

SCHEDULE

Regulation 14

Benefit Limits

Part I

Interpretation

1. Paragraphs 2 to 6 have effect for defining expressions used in this Schedule.
2. “Total retirement benefits” means the total of—
 - (a) the annual rate of the participator’s retirement pension under these Regulations;
 - (b) the annual rate of any retirement pension under the Principal Regulations; and
 - (c) the annual equivalent of any retirement lump sum under the Principal Regulations;together with the total of so much of—
 - (d) the annual rate of any pension payable to the participator under any approved scheme; and
 - (e) the annual equivalent of any retirement lump sum under any approved scheme—as is attributable to contributions paid while employed in reckonable service.
3. “The material date” means the earliest of—
 - (a) the retirement date;
 - (b) the date on which the retirement pension under these Regulations commenced; and
 - (c) the date on which the participator ceased to be employed in reckonable service or, as the case may be, to contribute under regulations 27 and 28 of the Principal Regulations⁽¹⁾.
- 4.—(1) Subject to sub-paragraph (3) and paragraph 5 “final remuneration” means the greater of A and B, where
 - A is the participator’s highest year’s adjusted salary in respect of employment in reckonable service, or salary in respect of a period of contributions under regulations 27 and 28 of the Principal Regulations, during the period 5 years ending on the material date; and
 - B is the average of the participator’s salary for any period of 3 or more consecutive years ending no earlier than 10 years before the material date,but, in respect of any year other than the one ending on the material date, the salary shall be taken to have been increased in proportion to any increase in the index from the end of that year up to the material date.
 - (2) In this paragraph “adjusted salary” means
$$\frac{C + D}{3},$$
where—
 - C is the participator’s total taxable salary for the year in question less any bonus payments and payments for overtime (“fluctuating emoluments”); and
 - D is the average, for a period ending with the year in question, of any fluctuating emoluments where the period is one of at least 3 years or, if shorter, the period during which the fluctuating emoluments have been payable.

(1) Regulation 27 was amended by S.R. 1978 No. 147 regulation 3(f) and S.R. 1988 No. 167 regulation 5

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(3) In respect of the tax year 1987/88 and subsequent tax years, “final remuneration” shall not include any sums chargeable to tax under section 148 of the Taxes Act or chargeable under Schedule E to Part I of the Taxes Act and arising from the acquisition or disposal of shares, or an interest in shares, or from a right to acquire shares except where the shares or interest in shares or right to acquire shares which gave rise on or after 17th March 1987 to a Schedule E tax liability had been acquired before that date.

5.—(1) Where the participator entered employment in reckonable service on or after 1st June 1989 and the final remuneration, calculated under paragraph 4, exceeds the permitted maximum under section 590C of the Taxes Act⁽²⁾, no account shall be taken of the excess over that permitted maximum.

(2) Paragraph (1) shall not apply to a person who was employed in reckonable service before 1st June 1989 and who resumes such employment following—

- (a) an absence on maternity leave in respect of which she enjoyed a right to return to work under Articles 28 and 29 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976⁽³⁾;
- (b) a period of secondment or additional period of absence necessarily attributable to that secondment; and
- (c) in any other case, a break in employment in reckonable service not exceeding one year.

(3) Paragraph (1) shall not apply to a person who was in comparable Northern Ireland service before 1st June 1989 and who enters employment in reckonable service provided there has not been a period of more than one year between cessation of employment in comparable Northern Ireland service and the date of entering employment in reckonable service.

6.—(1) “Retained benefits” means the total of any pensions, including the annual equivalent of any lump sum payable to the participator—

- (a) in respect of employment before the participator entered employment in reckonable service, under a retirement benefits scheme or under an annuity contract falling within section 431(4)(d) of the Taxes Act; or
- (b) under a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act; or
- (c) under a personal pension scheme.

Part II

Retirement Pensions

7. The annual rate of a participator’s retirement pension under these Regulations shall not be such as to cause the participator’s total retirement benefits to exceed the permitted amount.

8.—(1) If the participator retires on his 60th birthday, except where paragraph 10 applies, the permitted amount is the greater of E and F, where—

E is 1/60th of the participator’s final remuneration for each year of reckonable service up to a maximum of 40 years; and

F is the lesser of G and H.

⁽²⁾ Section 590C was inserted by the Finance Act 1989 (c. 26) Schedule 6 paragraph 4

⁽³⁾ S.I.1976/147 (N.I. 28). Articles 14 to 32 were substituted by Article 3 and Schedule 1 to the Industrial Relations (Northern Ireland) Order 1993 S.I. 1993/2668 (N.I. 11)

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(2) In sub-paragraph (1)—

(a) G is—

(i) in relation to a participator who entered employment in reckonable service before 17th March 1987, the fraction of final remuneration ascertained by reference to the number of years of reckonable service at age 60, from the following Table—

TABLE

Years of employment in reckonable service at age 60	Fraction
not more than 5	1/60th for each year
6	8/60ths
7	16/60ths
8	24/60ths
9	32/60ths
10 or more	40/60ths

and

(ii) in any other case, 1/30th of the participator’s final remuneration for each year of reckonable service up to a maximum of 20 years; and

(a) H is 2/3rds of the participator’s final remuneration less any retained benefits.

