

SCHEDULE 1

The Royal Mail Statutory Pension Scheme Rules

PART I CLAUSES

Purpose, definitions and interpretation

1.—(1) The Royal Mail Statutory Pension Scheme has been established by the Secretary of State under section 17 of the Postal Services Act 2011⁽¹⁾ for the purpose of securing pensions and other benefits for or in respect of qualifying members of the Royal Mail Pension Plan, for and in respect of whom a transfer was made to the Scheme under the provisions of that Act with effect from the Commencement Date.

(2) In these Rules the following expressions have the following meanings—

“Actuary” means the Government Actuary or any Fellow of the Institute and Faculty of Actuaries or a firm the majority of whose partners are Fellows of the Institute and Faculty of Actuaries, as may be appointed by the Secretary of State to be the Actuary for the purpose of these Rules;

“Benefits Order” means the Postal Services Act 2011 (Transfer of Accrued Pension Rights) Order 2012⁽²⁾;

“Clause” means one of the clauses in Part I of the Rules;

“Commencement Date” means the date on which this RMSPS commenced, being 1 April 2012;

“Contracting-out Laws” means the contracting-out laws of the Pension Schemes Act 1993⁽³⁾ (including anti-franking) to the extent that they apply to the RMSPS with any modifications under the Benefits Order;

“Cut-Off Date” means 31 March 2012, being the date on which the qualifying time falls;

“Cut-Off Date Active” has the meaning given in Clause 4 (Benefits payable in respect of Cut-Off Date Actives);

“Cut-Off Date Non-Active” means a person referred to in Clause 3(1)(a) and/or (b) (Benefits payable in respect of Wholly Transferred Beneficiaries);

“Employer” means at any time (which may be a time before, on or after the Cut-Off Date) an “Employer” for the purposes of the RMPP as defined in the RMPP Rules;

“Family Benefits” means pensions or benefits paid under Section A or Section B to or in respect of the widow, widower or children of a Section A Active or a Section B Active (as the case may be);

“Former RMPP Section A Member” means a Cut-Off Date Non-Active who, before the end of the Cut-Off Date, was subject to the Section A Rules of the RMPP;

“Former RMPP Section B Member” means a Cut-Off Date Non-Active who, before the end of the Cut-Off Date, was subject to the Section B Rules of the RMPP;

“Former RMPP Section C Member” means a Cut-Off Date Non-Active who, before the end of the Cut-Off Date, was subject to the Section C Rules of the RMPP;

(1) 2011 c.5.
(2) S.I. 2012/687.
(3) 1993 c.48.

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“Fund” means all monies from time to time held (whether before, on or after the Cut-Off Date) for the purposes of the RMPP by or on account of the RMPP Trustees in pursuance of the RMPP Rules and the investments and securities from time to time representing the same;

“General Rules” means—

- (a) the general rules of the RMSPS set out in Part II (The General Rules of the Scheme) of this Schedule, and a reference to a “General Rule” is a reference to one of the General Rules; or
- (b) if stated, the general rules of the contributory part of the RMPP, and in that case a reference to a “General Rule” is a reference to one of those General Rules;

“GMP” means guaranteed minimum pension as that term is used for the purposes of the Pension Schemes Act 1993;

“HMRC” means Her Majesty’s Revenue and Customs;

“Interest” means compound interest at such rate and (unless a period is specified in these Rules) for such period or periods as may be determined by the Secretary of State in his discretion (less tax at such rate as applies from time to time);

“Member” means a person who is either a Cut-Off Date Non-Active or a Cut-Off Date Active;

“money purchase benefits” has the meaning given by the words used to define “money purchase benefits” at section 181 of the Pension Schemes Act 1993 read together with section 29 of the Pensions Act 2011(4);

“New POL Scheme” has the meaning given in Clause 5 (New POL Scheme);

“Normal Retiring Age” means—

- (a) for a Cut-Off Date Active, age 60 in respect of RMSPS NRA60 Benefits or RMSPS NRA60 Pension (as the case may be) and age 65 in respect of RMSPS NRA65 Benefits or RMSPS NRA65 Pension (as the case may be) except where specified otherwise in the Rules (including any difference arising by reason of service in unhealthy places);
- (b) for a Cut-Off Date Non-Active, their “Normal Retiring Age” for the purposes of the RMPP;

“Pensioner” means a Cut-Off Date Active who is in receipt of payment of any pension under the RMSPS, or immediately entitled under the RMSPS to receive payment of any pension or other benefit;

“Plan L Member” means a Member (whether a Cut-Off Date Non-Active or a Cut-Off Date Active) who had an obligation to pay contributions due to the RMPP under General Rule 21 (Contributions for widow’s pensions) of the RMPP Rules that was outstanding at the end of the Cut-Off Date, and who had chosen or had been deemed to have chosen as that Member’s method of paying those contributions “Plan L” as set out in General Rule 25 (Plan L) of the RMPP Rules;

“Preservation Laws” means laws as to preservation of benefit set out in Chapter I Part IV of the Pension Schemes Act 1993, as they apply to the RMSPS under Clause 18 (Preservation Laws);

“Principal Employer” means the principal employer of the RMPP from time to time;

“qualifying member of the RMPP” means a Cut-Off Date Active, a Cut-Off Date Non-Active or an Underlying Member;

“qualifying time” means the time immediately before 1 April 2012, as defined in the Benefits Order;

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“QROPS” means a qualifying recognised overseas pension scheme as that term is defined in Section 169 of the Finance Act 2004⁽⁵⁾;

“Registered” means the status of a scheme registered in accordance with Chapter 2 of Part 4 of the Finance Act 2004;

“Revaluation Rules” means the requirements as to the revaluation of accrued benefits that apply under any provision of the Rules to benefits under the RMSPS;

“RMPP” means the Royal Mail Pension Plan;

“RMPP Active” means a Cut-Off Date Active who remains in “Reckonable Service” as defined under the RMPP Rules. A Cut-Off Date Active will cease to be an RMPP Active on the member’s RMPP Exit Date;

“RMPP AVC Fund” has the meaning given in Clause 10(1) (Additional voluntary contributions transferred from the RMPP);

“RMPP Commencement Date Rules” means the trust deed and rules of the RMPP as amended by Articles 11 and 13 of the Benefits Order, as at the time immediately after the amendments under both of those Articles take effect;

