

DATED 25 June 1999

MERCHANT NAVY OFFICERS PENSION FUND

TRUST DEED AND RULES

As amended by Deeds of Amendment (and Supplemental Deeds) of:

8 June 2000
27 September 2000
29 November 2000
21 March 2002
22 July 2002
8 October 2002
10 March 2003
15 April 2003
30 January 2004
20 October 2004
5 December 2005
5 April 2006
16 June 2006
27 June 2006
27 June 2006
30 January 2007
7 August 2007
1 May 2008
26 June 2009
1 February 2010
17 September 2010
12 October 2010
16 March 2011
7 April 2011

Baker & McKenzie LLP

London
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THIS TRUST DEED is made the 25th day of June One thousand nine hundred and ninety nine by **MNOPF TRUSTEES LIMITED** whose registered office is situated at Ashcombe House, The Crescent, Leatherhead, Surrey KT22 8LQ ("the Trustee").

BACKGROUND:

- (A) By a Trust Deed dated 29 October 1937 the pension scheme known as the Merchant Navy Officers Pension Fund ("the Scheme") was established and is now regulated by a Trust Deed ("the Trust Deed") dated 27 January 1995 and the Rules ("the Rules") scheduled to that Deed.
- (B) The Trustee is the present trustee of the Scheme.
- (C) The Trustee, under the powers contained in Clause 29.0 of the Trust Deed (and having obtained the required approval of the Participating Employers' and the Members' representatives on the Board of Directors) has resolved that the Trust Deed and the Rules should be deleted and replaced by the new trust deed and rules set out in the Schedule to this Deed of Variation ("the New Trust Deed and Rules").
- (D) The proposed amendments do not contravene provisos (a), (b) or (c) of Clause 29.0 of the Trust Deed.

EFFECT OF THIS DEED:

1. The provisions of the Trust Deed and the Rules will be deleted and the Scheme will be governed by the New Trust Deed and Rules with effect from 6 April 1997 with the exception of Rules 5.5, 9.4 and 9.5 which shall with effect from the date of this deed, and Rule 12.0, which shall apply with effect from 31 March 1997.

Executed as a Deed.

THE TRUST DEED

1.0 MARGINAL NOTES AND INDEX

SUBJECT to Clause 3.0 below, the marginal notes, index and headings to the Trust Deed and to the Rules shall not affect the construction thereof.

2.0 ADMINISTRATOR OF THE SCHEME

THE Trustees shall be the Administrator of the Scheme and shall manage the Scheme and administer the Fund in accordance with the Rules of the Scheme.

3.0 ADOPTION OF TRUST DEED & RULES

THIS Trust Deed and Rules and Appendices are adopted as the Trust Deed and Rules regulating the Scheme with effect from the 6 April 1997 or other dates stated next to the Rules in substitution for the recited trust deed and rules but so that:

- 3.1 (i) benefits payable to or in respect of Members who had before that date ceased to be in Service or had reached Normal Pension Age shall be in accordance with the trust deed dated 2 January 1978 together with any amendments made at the date when their Service ceased, with the exception of the following Rules, which shall apply to and in respect of such Members:
- (a) the definition of "Dependant Child" contained in Rule 3.0;
 - (b) the second paragraph of Rule 6.6;
 - (c) Rule 13;
 - (d) Rule 14.2;
 - (e) Rule 18.0;
 - (f) Rule 31;
 - (g) Rule 33;
 - (h) the Revenue Limits Appendix.
- (ii) this Trust Deed and Rules and Appendices:
- (a) will not affect the existing Approval of the Scheme under the Taxes Act;
 - (b) will comply with the Preservation Requirements;
 - (c) will enable the Scheme to remain a contracted-out Scheme as defined in the 1993 Act;
 - (d) will satisfy the requirements of the 1995 Act relating to equal access for men and women to membership of the Scheme; and
 - (e) reflect the intentions of the Trustees at the time when they executed it (as to which a statement signed by or on behalf of the Trustees for the time being will be final).

The provisions of this Deed and the Rules shall be amended to the extent (if any) necessary to comply with the requirements set out in Clause 3.1(ii) above. The amendment will have

effect as though this Deed had always contained the amendment, and the Trustees must as soon as practicable execute a deed documenting the amendment.

4.0 DEFINITIONS/APPLICATION OF DEFINITIONS

THE definitions contained in the Rules shall apply to this Trust Deed.

