

SCHEDULE 2

BENEFIT LIMITS

PART I

interpretation

3.—(1) “Final remuneration” means the greater of A and B, where—

(A) is the participator’s highest year’s adjusted earnings in respect of pensionable employment, or earnings in respect of a period of contribution under regulation C8 of the 1988 Regulations, during the period of 5 years ending on the material date, and

(B) is the average of his total taxable earnings 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, earnings are to be taken to have been increased in proportion to any increase in the Index from the end of the year up to the material date.

(2) In this paragraph “adjusted earnings” means C+D, where—

(C) is the participator’s total taxable earnings 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; the period is one of at least 3 years or, if shorter, the period during which the fluctuating emoluments have been payable,

and “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 in pensionable employment or, as the case may be, to contribute under regulation C8 of the 1988 Regulations.