“RMPP Cut-Off Date Rules” means, in relation to any Member or Wholly Transferred Beneficiary, the governing documents of the RMPP as they applied to that person at the end of the Cut-Off Date;

“RMPP Exit Date” means, in respect of a Cut-Off Date Active, the earlier of the date the Member opts out of the RMPP under the RMPP Rules, ceases to be employed by an Employer, dies or retires;

“RMPP Leaver” means a Cut-Off Date Active who, after the Cut-Off Date, ceases to be an RMPP Active but who is not yet entitled under the RMSPS to receive payment of any pension or other benefit;

“RMPP Reckonable Service” means, in respect of a Member, the Member’s “Reckonable Service” under (as applicable to that Member) General Rule 10 (Contributory and Reckonable Service) or Rule 1 (Meaning of words used) of Section C of the RMPP Rules;

“RMPP Rules” means the trust deed and rules of the RMPP as in force from time to time, but where there is a reference to an occurrence, right or entitlement under the RMPP Rules at a particular time (which may be a time before, on or after the Cut-Off Date), that reference will be taken to be a reference to an occurrence, right or entitlement under the relevant provisions of the RMPP Rules as in force or applicable at that time. Any reference in these Rules to a specific rule or provision of the RMPP Rules—

- (a) shall (unless otherwise stated) be based on the numbering and paragraphs used in the provisions of the RMPP Cut-Off Date Rules; but
- (b) notwithstanding Paragraph (a) above, shall be deemed (where necessary) to be a reference to the provision of the RMPP Rules in force or applicable at the relevant time that is equivalent or corresponds to the specific rule or provision that is referred to in these Rules;

“RMPP Trustees” means the trustee or any of the trustees of the RMPP from time to time;

“RMSPS” means this scheme, the Royal Mail Statutory Pension Scheme;

“RMSPS AVC Only Beneficiary” means a Cut-Off Date Non-Active who is an “RMSPS AVC Only Beneficiary” for the purposes of the RMPP, as that term is defined under the RMPP Commencement Date Rules;

“RMSPS NRA60 Benefits” has the meaning given in the Section B Rules;

(5) 2004 c.12.

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“RMSPS NRA65 Benefits” has the meaning given in the Section B Rules;

“RMSPS NRA60 Pension” has the meaning given in the Section C Rules;

“RMSPS NRA65 Pension” has the meaning given in the Section C Rules;

“RMSPS Reckonable Service” means the following—

- (a) for Section C Actives, it has the meaning given in Rule 2 (Definitions and interpretation) of the Section C Rules; and
- (b) for other Cut-Off Date Actives, it has the meaning given in General Rule 2 (RMSPS Reckonable Service) (and, for Section A Actives, the meaning given to their “reckonable service” by any other provisions as may be applicable in accordance with Rule 2 (Benefits of Section A Actives under the RMSPS) of the Section A Rules);

“Rules” means the rules governing the RMSPS (including these Clauses) as set out in this Schedule or, as the context requires, any or some of these Rules. “Rule” means any individual rule of the Rules of any Section of the RMSPS;

“Scheme” means the RMSPS;

“Section A” means Section A of the RMSPS;

“Section A Rules” means the Rules of Section A as set out in Part III (Section A Rules of the Scheme) of this Schedule;

“Section B” means Section B of the RMSPS;

“Section B Rules” means the Rules of Section B as set out in Part IV (Section B Rules of the Scheme) of this Schedule;

“Section C” means Section C of the RMSPS;

“Section C” Rules means the Rules of Section C as set out in Part V (Section C Rules of the Scheme) of this Schedule;

“Section E” means Section E of the RMSPS;

“Section E Rules” means the Rules of Section E as set out in Part VI (Section E) of this Schedule;

“Surrender and Forfeiture Laws” has the meaning given in Clause 19 (Surrender and Forfeiture Laws);

“Transferred AVC Fund” has the meaning given in Clause 10(1) (Additional voluntary contributions transferred from the RMPP);

“Transfer Value Laws” means the laws as to transfer values set out in Chapter IV of Part IV of the Pension Schemes Act 1993, as they apply to the RMSPS under the Benefits Order;

“Underlying Member” has the meaning given in Clause 3(1)(c) (Benefits payable in respect of Wholly Transferred Beneficiaries); and

“Wholly Transferred Beneficiary” has the meaning given in Clause 3 (Benefits payable in respect of Wholly Transferred Beneficiaries).

(3) Reference to any enactment shall include regulations made under it and reference to any enactment or regulations shall include reference to any statutory amendment or re-enactment thereof for the time being in force and where appropriate (a) any preceding, subsequent related or replacement legislation in the same behalf and (b) equivalent legislation in Northern Ireland.

(4) Headings do not form any part of these Rules but are for convenience of reference only.

(5) The terms of these Rules are derived from the RMPP Cut-Off Date Rules. When interpreting provisions of these Rules, regard may be had to any corresponding provisions contained in the RMPP Cut-Off Date Rules as an aid to interpretation where relevant. However, for avoidance of doubt, the

terms of these Rules govern this Scheme, and the terms of the RMPP Cut-Off Date Rules shall have no binding effect unless expressly stated.

(6) In these Rules, references to clauses are references to clauses in Part I, and references to Rules are to Rules set out in Parts II to IX.

Civil Partners

2.—(1) References in the RMSPS to a “spouse” shall include a “civil partner”; references to a “widow” or “widower” shall include a “surviving civil partner”; references to “marriage” shall include a “civil partnership”; references to “marry” or “married” shall include “form a civil partnership” or “a participant in a civil partnership” as the context requires; and references to “divorce” shall include “dissolution of a civil partnership” (where the term “civil partner” has the meaning given to it in the Civil Partnership Act 2004⁽⁶⁾).

(2) Nothing in this Clause 2 is intended to override the provisions of the Section A Rules (or the equivalent provisions of the RMPP Cut-Off Date Rules that apply to Former RMPP Section A Members or Cut-Off Date Non-Actives who are former members of the non-contributory part of the RMPP, as applicable to such members under Clause 3) (Benefits payable in respect of Wholly Transferred Beneficiaries) as they relate to civil partners.