5.0 IRREVOCABLE TRUST

THE Fund shall be held by the Trustees upon irrevocable trust to apply the income and if and so far as necessary, the capital of the Fund in or towards providing benefits in accordance with the Trust Deed and the Rules.

6.0 UNDERTAKING BY PARTICIPATING EMPLOYER

A company or firm may take part in the Scheme and so become a Participating Employer if:

- (i) the Trustees determine that it falls within one of the categories set out in Clause 6.1 below
- (ii) it agrees to enter into the form of agreement set out in the First Appendix to this Trust Deed, or in such other form as shall be determined by the Trustees
- (iii) its participation will not prejudice Approval.

6.1 A Participating Employer must be either:

- (i) an employer of British Merchant Navy Officers and/or former British Merchant Navy Officers (whether or not the employer is resident for tax purposes in the UK) who the Trustees in their absolute discretion determine to be eligible to be a Participating Employer; or
- (ii) an employer of staff engaged in the administration of the Scheme or the National Sea Training Trust or other institution or undertaking formed for purposes connected with or relating to the British Merchant Navy as the Trustees in their absolute discretion may from time to time determine to bring within the Scheme.
- (iii) In the case of a Participating Employer who is not resident for tax purposes in the UK, the Trustees may enter into such special arrangements with such Participating Employer as the Trustees in their absolute discretion may consider appropriate including variation in the calculation of contribution and benefit according to the particular circumstances of the participation.

6.2 Agreement by Member

Each Member shall enter into the form of agreement set out in the Second Appendix to this Trust Deed, or in such other form as shall be determined by the Trustees, binding the Member to the provisions, rules and regulations of the Scheme and authorising the deduction of contributions from his salary by his employer.

7.0 APPOINTMENT/REMOVAL AND RESIGNATION OF TRUSTEES

THE power of appointment and removal from office of any Trustee or Trustees shall be vested in the Joint Officers Pensions Committee. A person may not be appointed as a Trustee if prohibited or disqualified from acting as such under Sections 3 or 29 of the 1995 Act. The Trustees must also comply with the provisions of Sections 16 to 21 of the 1995 Act (relating

to member-nominated trustees) insofar as they apply to the Scheme. A Trustee may resign at any time on three months' notice in writing to the Secretary.

8.0 TRUSTEES' EXPENSES

THE Trustees shall be indemnified out of the Fund on account of all costs, charges and expenses properly incurred by them in the execution of their duties including any fees paid to directors of the Trustees pursuant to resolution duly passed in a general meeting of the Trustees.

9.0 MINUTES

THE Trustees shall ensure that proper minutes are kept of the proceedings at their meetings which comply with the requirements of Section 49 of the 1995 Act. Such minutes shall be signed by the chairman of the meeting to which they refer or of the next succeeding meeting. Any such minutes so signed shall be accepted as evidence of the matters stated therein.

10.0 APPOINTMENT OF MANAGERS

THE Trustees may engage such managers (which may include subsidiary or associated companies of the Trustees) as they think fit for the purpose of administering or assisting in the administration of the Scheme and its investments and shall determine the terms and remuneration of such managers. The Trustees may delegate to such managers any of their powers, discretions or functions in relation to the Scheme except the discretion under Clause 30.0 of the Trust Deed and may give the managers power to sub-delegate. Any appointment of a manager must be made in accordance with the relevant requirements of the 1995 Act.

10.1 Appointment of professional advisers/consultants

THE Trustees may use, appoint or consult such lawyers, accountants, brokers, bankers and others and/or appoint or call into consultation such consultants or advisers as they see fit to advise them on questions relative to their responsibility for the management of the Scheme on such terms as the Trustee may decide. The Trustees shall ensure that any persons required under Section 47 of the 1995 Act to be appointed as professional advisers are appointed in accordance with the 1995 Act. All expenses incurred and fees paid under this sub-Clause shall be chargeable to the Scheme.

11.0 APPOINTMENT OF ACTUARY

THE Trustees shall appoint in writing from time to time an individual Actuary (being a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries for a period of not less than ten years) in accordance with the requirements of Section 47 of the 1995 Act, to perform the tasks required of the Actuary under the 1995 Act. The Trustees may also appoint from time to time a person (being a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries for a period of not less than ten years, or in the case of a firm, being a firm in which at least one of the partners shall have been a Fellow for a period of not less than ten years), to provide other advice and services which the 1995 Act does not require the Actuary to perform.