9. If the participator retires on a date later than his 60th birthday, the permitted amount is—

(a) where the participator first entered employment in reckonable service before 1st June 1989, the greater of J, K and, where applicable, L, where—

J is an amount calculated in accordance with paragraph 8 as at that date;

K is an amount calculated in accordance with paragraph 8 as at the participator’s 60th birthday increased, up to the date of his retirement, in proportion to any increase in the index during that period; and

L is, in the case of a participator with more than 40 years of reckonable service, 1/60th of the participator’s final remuneration for each year of reckonable service up to a maximum of 45 years excluding any years before the participator’s 60th birthday in excess of 40 years; and

(b) in any other case, the lesser of the amounts calculated in accordance with paragraph 8(2)(a)(ii) and (2)(b).

10.—(1) If the participator retires on his 60th birthday, having at a date before that birthday ceased to be employed in reckonable service—

(a) where the participator first entered employment in reckonable service before 1st June 1989, the permitted amount is the greater of

$$\begin{aligned} & (M - R) \text{ and} \\ & \left(\sum_{P=1}^N Q + R \right) \end{aligned}$$

where—

M is 1/60th of the participator’s final remuneration for each year of reckonable service up to a maximum of 40 years;

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N is the number of years on which M is calculated;

P is the number of years on which M would have been calculated if the participator had continued in employment in reckonable service up to his 60th birthday;

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

R is the appropriate increase; and

- (b) where the participator first entered employment in reckonable service after 31st May 1989, the permitted amount is the lesser of the amounts calculated in accordance with paragraph 8(2)(a)(ii) and (2)(b).

(2) For the purposes of sub-paragraph (1) the appropriate increase is an increase in the amount in question in proportion to any increase in the Index from the cessation of employment in reckonable service to the date of payment of retirement benefits.

11.—(1) If the participator retires and is entitled to receive retirement benefits by virtue of regulation 48A of the Principal Regulations(4), the permitted amount is—

- (a) where the participator first entered employment in reckonable service before 1st June 1989, the greater of S and

$$\frac{(N \times Q)}{P}$$

and

- (b) in any other case, T, where—

N, P and Q have the same respective meanings as in paragraph 10;

S is 1/60th of the participator’s final remuneration for each year of reckonable service up to a maximum of 40 years; and

T is the lesser of the amounts calculated in accordance with paragraph 8(2)(a)(ii) and (2)(b).

12.—(1) If the participator retires and is entitled to receive retirement benefits by virtue of regulation 48(1)(c) of the Principal Regulations, whether or not those benefits were enhanced under regulation 49(3) of those Regulations(5), the permitted amount is that fraction of his final remuneration which he could have received calculated in accordance with paragraph 8 had he remained in employment in reckonable service until his 60th birthday.

Part III

Dependants' Pensions

13.—(1) Where only one dependant’s pension is payable the annual rate of that pension under these Regulations shall not be such as to cause the total of the annual rates of the relevant benefits to exceed the permitted amount.

- (2) For the purposes of sub-paragraph (1) the relevant benefits are—

- (a) the dependant’s pension; and

(4) Regulation 48A was inserted by S.R. 1978 No. 147 and amended by S.R. 1978 No. 351 and S.R. 1981 No. 151

(5) Regulation 49(3) was amended by S.R. 1988 No. 363 Regulation 7

(b) any similar pension payable to the dependant under the Principal Regulations or under a free-standing additional voluntary contributions scheme to which contributions were paid while the participator was employed in reckonable service,
and the permitted amount is 2/3rds of the maximum retirement pension.

(3) Where two or more dependants' pensions are payable—

(a) the annual rate of each such pension shall not be such as to cause the annual rates of the relevant benefits payable to the dependant in question to exceed the permitted amount referred to in sub-paragraph (2); and

(b) the total of the annual rates of such pensions shall not be such as to cause the total of the annual rates of the relevant benefits to exceed that permitted amount.

(4) For the purposes of sub-paragraph (3) the relevant benefits are—

(a) the dependants' pensions; and

(b) any similar pensions payable as mentioned in sub-paragraph (2)(b),

and for the purposes of paragraph (3)(b) the permitted amount is the annual rate of the maximum retirement pension.

(5) Subject to sub-paragraph (6), the maximum retirement pension is the participator's permitted amount calculated in accordance with paragraphs 8 to 12 but disregarding any retained benefits.

(6) In calculating the maximum retirement pension—

(a) if the participator died whilst employed in reckonable service and before attaining his 60th birthday, it shall be assumed that he continued employment in reckonable service at the same salary up to, and retired on, his 60th birthday; and

(b) if the participator died whilst employed in reckonable service and had attained his 60th birthday, it shall be assumed that he retired on the day before the date of his death.

Part IV

Lump Sum Death Benefit

14.—(1) The lump sum death benefit under regulation 13 shall not be such as to cause the total of that lump sum and any death benefits totalling £2,500 or more that are payable under relevant schemes to exceed the permitted amount.

(2) Relevant schemes are—

(a) approved schemes;

(b) schemes approved under Chapter IV of Part XIV of the Taxes Act;

(c) free-standing additional voluntary contributions schemes;

(d) retirement annuity contracts approved under Chapter III of Part XIV of the Taxes Act; and

(e) the scheme constituted by the Principal Regulations.

(3) The permitted amount is the greater of—

(a) £5,000; or

(b) 4 times the participator's remuneration.

(4) The participator's remuneration is the greatest of U, V and W, where—

U is what the participator's final remuneration would have been if the date of death had been the material date;

V is the participator's highest year's adjusted salary for the purpose of calculating U; and

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W is the participator's total taxable earnings during any period of 12 months ending not more than 3 years before the date of death, increased as mentioned in paragraph 4(1).