Benefits payable in respect of Wholly Transferred Beneficiaries

3.—(1) Any person who, but for the transfer, amendments and discharge under the Benefits Order, would have been in one or more of the categories (a)-(c) below (in each case, whether or not known to the Trustee at any time) immediately after the qualifying time will be a Wholly Transferred Beneficiary—

- (a) in receipt of a pension under the RMPP referable to that person’s membership of the RMPP (or membership of any other pension scheme from which that person was transferred to the RMPP);
- (b) a deferred pensioner under the RMPP; or
- (c) a person entitled to a pension or other benefit under the RMPP (including a pension credit) in respect of or referable to the membership of the RMPP of another person (that other person being the Underlying Member).

A Wholly Transferred Beneficiary will also include any person who, but for the transfer, amendments and discharge under the Benefits Order, would have been contingently entitled to receive a pension or other benefit under the RMPP in respect of any of the persons described in Paragraphs (a)-(c) above immediately after the qualifying time (for the avoidance of doubt this includes, without limitation, dependants and survivors of those persons). A member of the RMPP who comes within the description in either Paragraph (a) or (b) above, or who is an Underlying Member, is a qualifying member of the RMPP for the purposes of Part 2 of the Postal Services Act 2011⁽⁷⁾.

(2) Each Wholly Transferred Beneficiary will, from the Commencement Date, have under the RMSPS the same rights and entitlements as applied to them under the RMPP as at the end of the Cut-Off Date, subject to sub-paragraphs (3) and (4) below, other than any rights and entitlements in respect of money purchase benefits which (subject to Clause 10 (Additional voluntary contributions transferred from the RMPP)) shall remain in the RMPP. The rights and entitlements in respect of Wholly Transferred Beneficiaries are (subject to the other Clauses) governed solely by this Clause 3, and Parts II-IX of this Schedule do not apply to them.

(3) Subject to sub-paragraph (4) below, for the purposes of determining the rights and entitlements of Wholly Transferred Beneficiaries under this Clause—

(6) 2004 c.33.

(7) 2011 c.5.

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- (a) any duty of the RMPP Trustees or an Employer, or any power or discretion which may be exercisable by the RMPP Trustees or an Employer, howsoever expressed, shall be a duty, power or discretion of the Secretary of State; and
 - (b) any role or function which would under the RMPP have been performed by the “Actuary” (as defined in the RMPP) shall be, to the extent relevant to the RMSPS, performed by the Secretary of State on the advice of the Actuary.
- (4) In relation to each Wholly Transferred Beneficiary who is a Member who opted out of the RMPP under General Rule 1A (Optional membership) or Rule 10E (Opting out of the Scheme) of Section C of the RMPP Rules before the end of the Cut-Off Date, and who is in Employer employment—
- (a) if the Member is retired from service with an Employer by reason of ill-health or incapacity, that Member’s RMSPS benefits will commence payment as they would have done if that Member had retained his or her benefits in the RMPP; and
 - (b) the amount of any benefit payable to or in respect of the Member from the RMSPS will be the same as would have been payable from the RMPP if that Member had retained his or her benefits in the RMPP.
- (5) Except as expressly provided for in these Rules, where a Cut-Off Date Active has one or more periods of RMPP Reckonable Service that ended on or before the Cut-Off Date, that person shall be treated as a Wholly Transferred Beneficiary (and this Clause 3 shall apply to that person) in respect of his or her rights and entitlements relating to such earlier period or periods of RMPP Reckonable Service, subject to the following—
- (a) If the Cut-Off Date Active has a period of RMPP Reckonable Service that ended on or before the Cut-Off Date and which was at the end of the Cut-Off Date treated as continuous with RMSPS Reckonable Service, that person shall be treated as a Cut-Off Date Active (subject to the Section A, Section B, Section C or Section E Rules as applicable) in respect of that period.
 - (b) In respect of a Section C Active, this Clause 3(5) operates without prejudice to the provisions made in Rule 5 (RMSPS Pension Supplement) of Section C in respect of any Suspended Pre-Cut-Off Date RMPP Pension Supplement that that person may have.
 - (c) In relation to any person who is or becomes entitled or contingently entitled to receive a pension or other benefits in respect of one or more periods of a Member’s RMPP Reckonable Service that ended on or before the Cut-Off Date, principles that are equivalent to those set out in the preceding provisions of this Clause 3(5) will apply.
- (6) If a Cut-Off Date Non-Active is a Plan L Member, that Member had accrued an obligation to pay the amount of contributions due to the RMPP under General Rule 21 (Contributions for widow’s pensions) of the RMPP Rules. The amount of that obligation, as had accrued as at the end of the Cut-Off Date and revalued under the RMSPS as if it were a benefit payable to that Member under the RMSPS, is an Accrued Plan L Amount. The Plan L Member will be treated as owing an obligation to the RMSPS in respect of the Accrued Plan L Amount, to be discharged by one or both of the methods set out in Paragraphs (a) and (b) below. Where both methods are available, the Member will choose the proportion of the accrued amount that will be met by each method, unless the Member has died, in which case the Secretary of State will use the method set out in Paragraph (a).
- (a) Under the method set out in this Paragraph, any lump sum benefits payable in respect of the Member from the RMSPS (including any lump sum payable on that Member’s death) will be reduced by the Accrued Plan L Amount (or if the Member also chooses to use the method set out in Paragraph (b), the appropriate share of the Accrued Plan L Amount under the RMSPS).
 - (b) Under the method set out in this Paragraph, the Member’s Transferred AVC Fund will, as provided for in Clause 10 (Additional voluntary contributions transferred from the RMPP),

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be applied for the purpose of meeting some or (if the Member also chooses to use the method set out in Paragraph (a)) the appropriate share of the Accrued Plan L Amount.

Benefits payable in respect of Cut-Off Date Actives

4. For any person who was—
- (a) in pensionable service under Section A of the contributory part of the RMPP immediately after the qualifying time (a Section A Active);
 - (b) in pensionable service under Section B of the contributory part of the RMPP immediately after the qualifying time (a Section B Active);
 - (c) in pensionable service under Section C of the contributory part of the RMPP immediately after the qualifying time (a Section C Active); or
 - (d) in pensionable service under Section E of the contributory part of the RMPP immediately after the qualifying time (a Section E Active),
- (in each case, a Cut-Off Date Active),

benefits will be provided under the RMSPS in respect of that person as follows—

- (i) benefits will be provided, subject to General Rule 7 (Application of Sections A and B – election for Section B benefits), in respect of Section A Actives as set out in the Section A Rules;
- (ii) benefits will be provided in respect of Section B Actives as set out in the Section B Rules;
- (iii) benefits will be provided in respect of Section C Actives as set out in the Section C Rules;
- (iv) benefits will be provided in respect of Section E Actives as set out in the Section E Rules; and
- (v) the benefits of all Cut-Off Date Actives will be subject to the General Rules, except as may be stated otherwise.

