

## SCHEDULE

### 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<sup>(1)</sup>.
- 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
$$\frac{C + D}{2},$$
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.

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

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(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<sup>(2)</sup>, 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<sup>(3)</sup>;
- (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.

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(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)