11.1 Appointment of Auditor

THE Trustees shall from time to time appoint in writing an Auditor to the Scheme who shall be a person permitted under the 1995 Act to act as the Auditor to the Scheme. The appointment shall be made in accordance with Section 47 of the 1995 Act and on such other terms as the Trustees shall decide.

12.0 APPOINTMENT OF CHIEF EXECUTIVE AND STAFF

THE Trustees may appoint a chief executive, a director of pensions, a director of finance and a secretary of the Scheme and such other officers and staff as they think necessary upon such terms and conditions and for such period of office as they shall decide. The Trustees may replace such persons from time to time. They may also appoint a body or bodies corporate to perform such management and/or administrative duties as they may think necessary upon such terms as they may from time to time determine.

13.0 OFFICES OF THE SCHEME

THE offices of the Scheme shall be at Ashcombe House, The Crescent, Leatherhead, Surrey KT22 8LQ or at such other place as may be appropriate from time to time.

The Trustees shall have power to occupy, purchase, take on lease, or otherwise acquire property of any tenure as offices for the purposes of the Scheme. Any such property shall be vested in the Trustees who shall hold it upon trust to deal with or dispose of it as the Trustees may from time to time determine and upon terms that all outgoings thereof of whatsoever nature shall be paid by the Scheme.

14.0 TRUSTEES' POWERS OF CONTROL AND DECISION

THE Trustees shall have complete control over the administration of the Scheme with full powers conclusively to determine whether or not any person is entitled in accordance with the provisions of the Trust Deed and the Rules to any pension benefit, or other allowance from the Scheme and to determine any other claim made upon the Scheme and all matters and questions touching or in connection with the affairs of the Scheme.

In deciding any question of fact the Trustees shall have full liberty to act upon any evidence or presumption as they shall in their absolute discretion think fit, although the same may not be evidence legally admissible or a legal presumption. The Trustees shall also have full power conclusively to determine all questions or matters of doubt arising on the construction or operation of the Trust Deed or the Rules or otherwise relating to the Scheme. Every such determination or decision of the Trustees under this Clause, whether made upon a question actually raised or implied in the acts or proceedings of the Trustees, shall be conclusive and binding on all parties.

Any dispute or complaint by a beneficiary with or against the Trustees shall be dealt with under the dispute resolution procedure maintained by the Trustees in accordance with Section 50 of the 1995 Act.

14.1 Appointment of committee(s)

THE Trustees shall have power to appoint such committee or committees to exercise such of Trustees' powers as the Trustees may delegate to such committee or committees from time to time. [The Trustees may give such committee or committees power to sub-delegate.](#)¹

14.2 Qualification to Membership

THE Trustees shall have power at any time to vary the qualification for membership and if, in the exercise of such power, any such persons or classes of persons are admitted to membership, such variations (if any) relating to such persons or classes of person, may be

¹ [Inserted by Deed of Amendment dated 15 April 2003 with effect from that date.](#)

made in the provision of the Scheme as regards contributions, benefits or otherwise as the Trustees, after consultation with the Actuary, shall think necessary or desirable.

14.3 Two Sections of the Scheme

THE Fund is divided into a Pre 1978 Section and a Post 1978 Section.

The two Sections shall continue to be segregated and be the subject of separate accounts and valuations but the Trustees shall have power for the purpose of investment only to pool the assets comprising the two Sections and apply the provisions of the Trust Deed and Rules relating to investment to the single, pooled fund.

15.0 BANK ACCOUNTS AND THEIR OPERATION

THE Trustees shall operate an account or accounts with such bank or banks, branch or branches as the Trustees may from time to time determine. The Trustees shall from time to time make such regulations as they shall think desirable for the operation of any such bank accounts, including for the signing and endorsement of cheques.

The Trustees shall pay all contributions, dividends, interest and other income, and all proceeds of sale, donations and bequests (if any) and other moneys whatsoever received by the Trustees for or on behalf of the Scheme into one or other of such banking accounts at an institution authorised under the Banking Act 1987 in accordance with the 1995 Act. The Trustees may further from time to time retain in any such accounts such sums not immediately required for the payment of benefits or other expenses or payments out of the Fund.