New POL Scheme

5.—(1) If a “New POL Scheme” as defined in Clause 28B (Transfer of the POL Fund out of the Scheme at the request of the Principal Employer or POL) of the RMPP Commencement Date Rules is established (the New POL Scheme), these Rules shall apply to a Cut-Off Date Active as provided for in the remainder of this Clause where all or part of the benefits to which the Cut-Off Date Active is entitled under the RMPP are transferred to the New POL Scheme pursuant to that clause.

(2) The Secretary of State will apply these Rules with any modifications or adjustments as he may consider to be reasonably necessary in order to ensure that a Cut-Off Date Active’s benefits under the RMSPS (including without limitation the amount of such benefits, the circumstances under which they are paid and the treatment of elections or actions taken by the Cut-Off Date Active or any other person) are the same as they would have been had the Cut-Off Date Active’s RMPP benefits remained in the RMPP rather than transferring to the New POL Scheme.

- (3) Without limitation to sub-paragraph (2) above—
- (a) all references in these Rules to benefits payable, events taking place, directions, elections, nominations and requests made and actions taken under or in relation to the RMPP or any of its Employers shall where appropriate be deemed to refer to benefits payable, events taking place, elections made and actions taken under or in relation to the New POL Scheme;

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- (b) the definition of “Employer” in Clause 1 (Purpose, definitions and interpretation) shall where appropriate mean an “Employer” for the purposes of the rules of the New POL Scheme;
- (c) the definition of “RMPP Rules” in Clause 1 (Purpose, definitions and interpretation) shall where appropriate refer to the trust deed and rules of the New POL Scheme;
- (d) the references to an Employer in Clause 16 (Set-off for crime, fraud or negligence) and in Clause 19(2)(a) (Surrender and Forfeiture Laws) shall where appropriate refer to an employer participating in the New POL Scheme; and
- (e) the references to the RMPP in Clause 16 (Set-off for crime, fraud or negligence) and in Clause 19(2)(b) (Surrender and Forfeiture Laws) shall where appropriate refer to the New POL Scheme.

Member choices and nominations made under the RMPP

6.—(1) Any directions, elections, nominations and requests made by any person (whether Wholly Transferred Beneficiaries, Cut-Off Date Actives or any beneficiaries with actual or contingent rights to benefits in respect of them) under the RMPP Rules and notified to the RMPP Trustees before the Commencement Date in accordance with the requirements of the RMPP Rules will continue to (as appropriate) bind or be taken into account by the Secretary of State from the Commencement Date, subject as appropriate to any later directions, elections, nominations and requests that may be made by any person under the RMSPS in accordance with these Rules.

(2) Without limitation to sub-paragraph (1), where any lump sum benefits are payable under the RMSPS on the death of a Member or any other person, the Secretary of State (or any responsible persons as may be appointed for such purpose by the Secretary of State under General Rule 6 (Member’s power to place benefits within the Secretary of State’s discretion), or the equivalent provisions of the RMPP Rules as apply to Wholly Transferred Beneficiaries under Clause 3) (Benefits payable in respect of Wholly Transferred Beneficiaries)) shall take into account any nomination form completed by the Member or any other person and delivered before the Commencement Date to the RMPP Trustees (a Pre-Commencement Nomination), and shall take account of the wishes regarding the distribution of death benefits (including treating any person as a beneficiary of any death benefit) as set out in the Pre-Commencement Nomination in the same way as if that Pre-Commencement Nomination had been delivered to the Secretary of State instead of to the RMPP Trustees. To the extent that a Pre-Commencement Nomination has been superseded by any valid nomination form that is delivered at a later date to the Secretary of State under these Rules, the Secretary of State (or any responsible persons referred to above) may take into account the Pre-Commencement Nomination as he considers (or they consider) to be reasonable and appropriate in order to determine the distribution of death benefits.

Payment of benefits

7.—(1) Where, by reason of an overpayment of pension or other benefit in respect of a Wholly Transferred Beneficiary that occurred under the RMPP on or before the Cut-Off Date, the RMPP Trustees would at the end of the Cut-Off Date have had a right to recover that overpayment from future instalments of the pension in respect of that person, subject to sub-paragraph (3) below the Secretary of State in his absolute discretion may recover that overpayment as if it had occurred under the RMSPS by reducing future instalments of pension or any other benefit owed in respect of that person (and for these purposes any monetary obligation due from the beneficiary to the RMPP as at the end of the Cut-Off Date by reason of the overpayment will be treated as an obligation owing to the RMSPS).

(2) Where an overpayment of pension or other benefit in respect of any person occurs under the RMSPS after the Cut-Off Date, subject to sub-paragraph (3) below the Secretary of State in his

absolute discretion may recover that overpayment by reducing future instalments of pension or any other benefit owed in respect of that person.

(3) The Secretary of State will only have the power to make recovery from a person as described in sub-paragraphs (1) and (2) above to the extent that—

- (a) the RMPP Trustees may have done so had that person's benefit been retained in the RMPP; and
- (b) it is permitted under the Surrender and Forfeiture Laws as applied to the RMSPS under Clause 19 (Surrender and Forfeiture Laws).

Limitations of Claims

8. No person whether a Member or otherwise shall have any claim right or interest upon to or in respect of the RMSPS or any interest thereon or any such claim upon or against the Secretary of State except under and in accordance with the provisions of the RMSPS.

Augmentation and new benefits

9. The Secretary of State may provide increased or additional benefits in respect of any Member (or any spouse or dependant of a Member) or any Wholly Transferred Beneficiary. These benefits must be consistent with the Preservation Laws, Revaluation Rules, Contracting-out Laws and Transfer Value Laws where relevant.

