

## SCHEDULE

Regulation 13

### *Benefit limits*

## PART I

### *Interpretation*

1. Paragraphs 2 to 7 have effect for defining expressions used in this Schedule.
2. “Adjusted salary” means  
**A + B,**

where—

A is the participator’s total taxable salary for the year in question less any fluctuating emoluments such as bonus payments and payments for overtime, and

B is the annual average of such fluctuating emoluments. For these purposes such emoluments shall be averaged—

- (i) over a period of whole years, not being less than 3 consecutive years, ending on the last day of the year in question, or
- (ii) in a case where such emoluments have been paid for a period of less than 3 years, over the period during which they have been paid.

- 3.—(1) “Final remuneration” means, subject to sub-paragraphs (2) and (3), the  
**greater of C and D,**

where—

C is the participator’s highest year’s adjusted salary in respect of pensionable service during the period of 5 years ending on the material date, and

D is the average of the participator’s salary in respect of 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 the year up to the material date.

(2) In respect of the tax year 1987/88 and following tax years, “final remuneration” shall not include any sums chargeable to tax under section 148 of the Taxes Act (payments on retirement or removal from office or employment) 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 rights which give rise on or after 17 March 1987 to a Schedule E tax liability had been acquired before that date.

(3) Where the participator entered pensionable employment on or after 1st June 1989 and final remuneration, calculated under sub-paragraph (1), exceeds the permitted maximum under section 590C of the Taxes Act<sup>(1)</sup> (conditions for approval of retirement benefit schemes: earnings cap), then, for the purposes of calculating the participator’s final remuneration, no account shall be taken of the excess over that amount unless the participator is a person mentioned in regulation C1(3) of the 1995 Regulations.

---

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

*Status: This is the original version (as it was originally made).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

(4) For the purposes of this paragraph, the Secretary of State shall select the years by reference to which the participant's final remuneration is to be calculated and the years selected shall be those which produce the most favourable result to the participant.

4. "Material date" means the earlier of—

- (a) the participant's retirement date;
- (b) the date on which the participant ceased to be in pensionable employment.

5.—(1) "Retained benefits" means the total of any pensions payable to the participant, in respect of employment before the participant entered pensionable employment, under—

- (a) a retirement benefits scheme or under an annuity contract falling within section 431(4)(d) of the Taxes Act (interpretative provisions relating to insurance companies);
- (b) a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act;
- (c) a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act;
- (d) a statutory scheme (as defined in section 612 of the Taxes Act); or
- (e) an approved scheme.

(2) In this paragraph "pension" includes the actuarial equivalent as an annual pension, as determined by the Inland Revenue Pension Schemes Office, of any lump sum.

6. "Total retirement benefits" means the total of so much of—

- (a) the annual rate of the participant's retirement pension under these Regulations;
- (b) the annual rate of any pension payable under Part E of the 1995 Regulations;
- (c) the actuarial equivalent as an annual pension, as determined by the Inland Revenue Pension Schemes Office, of any retirement lump sum under the 1995 Regulations;
- (d) the annual rate of any pensions payable to the participant under any approved scheme;
- (e) the actuarial equivalent as an annual pension, as determined by the Inland Revenue Pension Scheme Office of any retirement lump sum under an approved scheme;

as is attributable to contributions, including any contribution made by the employer, paid while in pensionable employment.

## PART II

### *Retirement pensions*

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

8.—(1) If the participant becomes entitled to a pension under regulation E1 of the 1995 Regulations on his 60th birthday, the permitted amount is the

**greater of E and F,**

where—

E is 1/60th of the participant's final remuneration for each of up to 40 years of pensionable service, and

F is the lesser of G and H.

(2) In sub-paragraph (1)—

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

- (a) G is—  
 (i) in relation to a participator who entered pensionable employment before 17 March 1987, the fraction of final remuneration ascertained by reference to the number of years of pensionable service at age 60, from the Table below;

TABLE

<i>Years of pensionable service at age 60</i>	<i>Fraction</i>
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, is 1/30th of the participator's final remuneration for each of up to 20 years of pensionable service; and  
 (b) H is 2/3rd of the participator's final remuneration less any retained benefits.
9. If the participator becomes entitled to a pension under regulation E1 of the 1995 Regulations on a date later than his 60th birthday, the permitted amount is—  
 (a) where the participator first entered pensionable employment 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 the material 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 pensionable service, 1/60th of his final remuneration for each of up to a maximum of 45 years of pensionable service, excluding any years before the participator's 60th birthday in excess of 40, and

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

10.—(1) If the participator becomes entitled to a pension under regulation E6 of the 1995 Regulations on or after his 60th birthday, the permitted amount is—

- (a) where the participator first entered pensionable employment before 1st June 1989, the greater of

$$(M + R) \text{ and } \left( \frac{N \times Q}{P} + R \right)$$

where—

M is 1/60th of the participator's final remuneration for each of up to 40 years of pensionable service,

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

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 pensionable employment up to his 60th birthday,

Q is the maximum amount calculated in accordance with paragraph 8 if the participator had continued in pensionable employment until age 60,

R is the appropriate increase; and

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

(2) For the purpose 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 pensionable employment to the date of payment of retiring allowances.