16.0 INVESTMENT POWERS

THE Trustees shall have power to invest or apply any moneys held for the purpose of the Scheme in such assets or property as the Trustees shall in their absolute discretion think fit to the intent that the Trustees shall have the same unrestricted powers of investing or applying the assets of the Fund as if they were beneficially entitled to the Fund. When exercising their powers under this Clause 16.0, the Trustees must comply with the requirements of Sections 33 to 36 of the 1995 Act concerning investments and the need to obtain proper advice about investments.

16.1 Without restricting the powers of the Trustees under Clause 16.0 in any way, the Trustees shall have the following powers which they may exercise in such manner as they may think fit:

- (a) to retain moneys in each of any currency in current, deposit or other accounts with a bank or deposit-taking institution without being liable for any gain foregone; and
- (b) to engage in underwriting or sub-underwriting in connection with the issue or offer for sale of any securities; and
- (c) to purchase or take a mortgage on any real or leasehold property of any kind whatsoever (with power to lease, charge, exchange, insure, develop or otherwise deal with any such interest in land as if they were absolutely and beneficially entitled thereto); and
- (d) to make secured or unsecured loans of money to any person and to enter into any stock lending arrangements (whether involving the lending of assets of

the Fund, the sale and repurchase of such assets, the exchange of such assets or otherwise); and

- (e) to invest in any currency or gold or bullion including the trading in financial futures under any form of currency contract; and
- (f) to invest in commodities of whatever nature and wheresoever situated including put or call options and trading in financial futures in respect of the same; and
- (g) to invest in any annuity or deferred annuity or deferred annuity policy or policy of insurance issued by an Insurance Company; and
- (h) to give any guarantee indemnity or undertaking on behalf of the Scheme; and
- (i) to borrow any sum of money in any currency upon such terms and upon such security as they in their absolute discretion think fit and in particular by charging in any form any of the assets of the Fund but so that no new additional borrowing shall be made at any time so as to result at that time in the total of borrowings and guarantees together given by the Scheme exceeding 10% of the market value of the Fund at that time provided that no lender shall be concerned to see that this limitation is observed; and
- (j) to enter into or deal in derivative contracts, arrangements, transactions or products including swaps, swaptions, options, futures, forwards, contracts for difference and contingent liability transactions on traded exchanges and in the over the counter market, with any underlying reference entities, products or indices including interest rates, inflation rates, currency exchange rates, longevity and credit².

With power to vary such investments and to take such action to preserve and secure the value of the investments and to obtain the maximum return therefrom (including in all such cases payment of moneys for the purpose) as the Trustees in their absolute discretion may consider appropriate or desirable for the purpose in the particular circumstances to the intent that the Trustees shall have the same unrestricted power of investing and changing investments as if they were beneficially entitled to the Fund.

17.0 EMPLOYER-RELATED INVESTMENTS

The Trustees must comply with the restrictions contained in Section 40 of the 1995 Act relating to employer-related investments and loans.

18.0 COMMON INVESTMENT FUND

THE Trustees shall have power with the prior approval of the Board of Inland Revenue to pool and commingle the whole or any part of the investments or property from time to time held by the Trustees and forming the whole or part of the Fund with the assets of any other exempt approved fund or funds with which the Scheme is sufficiently associated to meet with the approval of the Board of Inland Revenue in a common investment fund established for such purpose and meeting with the approval of the Board of Inland Revenue. The Trustees shall in relation to any such investments or property of the Fund commingled or pooled in such common investment fund be entitled to exercise all the powers of investment contained under this Trust Deed.

² Inserted by Deed of Amendment dated 7 April 2011 with effect from that date.

19.0 STATEMENT OF INVESTMENT PRINCIPLES

The Trustees must comply with the requirements of Section 35 of the 1995 Act, covering the preparation, maintenance and from time to time revision of a written statement of the principles governing decisions about investments.

20.0 DONATIONS

THE Trustees may accept donations or bequests from any person or body to be applied for the purposes of the Scheme.

21.0 PAYMENTS OUT OF THE FUND

THE Trustees shall pay out of the Fund the allowances and benefits for the time being chargeable against the Scheme together with such other expenses as fall to be borne by the Scheme.

22.0 APPOINTMENT OF CUSTODIANS

THE Trustees may appoint any person or persons as custodian of assets of the Fund on such terms (including terms providing for sub-delegation) as the Trustees may think fit.