Additional voluntary contributions transferred from the RMPP

10.—(1) Where a Member has uncrystallised rights to money purchase benefits under the RMPP that are derived from additional voluntary contributions (including additional voluntary contributions that are made to the RMPP after the end of the Cut-Off Date), funds under the relevant account provided to that Member under the RMPP in respect of such contributions (the RMPP AVC Fund) may be transferred to the RMSPS and applied to provide benefits in accordance with this Clause (the part of the RMPP AVC Fund that is transferred to the RMSPS being the Transferred AVC Fund).

(2) Where the Member is an RMSPS AVC Only Beneficiary, the entire balance of the RMPP AVC Fund may at the Member's election be transferred to the RMSPS at the time the Member elects to crystallise those money purchase benefits. The Transferred AVC Fund will be used in one of the following ways, as the Member chooses—

- (a) to provide the following benefits under the RMSPS—
 - (i) a lump sum cash benefit from the RMSPS, to the extent that this would be an authorised payment under the Finance Act 2004⁽⁸⁾; and/or
 - (ii) a pension under the RMSPS on such terms and conditions as the Secretary of State decides in his absolute discretion; and/or
- (b) if the Member is a Plan L Member and so elects, to meet some or all of the obligation to the RMSPS in respect of the Accrued Plan L Amount, as provided for in Clause 3(6) (Benefits payable in respect of Wholly Transferred Beneficiaries) (in the case of a Cut-Off Date Non-Active) or General Rule 15 (Plan L) (in the case of a Cut-Off Date Active).

(3) Where the Member is a Cut-Off Date Active and has elected to use the RMPP AVC Fund to take a lump sum cash benefit under the RMPP of a value equal to (or, in the opinion of the Secretary of State in his absolute discretion, sufficiently close to) the maximum pension commencement lump sum (as that term is defined under the Finance Act 2004) that may be paid to that Member under the

(8) 2004 c.12.

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RMPP as an authorised payment under the Finance Act 2004, funds remaining in the RMPP AVC Fund (whether the contributions from which they were derived were made before, on or after the Cut-Off Date) may at the Member's election be transferred to the RMSPS at or around the time the Member is to take such lump sum cash benefit from the RMPP. The Transferred AVC Fund may only be used for the following purposes and subject to the following conditions—

- (a) to provide a lump sum cash benefit from the RMSPS, to the extent that this would be an authorised payment under the Finance Act 2004; and/or
- (b) if the Member is a Plan L Member and so elects, to meet some or all of the obligation to the RMSPS in respect of the Accrued Plan L Amount provided for in Clause 3(6) (Benefits payable in respect of Wholly Transferred Beneficiaries),

and the amount that is transferred from the RMPP AVC Fund will not exceed the sum of—

- (i) the maximum amount of the Transferred AVC Fund that the Member may take as a pension commencement lump sum (as defined under the Finance Act 2004) under the RMSPS (and for avoidance of doubt, when determining this amount (A) any other lump sums payable to the Member under the RMSPS will be taken into account and (B) the Transferred AVC Fund will be included as part of the Member's RMSPS benefit); and
- (ii) the maximum amount necessary to meet the Member's entire obligation to the RMSPS in respect of the Accrued Plan L Amount.

- (4) A Transferred AVC Fund must be transferred to the RMSPS in the form of cash only.

Individual transfers out of the Scheme

11.—(1) A Member who is at least one year before Normal Retiring Age and who either—

- (a) is a Cut-Off Date Non-Active who ceased active membership of the RMPP on or after 1 January 1986 (or of any other pension scheme from which that person was transferred to the RMPP); or
- (b) is a Cut-Off Date Active,

has a right to require the Secretary of State to use the cash equivalent of that Member's benefit in whichever of the following ways (or combination of them) that Member chooses—

- (i) to buy one or more annuities from one or more Insurance Companies chosen by the Member and willing to accept payment on account of that Member. The annuities must satisfy the Transfer Value Laws; and/or
- (ii) to acquire rights under another scheme whose trustees or managers are able and willing to accept him or her. The receiving scheme must be a Registered scheme or a QROPS. The transfer must comply with the relevant requirements of the Contracting-out Laws and the Transfer Value Laws.

The Member can exercise this right by application in writing to the Secretary of State at any time up to a year before Normal Retiring Age (or, if later, six months after the Cut-Off Date, but in any event no later than Normal Retiring Age). The Secretary of State shall have a discretion to use the cash equivalent of that Member's benefit in the same manner in relation to a Member who is within a year of, at or over Normal Retiring Age. In either case, the Secretary of State may impose such conditions as he considers appropriate.

(2) For the purposes of determining whether a Member has a right to a cash equivalent transfer and when that right may be exercised, references to "Normal Retiring Age" in sub-paragraph (1) above should be read as follows—

- (a) in respect of Section B Actives, as age 65 in respect of both any uncrystallised RMSPS NRA60 Benefits and RMSPS NRA65 Benefits and in respect of Section C Actives, as age

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65 in respect of any uncrystallised RMSPS NRA60 Pension and RMSPS NRA65 Pension. Such a Member's right (and the Secretary of State's discretion) under sub-paragraph (1) above may be exercised in respect of that Member's RMSPS NRA60 Benefits and RMSPS NRA65 Benefits separately (in relation to Section B) and in respect of that Member's RMSPS NRA60 Pension and RMSPS NRA65 Pension separately (in relation to Section C); and

- (b) (i) in respect of a Member who is a Former RMPP Section B Member and—
 - (A) had both NRA60 Benefits and NRA65 Benefits (as these terms are used for the purposes of the Section B Rules of the RMPP Cut-Off Date Rules), as age 65 in respect of both any such uncrystallised NRA60 Benefits and NRA65 Benefits accrued under the RMPP; or
 - (B) had only benefits accrued under the RMPP in respect of RMPP Reckonable Service before 1 April 2010, as age 60; and
- (ii) in respect of a Member who is a Former RMPP Section C Member and—
 - (A) had both a NRA60 Pension and a NRA65 Pension (as these terms are used for the purposes of the Section C Rules of the RMPP Cut-Off Date Rules), as age 65 in respect of any such uncrystallised NRA60 Pension and NRA65 Pension accrued under the RMPP; and
 - (B) had only benefits accrued under the RMPP in respect of RMPP Reckonable Service before 1 April 2010, as age 60.

