioner member* dies to whom a pension was payable under rule 10 (Late retirement) :

(or would have been but for any commutation under any of the following::

rule 49 (Lifetime allowance charge); or

rule 50 (Commutation above lifetime allowance); or

rule 51 (Total commutation for serious ill-health); or

deduction under rule 57 (Forfeiture/Non-Assignment and Inalienability)); or

a *member* dies to whom the foregoing provisions of this paragraph would have applied had the *member retired* immediately prior to death.
2. Whilst a pension is payable to a surviving spouse, *civil partner* or *dependant*, a pension shall be payable, for any period when there are *eligible children*, in respect of each *eligible child* (not exceeding 2), of:

 $\frac{3}{8}$ x (the pension to which the *pensioner member* was or *member* would have been entitled at *retirement*).
3. Whilst no pension is payable to any surviving spouse, *civil partner* or *dependant*, a pension shall be payable, for any period when there are *eligible children*, in respect of each *eligible child* (not exceeding 2) of one-half the pension to which the *member* or *pensioner member* would have been entitled at *retirement*.
4. In calculating the pension under paragraph 2 or 3, the following shall be disregarded:

any commutation of benefits under any of:

rule 19.1 (Conversion of Lump Sum to Pension and Pension to Lump Sum); or

rules 49 to 51 (Lifetime allowance charge, Commutation above lifetime allowance and Total commutation for serious ill-health):

any *allocation* under rule 28; and

any deduction under schedule 10 (Deductions for aggregable benefits) or any of the following rules:

rule 57 (Forfeiture/Non-Assignment and Inalienability);

rule 58 (Charge/Lien/Set Off);

rule 48 (Tax); or

sub-rule 49.3 (Trustee company discharge of liability).

SCHEDULE 10

Deductions for aggregable benefits

1. Benefits to be deducted

Where benefits have been received from the *scheme*, or are payable in respect of a *member* or *former member* under another *occupational pension scheme* in relation to a period of employment which counts automatically as *pensionable service*, the *trustee company* shall deduct the value of those benefits from the corresponding benefits of the like nature payable under the *scheme*.

2. The value of the benefits to be deducted

2.1 The value of the benefits to be deducted shall be determined by the *trustee company* on *actuarial advice*.

2.2 If the value of the benefits to be deducted would:

2.2.1 exceed the amount of the corresponding benefits under the *scheme*; or

2.2.2 reduce the amount of a *member's* or *former member's* or surviving spouse's or *civil partner's* pension under the *scheme* below the applicable *GMP*,

the *trustee company* shall make such adjustments to the other benefits payable under the *scheme* in respect of the *member* or *former member* as it shall decide on *actuarial advice*.

2.3 The amount deducted shall include compound interest on the amount of any benefits of a specifiable cash value received by the *member* or *former member* at the rate of 4 per cent per annum from the date of receipt, or such other rate as the *trustee company* shall determine on *actuarial advice*.

2.4 If the benefits to be deducted include a refund of the *member's* or *former member's* contributions, the amount deducted shall include the amount of any tax deducted from the refund.

3. Prior contracted-in employment

Where a *member* or *former member* has been a member of any other *pension scheme* which was not *contracted out employment*, the additional pension earned under the State Earnings Related Pension Scheme in respect of a period of employment to which this schedule applies shall be deducted from the corresponding benefits of the like nature under the *scheme*.

4. Exemptions

No deductions shall be made under this schedule:

- 4.1 to the extent of any payment or transfer of assets by the *member* or *former member* to the *trustee company* in respect of the benefits which would otherwise be deducted under paragraph 1 above;
- 4.2 in respect of benefits from a scheme supplementing the benefits of a *member* or *former member* under a contract between the *institution* and that individual;
- 4.3 in respect of benefits referable to additional voluntary contributions paid by the *member* or *former member* to another *occupational pension scheme* where both:
 - 4.3.1 the ordinary benefits in respect of that individual under that other scheme are taken into account under this schedule; and
 - 4.3.2 the level of compulsory contributions to that other scheme in respect of those ordinary benefits is reasonably comparable to the level of contributions to the *scheme*;
- 4.4 in respect of any benefits paid under any *occupational pension scheme* which was neither approved under the *tax code* nor a relevant statutory scheme as that expression was defined in the *tax code*; or
- 4.5 in respect of *pension credit rights*, or benefits payable under an *FSAVC scheme* or from the *money purchase AVC fund*.

SCHEDULE 11

Reference scheme test for contracting-out

1. Scope of this schedule

This schedule applies to a *member's contracted-out employment* by reference to the *scheme* on and after 6 April 1997.