**11.** Paragraphs 8 to 10 inclusive in their application to persons who are special class officers for the purposes of regulations R2 and R3 of the 1995 Regulations shall have effect subject to the modification that 55th birthday shall be substituted for 60th birthday and age 55 shall be substituted for age 60.

**12.** If the participator becomes entitled to a pension under regulation E2 of the 1995 Regulations (early retirement pension on grounds of ill health), the permitted amount is that fraction of the participator's final remuneration which, in accordance with paragraph 8 of this Schedule, he could have received had he remained in pensionable employment until his 60th birthday.

**13.** If the participator becomes entitled to a pension under regulation E3 (early retirement pension in respect of redundancy), E4 (early retirement pension with employer's consent) or E5 (early retirement pension with actuarial reduction) of the 1995 Regulations, the permitted amount is—

- (a) where the participator first entered pensionable employment before 1st June 1989, the greater of

$$M \text{ and } \left( \frac{N \times Q}{P} \right) \text{ and}$$

- (b) in any other case, S, where—

M, N, P and Q have the same meaning as in paragraph 10, and

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

### PART III

#### *Dependants' pensions*

**14.—(1)** The annual rate of a dependant's pension under these Regulations, or where more than one such pension is payable the total of their annual rates, must not be such as to cause the total of the annual rates of the relevant benefits to exceed the permitted amount.

- (2) Where only one dependant's pension is payable, the relevant benefits are—

- (a) that pension;
- (b) any similar pension payable to the dependant under the 1995 Regulations or under a free-standing additional voluntary contributions scheme to which contributions were paid while the participator was in pensionable employment;

and the permitted amount is 2/3rds of the maximum retirement pension.

- (3) Where two or more dependants' pensions are payable, the relevant benefits are—

- (a) those pensions;
  - (b) any similar pensions payable as mentioned in sub-paragraph (2)(b);
- and the permitted amount is the annual rate of the maximum retirement pension:

Provided that for each dependant's pension the relevant benefits shall not exceed the permitted amount specified in sub-paragraph (2).

(4) Subject to sub-paragraph (5), the maximum retirement pension is the participator's permitted amount calculated in accordance with paragraphs 8 to 13 but disregarding any retained benefits.

(5) In calculating the maximum retirement pension—

- (a) if the participator died in pensionable employment and had not attained the age of 60, it is to be assumed that he continued in pensionable employment at the same salary up to, and retired on, his 60th birthday, and
- (b) if the participator died in pensionable employment and had attained the age of 60, it is to be assumed that he retired on the day before death.

## PART IV

### *Lump sums on death*

**15.**—(1) The lump sum payable under regulation 11(7) must not be such as to cause the total lump sums payable on death to exceed the total realisable value of the investments made by the Secretary of State under regulations 7(1), 8(2), or 9(4) in respect of contributions made by the participator.

(2) The total lump sums payable on death are the total of—

- (a) any lump sum death benefit arising pursuant to an election under regulations 3(1)(b), 3(6) or 5(2)(a);
- (b) any lump sum payable under regulation 11(7); and
- (c) any lump sum death benefits totalling £2500 or more that are payable under relevant schemes.

(3) The relevant schemes are—

- (a) approved schemes;
- (b) schemes approved under Chapter IV of Part XIV of the Taxes Act;
- (c) free-standing additional voluntary contribution schemes;
- (d) retirement annuity contracts approved under Chapter III of Part XIV of the Taxes Act;
- (e) the scheme constituted by the 1995 Regulations;
- (f) “relevant statutory schemes” as defined by section 611A of the Taxes Act.

(4) The permitted amount for the purpose of regulations 4(4) and 12(2) is £5000 or, if greater, 4 times the participator's remuneration.

(5) The participator's remuneration is the

**greater of T, U and V,**

where—

T is what the participator's final remuneration would have been if the date of death had been the material date,

U is the participator's highest year's adjusted salary for the purpose of calculating T, and

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

V is the participator's total taxable earnings during any period of 12 months ending not more than 3 years immediately before the date of death, increased in proportion to any increase in the Index from the end of the year up to the material date as mentioned in paragraph 3(1).