The rights of a Member referred to in Paragraphs (a) and (b)(i)(A) and (ii)(A) above (and the Secretary of State's discretion in respect of that Member under sub-paragraph (1) above) may be exercised in respect of that Member's NRA60 Benefits and NRA65 Benefits separately (in relation to former membership of Section B of the RMPP) and in respect of that Member's NRA60 Pension and NRA65 Pension separately (in relation to former membership of Section C of the RMPP).

(3) Where a Member would otherwise have a right to require the Secretary of State to use the cash equivalent in accordance with sub-paragraph (1) above, but that Member left Post Office employment before 1 January 1986, the Secretary of State shall have discretion to apply a transfer value payment in accordance with sub-paragraph (1) above.

(4) In this Clause the cash equivalent or other transfer value payment shall be an amount calculated by the Secretary of State on the advice of the Actuary in accordance with the Transfer Value Laws where they apply.

(5) Where the Secretary of State has used the cash equivalent of the Member's preserved benefit in the manner described in this Clause, he will be discharged from any obligation to provide benefits to which the cash equivalent related.

Pension sharing on divorce

12.—(1) Orders or other provisions under Section 28(1) of the Welfare Reform and Pensions Act 1999(9) (activation of pension sharing) were—

- (a) made in respect of the RMPP and implemented in the RMPP on or before the Cut-Off Date; and
- (b) made in respect of the RMPP (whether on, before or after the Cut-Off Date) but (where relevant) not implemented in the RMPP by the end of the Cut-Off Date, and such orders or provisions shall be implemented in the RMSPS in accordance with Schedule 3 of the Benefits Order,

(9) 1999 c.30.

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(such orders or provisions being “RMPP Pension Sharing Orders”). The Secretary of State shall provide pension credit benefits under the Scheme, or implement the RMPP Pension Sharing Orders in the RMSPS, as the case may be in accordance with Schedule 3 of the Benefits Order. The relevant provisions of the RMPP Cut-Off Date Rules shall govern such benefits and the terms on which RMPP Pension Sharing Orders are implemented. For avoidance of doubt, the remaining provisions of this Clause 12 shall not apply to them.

(2) It may be that an order or other provision under Section 28(1) of the Welfare Reform and Pensions Act 1999 (activation of pension sharing) made in respect of the RMSPS requires all or part of a Member’s benefits to be transferred to the Member’s former spouse. If this happens, the Secretary of State will discharge his liability to the former spouse in accordance with the requirements of that Act. However, the Secretary of State may provide benefits for the former spouse under the Scheme and will do so where required by relevant legislation. The Secretary of State may recover charges in respect of provision of information in connection with pension sharing on divorce in the circumstances prescribed in the Welfare Reform and Pensions Act 1999 or relevant legislation.

(3) If the Secretary of State provides benefits for the former spouse under the Scheme, the benefits will be subject to the limits in Part IX (Overriding Finance Act Provisions) of this Schedule and will be provided separately from any other benefits to which the former spouse may be entitled under the Scheme. The Secretary of State will provide the former spouse with written details of the benefits that will be provided.

(4) It may be that the former spouse dies before the Secretary of State has discharged his liability to the former spouse. If this happens, the Secretary of State may (but need not) provide benefits in respect of the former spouse in one or both of the following forms as he considers appropriate—

- (a) a lump sum death benefit payable as described in General Rule 6(1) (Member’s power to place benefits within the Secretary of State’s discretion) as if the former spouse were a Member, the lump sum benefit were “the designated sum” for the purpose of that General Rule 6(1) and as if the former spouse had given an appropriate direction;
- (b) a pension or pensions for one or more of the former spouse’s children, new spouse or other dependants on terms determined by the Secretary of State.

(5) Any lump sum death benefit cannot exceed 25% of the transfer payment that could have been made to the other pension arrangement if the former spouse had not died. The amount of any single pension cannot exceed two-thirds of the annuity that the transfer payment that could have been made could have bought for the former spouse, at an available market rate, immediately before his or her death. Where more than one pension is paid, the total of all the pensions cannot exceed the amount of the annuity that could have been bought for the former spouse. If the Secretary of State decides not to provide benefits as described above, he may (but need not) discharge his liability in respect of the former spouse in one of the other ways allowed by the Welfare Reform and Pensions Act 1999. Any part of the transfer payment that is not used as described in this Clause will be retained by the Secretary of State.

(6) A pension payable under this Clause to a surviving spouse or any other adult dependant will be payable for life. A pension payable to a child will be payable until the child reaches age 18. The Secretary of State may, however, pay or continue paying a pension to a child who has reached age 18—

- (a) for so long as the child is in full-time education or training approved by the Secretary of State; or
 - (b) for the lifetime of the child, but only if the child was dependent on the former spouse because of disability when the former spouse died, or was wholly incapacitated at birth,
- subject in both cases to Part IX (Overriding Finance Act Provisions) of this Schedule.

Overriding Finance Act 2004 Provisions

13. The RMSPS is a Registered scheme. The provisions of Part IX (Overriding Finance Act Provisions) of this Schedule shall apply to the benefits of Cut-Off Date Actives under the RMSPS and, except where the Rules expressly provide otherwise, override any other provision of the RMSPS with which they are inconsistent. For avoidance of doubt, the benefits of Wholly Transferred Beneficiaries shall not be subject to Part IX, but instead (in accordance with Clause 3(2) (Benefits payable in respect of Wholly Transferred Beneficiaries)) shall be subject to the equivalent Finance Act 2004 provisions that applied to them under the RMPP Cut-Off Date Rules.

Contracting-out

14.—(1) The Secretary of State will operate the RMSPS in accordance with the Contracting-out Laws that apply to the RMSPS. The Rules will be treated as including Rules to the same effect as any rule that must be included for the RMSPS to comply with those laws (this Clause 14 overrides all other provisions of the RMSPS, except those that are in accordance with the Contracting-out Laws or where the Rules expressly provide otherwise).

(2) Without limiting sub-paragraph (1) above, any person who is a Wholly Transferred Beneficiary or a Cut-Off Date Active, or is entitled to benefits in respect of such a person, will from the Commencement Date have under the RMSPS rights and entitlements (including future rights and entitlements) to or referable to GMPs (including without limitation any rights or entitlements arising under Chapter III of Part IV of the Pension Schemes Act 1993⁽¹⁰⁾) which are no less favourable in any respect than those that person would have had under the RMPP or any relevant law but for the transfers and discharge under Articles 5 and 7 of the Benefits Order.