2. Reference scheme test

2.1 Notwithstanding any other provisions of the *rules*, the *trustee company* shall operate the *scheme* in accordance with the requirements of *PSA 93* relating to salary-related contracted-out schemes and the *rules* shall be deemed to include such provisions as are required under *PSA 93* for a salary-related *contracted-out scheme* in relation to *service* on and after 6 April 1997.

2.2 The *trustee company* shall have power to act on behalf of all *institutions* for the purposes of the contracting-out requirements under Part 3 of *PSA 93*.

3. Purchase of annuity

Any policy or contract purchased under rule 18 (Buy outs) which extends to rights to *relevant benefits* which were required to accrue under the *scheme* so as to comply with section 9(2B) of *PSA 93* shall meet the conditions under section 12C of *PSA 93*.

4. Contributions equivalent premium

4.1 A *CEP* may be paid in accordance with Chapter 3 of Part 3 of *PSA 93* in respect of a *member* without *qualifying service* who either dies or ceases to be in *service*. No *CEP* shall be paid where a transfer payment has been made in respect of a *member* under rule 17 (Transfers out) in respect of the relevant rights.

4.2 Where a *CEP* has been paid in respect of a *member* to whom a refund of contributions is payable under rule 16 (Early leavers without preserved benefits), the *trustee company* may recover from that refund an amount not exceeding the amount certified by *HMRC* under section 63(1)(d) of *PSA 93* as being the *member's* share of that *CEP*.

SCHEDULE 12

GMP

1. Scope of this schedule

This schedule applies in relation to *GMPs*, in respect of *service* prior to 6 April 1997, and of transfer credits granted to a *member* in respect of service completed in a *transfer arrangement* prior to 6 April 1997.

2. Requirements of PSA 93

Notwithstanding any other provisions of the *rules*, the *rules* shall be deemed to include such provisions as are required for compliance with, and shall be subject to, *PSA 93* in relation to *GMPs*.

3. GMP for members

A *member* shall be entitled to a pension at *pensionable age* payable for life at a weekly rate of not less than the *member's GMP*.

4. GMP for surviving spouse or civil partner

4.1 When a man dies with an actual or prospective entitlement to a *GMP*, his widow shall be entitled to a pension in respect of his *membership* at a weekly rate of not less than half his *GMP*.

4.2 On the death with actual or prospective entitlement to a *GMP* of a woman, or of a man who leaves a surviving *civil partner*, the widower or *civil partner* shall be entitled, in accordance with section 17(6) of *PSA 93*, to a pension at a weekly rate of not less than half that part of the *member's GMP* which is attributable to earnings for the tax year 1988-89 and subsequent tax years.

5. Transfers in

Where a transfer payment to the *scheme* includes rights to a guaranteed minimum pension under a contracted-out money purchase scheme or to pre-97 protected rights as defined under *PSA 93*, the *GMP* payable from the *scheme* shall include the guaranteed minimum pension which would have been provided under the *transfer arrangement* for the period for which the

rights to a guaranteed minimum pension or protected rights had accrued under that arrangement, as if the transfer payment had not been made.

6. No reduction in GMP

Except as may be permitted by Part 3 of *PSA 93*, neither any provision of, nor any power exercised under, the *rules* shall cause any pension payable under the *rules* to be less than the applicable *GMP*, as revalued under paragraph 10, where applicable.

7. Deduction from lump sum where excess GMP benefit

Where at the time pension comes into payment to a *pensioner member* under sub-rule 8.1 or 14.1.1, it is payable at a rate which is exceeded by the rate of the *GMP* (increased, as appropriate, under paragraphs 9 and 10) to which that person is entitled by virtue of *membership*, the *trustee company* shall raise the difference by deducting from the lump sum benefit that would otherwise be payable to that person under sub-rule 8.2 or 14.1.2 such amount as it shall decide on *actuarial advice* to be the cost of doing so.

8. No duplication of benefits

Any *GMP* shall be included in a person's overall entitlement to a pension under the *scheme*, other than an entitlement to *EPBs*.

9. Retirement after pensionable age

9.1 Postponement of payment of GMP

Where any *member* remains in *service* after *pensionable age*, payment of the *GMP* shall be postponed until the earlier of:

9.1.1 cessation of *service*; and

9.1.2 5 years after *pensionable age*.

Payment of the *GMP* may be further postponed with the *member's* consent (but not beyond age 75) if the *member* is not receiving a pension under any of rules 8 (Benefits at normal retirement age), 10 (Late retirement), 11 (Early retirement at the instance of the employer), 12 (Member's early retirement) or 13 (Early pensions on incapacity).