23.0 APPOINTMENT OF NOMINEES

THE Trustees may arrange or allow a custodian or its delegate to arrange, for assets of the Fund to be registered in the name of any nominee.

24.0 ACCOUNTS AND RECORDS

THE Trustees shall ensure that full and true accounts are kept of the Scheme and of all sums of money expended in the payment of benefits, expenses or otherwise. The Trustees shall further ensure that full and true records are kept of the time of commencement of membership by the individual Members, of the dates of first contributions and of all other chronological and other facts proper to be recorded. They shall also cause a register to be kept of all Participating Employers and Members becoming party to or Members of the Scheme. The Trustees must comply with the requirements of Section 49 of the 1995 Act in relation to the keeping of books and records.

25.0 ANNUAL REPORT, ACCOUNTS AND AUDIT

THE accounts of the Scheme shall be made up to the 31st day of March in each year. Within four months of the end of each such financial year of the Scheme, or as soon after that as is practicable, an account and statement of assets prepared by the Trustees and exhibiting a true statement of the accounts shall be delivered by the Trustees to the Auditor together with all means of verifying and vouching the same. The Trustees, the chief executive, the director of pensions, the director of finance, the secretary and such other officers and staff of the Scheme shall give to the Auditor every assistance in his investigation and give him access to all books, papers, records and accounts connected with the Scheme and shall obtain from him a report in writing upon the result of his audit. The report of the Auditor shall be made in accordance with the Audit Regulations and the Trustees shall produce annual reports to accompany the accounts which, in both cases, comply with the Disclosure Requirements.

26.0 ACTUARIAL VALUATION

THE Actuary to the Scheme shall investigate the financial position of the Scheme at least once in every three years and at such other intervals as may be required in order to comply with the requirements of the 1995 Act. For that purpose all necessary accounts and

information shall be furnished to the Actuary by the Trustees. The Actuary shall report to the Trustees upon the financial position of the Scheme and make such recommendations in respect thereof as he may think fit.

27.0 ADMINISTRATIVE EXPENSES

THE administrative and other expenses of the Scheme shall be borne by the Scheme or by the Participating Employers in such manner and in such proportions as the Trustees shall determine.

28.0 VALIDITY OF POWERS

NO such decision or the exercising of such power by the Trustees shall be invalidated or questioned on the ground that the Trustees or any of the Board of Directors of any corporate Trustee had a direct or other personal interest in the mode or result of such decision or exercising such power.

29.0 INDEMNITY OF TRUSTEES/OFFICERS

Subject to the provisions of the 1995 Act:

- (i) No Trustee nor a director or officer or employee of a body corporate which is a Trustee nor the chief executive, the director of pensions, the director of finance, nor the secretary nor any individual for the time being acting or working in connection with the Scheme will be personally liable for anything whatever arising in relation to the affairs of the Scheme including anything relating to any investments forming part of the Fund except for a breach of trust knowingly and intentionally committed by him.
- (ii) In addition to the indemnities conferred by law each person who is a Trustee and each individual who is a director or officer or employee of a body corporate which is a Trustee or is the chief executive, the director of pensions, the director of finance, the secretary or is otherwise acting in relation to the affairs of the Scheme or to any investments forming part of the Fund shall be indemnified out of the Fund against all or any claims, costs, losses, damages and expenses which he may pay or incur or which may be attributable to his own acts or omissions or those of any other person to the extent that they are not attributable to a breach of trust knowingly and intentionally committed by him.
- (iii) The Trustees and those acting on their behalf may act on the opinion or advice of any accountant, actuary, solicitor, doctor or other professional person employed by or instructed by them (or in the case of a doctor by an applicant for or recipient of any pension or other benefit from the Scheme) and shall not be responsible for the consequences of so acting.

30.0 ALTERATION OF TRUST DEED AND RULES

THE provisions of the Trust Deed or of the Rules may be varied or added to in any way by Deed executed under the seal of the Trustees. Every such variation must first be approved by a majority of the full number of participating Employers' representatives and also a majority of the full number of the Members' representatives serving as Trustees or as directors on the board of any corporate Trustee which approval must first be signified either by a resolution passed by such majorities or by an instrument in writing signed by such majorities PROVIDED that no variation or addition shall be made which:

- (a) would have the effect of changing the main purpose of the Scheme, namely the provision of pensions for Members on retirement or of giving to the Participating Employers or any of them a right to the return of their contributions or any part thereof; or
- (b) would operate in any way to diminish or prejudicially affect the rights of any person in receipt of a pension or the pensionable or other rights already earned by any Member or former Member; unless the Actuary shall advise that no other course is reasonably practical having due regard to the interests of all persons interested in the Fund; or
- (c) would be contrary to the principle that the Participating Employers and the Members shall be equally represented both in the membership of the Trustees and on the board of any corporate Trustee.