Prevention of discrimination on grounds of age

15.—(1) Subject to sub-paragraphs (2) to (8) where, in respect of a Member's service under the RMPP on or after 1 December 2006, any of the terms of the RMSPS would, but for this Clause, unlawfully treat a Member or group of Members (the Less Favoured Members) less favourably than another Member or group of Members (the More Favoured Members) on grounds of age, then in respect of a Member's service under the RMPP on and from 1 December 2006 (or the date on which the term has effect, if later) the term is modified so as to disapply the more favourable treatment in respect of the More Favoured Members, to the extent required to ensure that the application of the term to the More Favoured Members and the Less Favoured Members is not unlawful.

(2) Sub-paragraph (1) shall not apply to the extent that, following any modification of a term pursuant to that clause, any pension under the RMSPS would cease to be equivalent to, or better than, the pension which would be provided under a "reference scheme" as described in Section 12B of the Pension Schemes Act 1993.

(3) If the Secretary of State becomes aware that he or (prior to the Commencement Date) the RMPP Trustees have been—

- (a) making payments to or in respect of Members; or
- (b) making statements to Members about benefits which will or may become payable to or in respect of Members at a future date,

where payment of those benefits constitutes or would constitute a breach of a term as that term is modified by sub-paragraph (1) then the Secretary of State shall—

- (i) make whatever adjustments are necessary to benefits in payment or to statements about the payment of future benefits to ensure that from the date of the adjustment the benefits paid and

(10) 1993 c.48.

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statements made about benefits accurately reflect the provisions of the Rules and requirements of legislation prohibiting discrimination on the grounds of age; and

- (ii) have power to set off any overpayments of benefit made to or in respect of a Member in breach of a modification of a term pursuant to sub-paragraph (1) against any future payments of benefit to or in respect of that Member.

(4) In this Clause, a term means a term under the Rules or (at any time before the end of the Cut-Off Date) under the RMPP Rules and any provision, criterion, action, decision or practice applied by an Employer, the RMPP Trustees or the Secretary of State (as the case may be) as to the terms on which a person becomes a Member or is or was treated as a Member of the RMSPS or the RMPP.

(5) This Clause does not have effect in relation to rights accrued or benefits payable in respect of periods of RMSPS Reckonable Service prior to 1 December 2006 (or the date on which the relevant term has effect, if later).

(6) Notwithstanding the provisions of Clause 13 (Overriding Finance Act 2004 Provisions), General Rule 4 (Payment of benefits) or Part IX (Overriding Finance Act Provisions) of this Schedule (or the equivalent provisions of the RMPP Cut-Off Date Rules, as they apply to Wholly Transferred Beneficiaries under Clause 3 (Benefits payable in respect of Wholly Transferred Beneficiaries)) regarding the making of payments which would not be authorised payments for the purposes of the Finance Act 2004, the Secretary of State shall have power to make a payment that is or may be an unauthorised payment for the purposes of that Act where the payment is made in breach of a term as that term is modified by sub-paragraph (1) and—

- (a) the Secretary of State was not aware of the breach at the time the payment was made; or
- (b) the Secretary of State was aware of the breach at the time the payment was made but it was not reasonably practicable to prevent the payment being made.

(7) The Secretary of State shall have full power to determine any matters of ambiguity or dispute arising out of the application of this Clause 15 to the terms of the RMSPS.

(8) In this clause, a reference to a Member shall mean a Cut-Off Date Active. For avoidance of doubt, the benefits of Wholly Transferred Beneficiaries shall not be subject to this Clause 15, but instead (in accordance with Clause 3(2) (Benefits payable in respect of Wholly Transferred Beneficiaries)) shall be subject to the equivalent age discrimination provisions that applied to them under the RMPP Cut-Off Date Rules.

Set-off for crime, fraud or negligence

16.—(1) Subject to sub-paragraph (10) below, this Clause applies where, at any time (whether before, on or after the Cut-Off Date)—

- (a) a Section A Active or Section B Active is dismissed by an Employer for misconduct or resigns in order to avoid such dismissal and he or she has incurred a monetary obligation to his or her Employer arising out of his or her criminal, negligent or fraudulent act or omission;
- (b) a Section A Active, Section B Active, Former RMPP Section A Member or Former RMPP Section B Member has caused a monetary loss or incurred a monetary obligation to the RMPP as a result of his or her criminal, negligent or fraudulent act or omission;
- (c) a Section A Active, Section B Active, Former RMPP Section A Member or Former RMPP Section B Member has caused a monetary loss or incurred a monetary obligation to the RMSPS as a result of his or her criminal, negligent or fraudulent act or omission; or
- (d) a Section C Active or Former RMPP Section C Member owes money to his or her Employer arising from a criminal, fraudulent or negligent act or omission.

- (2) Where this Clause applies to a person—

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- (a) under Paragraphs (1)(a) and (d) above and the Employer notifies the Secretary of State of the amount determined by them of the monetary obligation due to that Employer; or
- (b) under Paragraph (1)(b) above and the RMPP Trustees notify the Secretary of State of the amount determined by them of the monetary obligation due to the RMPP,

the Secretary of State will reduce the benefits payable to or in respect of that person (including amounts payable by reference to contributions paid by him or her to the RMPP) subject to the following sub-paragraphs of this Clause.

(3) Where this Clause applies to a person under Paragraph (1)(c) above, the Secretary of State may reduce the benefits payable to or in respect of that person (including amounts payable by reference to contributions paid by him or her to the RMPP) subject to the following sub-paragraphs of this Clause.

(4) The amount of the reduction shall not exceed the amount of the monetary obligation due to the Employer or to the RMPP or to the RMSPS (as the case may be) or (if less) the value of the said benefits at the time of the reduction as determined by the Secretary of State on the advice of the Actuary.

