

## SCHEDULE

### *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.

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(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.