31.0 NOTICES

ANY notice required to be given under the Trust Deed or the Rules may be given by sending it by first class prepaid post to the person for whom it is intended at his registered or last known address. A notice so sent shall be deemed to have been served three days following that of posting if the addressee is in the United Kingdom or ten days if the addressee is outside the United Kingdom.

32.0 INDEMNITIES

Without prejudice to the powers of the Trustees under any provisions of this Trust Deed and subject to any restriction imposed by law, the Trustees shall have power to give or provide an indemnity binding the Trustees and their successors as trustees of the Scheme in such terms, in favour of such persons and upon such security (if any) as the Trustees may from time to time determine.³

³ Inserted by Deed of Amendment dated 10 March 2003 with effect from that date.

THE FIRST APPENDIX

**Form of Agreement for
Participating Employers**

**To: THE TRUSTEES OF
THE MERCHANT NAVY OFFICERS PENSION FUND**

WE, _____ of _____
having received a copy of the Trust Deed and Rules dated
199[], constituting and regulating the Merchant
Navy Officers Pension Fund HEREBY AGREE to assume and be bound by the obligation
undertaken by Participating Employers thereunder or under any subsequent variation that may
be made therein and promptly to pay to the Scheme all contributions due under the Rules.

DATED _____ 199[]

For and on behalf of

*

Director/Secretary:

* If a limited liability company please state address of registered office and company
registration number.

THE SECOND APPENDIX

Form of Agreement for Members

I, (Full Name)

of (Address)

having received a copy of the [Members'] [Explanatory] Booklet of the Merchant Navy Officers Pension Fund HEREBY BECOME a Member of and contributor to the Scheme AND HEREBY AGREE to be bound by all its provisions, rules, and regulations together with any subsequent variations which may be made, and I authorise any Participating Employer or Participating Employers of mine to deduct from my pay such contributions as are from time to time payable by me to the Scheme and to pay those contributions to the Scheme on my behalf.

If any Participating Employer of mine shall fail promptly to account to the Scheme for contributions due to the Scheme in respect of myself then I authorise the Scheme and its Trustees at the Scheme's expense to take such action on my behalf and in my name as they may consider appropriate to obtain payment of such contributions including, if thought fit, action against any vessel on which I may have served and in respect of which contributions may be owing or against any other vessel against which recovery of such contributions may be sought.

DATED 199[]

Signature

Rank

Place and Date of Birth

Present Employer

Discharge Book No

National Insurance No

**THE RULES OF THE MERCHANT NAVY
OFFICERS PENSION FUND**

1.0 INTRODUCTION

THE Scheme is divided into two sections consisting of the Pre 1978 Section and the post 1978 Section as provided under Clause 14.3 of the Trust Deed; and the two sections shall at all times be maintained and managed in accordance with and be subject to all the provisions of that Clause.

2.0 OBJECT OF THE SCHEME

THE main purpose of the Scheme is the provision of pensions for Officers in the British Merchant Navy on retirement at Normal Pension Age and annuities for their widows and children with power to the Trustees to extend the qualification for membership to other Officers or other classes of persons connected with the British Merchant Navy.

3.0 DEFINITIONS

IN the Trust Deed and in these Rules the following expressions have the following meanings unless inconsistent with the context. Words importing the singular number import where the context requires or admits the plural number and vice versa. Words importing the masculine gender import where the context requires or admits the feminine gender. References to legislation include regulations made under that legislation, modifications and re-enactments of that legislation and those regulations. A reference to the 1995 Act is a reference to the relevant sections of that Act. A reference to the requirements of the 1995 Act is a reference only to those requirements which are relevant, and is not (unless expressly stated otherwise) a reference to any permissive provisions of the 1995 Act. The decision of the Trustees shall be final as to what is a relevant section or a relevant requirement of the 1995 Act.