(5) No reduction may be made to—

- (a) the person's GMP;
- (b) in the case of monetary obligation due to the Employer from a Section A Active, Section B Active, Former RMPP Section A Member or Former RMPP Section B Member, to benefits payable or contributions refundable in respect of any service with another employer that has been a participating employer under the RMPP (not being an Employer) for which, before the Cut-Off Date, the RMPP Trustees have granted back service credits or other benefits attributable to such service;
- (c) in the case of a Section C Active or Former RMPP Section C Member, benefits granted in respect of a transfer payment to the RMPP (except for benefits to which this Clause may apply notwithstanding the Surrender and Forfeiture Laws as applied to the RMSPS under Clause 19 (Surrender and Forfeiture Laws)); or
- (d) in the case of a Section C Active or Former RMPP Section C Member, benefits granted under the RMPP in respect of additional voluntary contributions as transferred to the RMSPS in accordance with Clause 10 (Additional voluntary contributions transferred from the RMPP).

(6) Before making any such reduction the person in question shall be given a certificate showing the amount of the reduction and the effect of it on that person's benefits.

(7) The reduction shall not be effected where there is a dispute as to the amount of the monetary obligation due to the Employer or to the RMPP or to the RMSPS unless it has become enforceable under an order of a competent court or in consequence of an award of an arbitrator or, in Scotland an arbiter to be appointed (failing agreement between the parties) by the sheriff.

(8) Unless Paragraph (1)(c) above applies, where there is a reduction under the above provisions, the amount of the reduction made will be paid by the Secretary of State to the Employer or to the RMPP Trustees (as appropriate).

(9) The above provisions (as they relate to monetary loss or obligation to the RMPP or to the RMSPS) shall not be exercisable to reduce—

- (a) the benefits of any Former RMPP Section A Member or Former RMPP Section B Member who was at 1 April 1998 already entitled to the receipt of a pension or benefits; or
- (b) the accrued rights of a Section A Active, Section B Active, Former RMPP Section A Member or Former RMPP Section B Member in respect of RMSPS Reckonable Service prior to 1 April 1998, save to the extent that a reduction of benefit would have been permissible under the RMPP Rules or by law immediately prior to 1 April 1998.

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(10) The above provisions shall not apply to a Section A Active or Former RMPP Section A Member to the extent that any provision of the Principal Civil Service Pension Scheme which relates to the reduction of a Member's benefits as a result of that Member's criminal, fraudulent or negligent act shall apply to such a Member.

(11) In addition to the above, the Secretary of State is entitled to the benefit of a charge, lien or set-off against benefits under the RMSPS in respect of Section C Actives and Former RMPP Section C Members which are attributable to Pensionable Service (as that term is used in, respectively, the Section C Rules or Section C of the RMPP Rules) on and after 1 April 1998 for the purpose of discharging some monetary obligation due from the person in question to the Scheme or the RMPP and arising out of a criminal, negligent or fraudulent act or omission by him or her. To the extent that the monetary obligation is due from the person in question to the RMPP, the Secretary of State will pay the amount of the reduction to the RMPP. Before exercising the entitlement under this sub-paragraph, the Secretary of State will follow the procedural steps set out in Section 91 of the Pensions Act 1995⁽¹¹⁾ as applied to the RMSPS under Clause 19 (Surrender and Forfeiture Laws). For the avoidance of doubt, the Secretary of State may only exercise the entitlement under this sub-paragraph to the extent that, and in the circumstances in which, the RMPP Trustees would have been able to exercise their entitlement to the benefit of a charge, lien or set-off under Rule 12G (Off-set for Crime, Fraud or Negligence) of Section C of the RMPP Cut-Off Date Rules in respect of the Member's benefits, had such benefits not been transferred to the RMSPS.

Ambiguity, doubt or dispute

17. In addition to any specific power in these Rules concerning ambiguity, doubt or dispute, the Secretary of State shall have full power to determine any matters of ambiguity, doubt or dispute concerning the interpretation of the Rules and their application to the benefits and entitlements of any Member or any beneficiary under the RMSPS.

Preservation Laws

18. The Secretary of State will ensure that the amount of a benefit provided under the RMSPS (whether in respect of a Wholly Transferred Beneficiary or a Cut-Off Date Active) is no less than the amount that would be payable if the Preservation Laws applied to the RMSPS, if and to the extent that the benefit as determined under the other provisions of these Rules would not be at least equal to that amount. The Secretary of State will also ensure that the form and time of payment of any such benefit will not be other than what would have been a permitted form and time of payment if the Preservation Laws applied to the RMSPS.

Surrender and Forfeiture Laws

19.—(1) Subject to the modifications set out in sub-paragraph (2) below, section 91 (Inalienability of occupational pension), section 92 (Forfeiture, etc), section 93 (Forfeiture by reference to obligation to employer) and section 94 (Sections 91 to 93: supplementary) of the Pensions Act 1995 and any regulations made under those sections (the "Surrender and Forfeiture Laws") shall be treated as applicable to the RMSPS, such that—

- (a) entitlements or rights under the RMSPS cannot be forfeited, assigned, commuted, surrendered or charged; and
- (b) no lien or set-off may be exercised in respect of such entitlements or rights, except to the extent permitted under the Surrender and Forfeiture Laws. Any agreement, act or occurrence that is not so permitted shall have the same consequence under the RMSPS as if the Surrender and Forfeiture Laws applied to it directly.

(11) 1995 c.26.

(2) The provisions referred to in sub-paragraph (1) shall be treated as modified in their application to the RMSPS, such that—

- (a) the references in or under section 91(5)(d) and section 93 to an “employer” shall be taken to mean an Employer;
- (b) the references in or under section 91(5)(e) to “the scheme” shall be taken to include the RMPP as well as the RMSPS.

(3) Subject in both cases to the Surrender and Forfeiture Laws as applied to the RMSPS under sub-paragraph (1) above, General Rule 5 (Non-assignability of benefits and forfeiture) makes provision relating to assignment and forfeiture of benefits in respect of Cut-Off Date Actives, and sub-paragraph (4) below makes provision relating to assignment and forfeiture of benefits in respect of Wholly Transferred Beneficiaries.

(4) Benefits under the RMSPS in respect of Wholly Transferred Beneficiaries will (in accordance with Clause 3(2) (Benefits payable in respect of Wholly Transferred Beneficiaries)) be subject to any equivalent provisions relating to assignment and forfeiture that applied to them under the RMPP Cut-Off Date Rules. The benefits of a Wholly Transferred Beneficiary may also be set-off in accordance with Clause 16 (Set-off for crime, fraud or negligence).