9.2 GMP increase where postponement in payment

Where payment of the *GMP* is postponed for more than 7 weeks after *pensionable age* or such other period as may be required by *PSA 93*, the *GMP* calculated at *pensionable age* shall be increased by 0.143% for each complete week of postponement or at such other rate as may be required under *PSA 93*. For the purposes of this paragraph, "week" means any 7 consecutive days.

10. Revaluation of GMP for early leavers

Where a *GMP* is preserved in the *fund* under rule 14 (Preserved benefits), the *GMP* shall be revalued yearly in accordance with orders made under section 148 of the Social Security Administration Act 1992. No pension under these *rules*, as increased under rule 15 (Pension increases), shall be less than the *GMP* at *pensionable age*, as revalued under this paragraph.

11. Purchase of annuity to secure GMP

Any policy or contract intended to secure a *GMP*, and purchased under either rule 17 (Transfers out) or rule 18 (Buy outs), shall comply with the following conditions:

- 11.1 the *insurer* shall assume an obligation to the *member*, and/or if appropriate the *member's* surviving spouse or *civil partner*, to pay the benefits secured by the policy or contract;
- 11.2 the policy or contract shall contain or be endorsed with terms providing that:
 - 11.2.1 it may not be assigned, surrendered or commuted except as prescribed under section 19(4)(b) or (c) of *PSA 93*;
 - 11.2.2 the annuity to be paid under the policy or contract to or for the *member's* benefit, or to the *member's* surviving spouse or *civil partner*, shall be at least equal to the *GMP* due (or prospectively due) to the *member* at *pensionable age* (including any increase or revaluation under section 15 or 16 of *PSA 93*) or to the surviving spouse or *civil partner*, as the case may be;
- 11.3 the policy or contract shall be endorsed with a statement of the total periods of service giving rise to the benefits secured or (where relevant) a statement that those periods exceed 2 years; and
- 11.4 the policy or contract must meet the requirements under section 19(5) of *PSA 93*.

SCHEDULE 13

Employment outside the UK

The *trustee company* may make regulations to determine the rate at which contributions and *salary* shall be converted into the currency of the United Kingdom in relation to any *member* whose *employer* has notified the *trustee company* that the *member's* employment is being carried on outside the United Kingdom and whose *salary* is expressed in a currency other than that of the United Kingdom.

SCHEDULE 14

Equivalent pension benefits

1. The *trustee company* will comply with its statutory obligations in relation to *EPBs*.
2. Subject to section 91(5)(c) of *PA 95*, the *trustee company* may, when a pension becomes payable from the *fund*, commute any *EPBs*, to which a *member* or *former member* is actually or prospectively entitled. Such commutation will extinguish all claims against the *fund* for those *EPBs*.

SCHEDULE 15

Winding-up priority order under the scheme rules (if section 73 of the Pensions Act 1995 does not apply)

In so far as section 73 of *PA 95* does not apply to the *scheme*, the *trustee company* shall apply the proceeds of conversion of the *fund* into money under sub-rule 79.3.1 in securing benefits in the following priority order, in descending order of priority of paragraphs and pro rata within each paragraph below:

1. any liability for *relevant benefits* which, in the *trustee company's* opinion, is derived from AVCs or from any transfer under sub-rule 35.10 (Transfer for defined benefits);
2. where the *trustee company* entered into a contract of insurance before 6 April 1997 with a view to securing part or all of the *scheme's* liability for any benefits in payment, and either that contract may not be surrendered, or the amount payable on surrender does not exceed the liabilities secured by the contract (excluding liability for increases to pensions), the liabilities so secured;
3. where the entitlement of a person to payment of a *relevant benefit* has arisen under the *scheme*, liability for that *relevant benefit* and for any benefit which will be payable in respect of that person on that person's death (excluding any increases to pensions otherwise payable);
4. any liability for *EPBs*, *GMPs*, protected rights or section 9(2B) rights (each as defined under *PSA 93*) (excluding increases to pensions in each case), or for the return of contributions in respect of *members* or *former members* without *qualifying service* who are not entitled to accrued rights under the *scheme*;
5. any liability for increases to pensions referred to in paragraphs 2 and 3;
6. any liability for increases to pensions referred to in paragraph 4; and

so far as not included in any of the preceding paragraphs, any liability for the benefits of *deferred pensioners* and others prospectively entitled to benefits, including preserved benefits not then in payment, which have accrued to or in respect of any *members* or *former members* or *ex-spouse participants* (including increases to pensions).