"1993 Act"	means the Pension Schemes Act 1993
"1995 Act"	means the Pensions Act 1995
"Actuary"	means an individual appointed for the time being by the Trustees for the purposes of the 1995 Act to perform the tasks required of the actuary under the 1995 Act in accordance with Clause 11.0 of the Trust Deed.
"Active Member"	means a Member who has joined the Scheme under Rule 4.1 (Joining the Scheme) and who has not left Service in accordance with Rule 12.0.
"Additional Voluntary Contributions"	means contributions paid under Rule 5.6 in addition to ordinary contributions paid under Rule 5.1.
"Administrator"	for the purpose of the Taxes Act means the Trustees of the Scheme.
"Approval"	in relation to the Scheme means treatment of the Scheme as an exempt approved scheme under Chapter I of Part XIV of the Taxes Act.
"Auditor"	means the person or persons appointed by the Trustees in accordance with Clause 11.1 of the Trust Deed.

"Audit Regulations"	means the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a statement from the Auditor) Regulations 1996.
"Average Revalued Pensionable Salary"	means the total of each Pensionable Salary as increased by Revaluation divided by the period of Service.
"Deferred Pensioner"	means a former Active Member with a prospective entitlement to benefits who is not yet a Pensioner.
"Dependant Child"	means any child financially dependent upon the Member for the ordinary necessities of life (including a child who is not a legitimate or legally adopted child of the Member only if that child is living with the Member at the (date of his death). Such a child is only a Dependant Child whilst: <ul style="list-style-type: none"> (i) under the age of 18; or (ii) under the age of 25 and undergoing full time education or vocational training; or (iii) over the age of 18 but incapable of earning his or her own living due to permanent disability. The Trustees have absolute discretion to determine what constitutes permanent disability and to pay less than the full allowance.
"Disclosure Requirements"	means the requirements of the Occupational Pension Schemes (Disclosure of Information) Regulations (SI 1996 No. 1655), as amended and of Regulation 11 of the Occupational Pension Schemes (Transfer Values) Regulations (SI 1996 No. 1847).
"Form ENG3"	means the form issued for the time being by a medical practitioner approved by the Maritime and Coastguard Agency, which indicates that a person has failed to meet the published medical fitness standards for merchant seafarers.
"Fund"	means the assets of the Scheme which from time to time make up the monies and investments held by the Trustees.
"GMP"	means the guaranteed minimum pension payable or prospectively payable under the Scheme in accordance with the 1993 Act by reason of a Member having been in contracted-out employment prior to 6 April 1997, as mentioned in Rule 33.
"GMP Age"	means age 60 (females) or age 65 (males) or such other ages as may be prescribed for the commencement of GMP's.
"Insurance Company"	means an insurance company which is carrying on ordinary long-term insurance business (as detailed in the Insurance Companies Act 1982 but updated to cover EU requirements) in the United Kingdom or in any other state which is a member of the European Union.
"Joint Officers Pension Committee"	means the committee (or any successor body) maintained from time to time by the Chamber of Shipping and NUMAST to consider pension provisions for Officers and others connected with the Merchant Navy.
"Lower Earnings Limit"	means such a sum as the Trustees may on every 6 April determine as being the annual rate of the lower earnings limit as defined in section 5 of the

Social Security Contributions and Benefits Act 1992.

"Member"	means a person admitted to membership of the Scheme. A Member will remain a Member of the Scheme for so long as any benefits are or may be payable for the Member from the Scheme.
"Minimum Funding Requirement"	means the minimum funding requirement imposed by the 1995 Act.
"MNRPF"	means the Merchant Navy Ratings Pension Fund.
"Normal Pension Age"	Normal Pension Age is age 61. Women who were Active Members on 1 January 1991 can opt for a Normal Pension Age of 60. Men who were Active Members on 1 January 1991 can opt to receive the benefits they have accrued from 17 May 1990 as if they were due at a Normal Pension Age of 60.
"Officer"	means and includes Masters, Navigating Officers, Engineer Officers, Radio Officers (excluding trainees), Refrigerator Engineers, Electrical Engineers, Boilermakers, Pursers and Catering Officers, and such other persons as the Trustees may from time to time regard as holding any position of authority on board ship and shall also include such Officers engaged on the shore staff of the Participating Employers.
"Participating Employers"	means such companies or firms as may have become Participating Employers in accordance with Clause 6.0, or which have previously become Participating Employers under other documentation which then governed the Scheme. <u>No company or firm shall cease to be a Participating Employer either as a result of ceasing to employ Active Members on or after 8 June 2000 or otherwise as a result of ceasing to employ persons in the categories described in Clause 6.1 of the Trust Deed on or after that date or otherwise (save in accordance with Rule 5.2A.)⁴</u>
"Pensionable and Salary"	means Salary less a sum equivalent to one and a half times the Lower Earnings Limit (or, for the purpose of assessing contributions, a proportionate amount corresponding to the period to which Salary relates) at the time of payment of Salary.
"Pensioner"	means a Member in receipt of pension out of the Scheme or who would have been in receipt of such a pension had he not commuted the whole of his pension for a lump sum.
"Pension Year"	means any year commencing on 1 April and terminating on the following 31 March.
<u>"Post-2000 Average Revalued Pensionable Salary"</u>	<u>means the total of each Post-2000 Pensionable Salary as increased by Revaluation divided by the period of Service falling on or after 1 October 2000.⁵</u>
<u>"Post-2000 Pensionable Salary"</u>	<u>means Salary in respect of any period of Service falling on or after 1 October 2000 less a sum equivalent to the Lower Earnings Limit. The reference to the Lower Earnings Limit in this definition is a reference to the</u>

⁴ Substituted by Deed of Amendment dated 8 June 2000 with effect from that date.

⁵ Inserted by Deed of Amendment dated 27 September 2000 with effect from 1 October 2000.

Lower Earnings Limit at the time of payment of Salary and, for the purpose of assessing contributions, means a proportionate amount corresponding to the period to which Salary relates.⁶

- "Post 78 Section"** means the section of the Scheme comprising the assets of the Fund accumulated from contributions in respect of employment on and after 6 April 1978.
- "Pre 78 Contributions"** means contributions paid to the Pre 78 Section prior to 31 December 1960 and nine-tenths of contributions (or the full amount if subscribed under Rule 5.5 or during a period that a Member after rejoining was not entitled to enjoy the death benefit under the Rules then in force) paid to the Pre 78 Section after that date together with interest compounded at two and one half per cent (2½%) annually from commencement of the Pension Year following payment of such contributions to 5 April prior to any return of such contributions or to the date of death if returnable on death.
- "Pre 78 Section"** means the section of the Scheme comprising the assets of the Fund accumulated from contributions to the Scheme in respect of employment before 6 April 1978.
- "Pre 78 Service"** means all periods of employment before 6 April 1978 in respect of which contributions have been paid to the Pre 78 Section of the Scheme.
- "Preservation Requirements"** means the requirements of Chapter 1 of Part IV Sections 69-82 of the 1993 Act.
- "Private Scheme"** means a scheme recognised as such since 1 April 1978 and before 31 March 1988 for the purposes of the Rules and which continues to be so recognised by the Trustees. The Trustees at their absolute discretion may withdraw their acceptance of a Private Scheme whereupon the Private Scheme shall henceforth cease to be such for all purposes of the Rules. A Private Scheme shall not cease to be so recognised by reason only of merger or consolidation with or replacement by another scheme or fund in circumstances where the Trustees are satisfied that this is in the best interests of its members.
- "Revaluation"** means revalued by reference to the Section 148 Order made under Section 148 of the Social Security Administration Act 1992 in the Pension Year in which Service terminates.
- "Revenue Limits"** means the limits on benefits imposed by the Inland Revenue as a condition of Approval as set out in the Appendix to the Rules.
- "RPI"** means the General Index of Retail Prices published by the Department of Education and Employment or any replacement adopted by the Trustees without prejudicing Approval.
- "Rules"** means and includes these Rules ~~and~~ the Appendix to ~~these Rules and the Pension Sharing on Divorce Schedule to these~~ these Rules and the Pension Sharing on Divorce Schedule to these Rules as varied modified or replaced from time to time.⁷

⁶ Inserted by Deed of Amendment dated 27 September 2000 with effect from 1 October 2000.

⁷ Substituted by Deed of Amendment dated 21 March 2002 with effect from 1 December 2000.

"Salary"

means the cash emoluments paid to a Member for his Service during a Pension Year, or for the purpose of assessing contributions, the cash emoluments paid over the period in respect of which the contributions are assessed, excluding bonuses and similar payments other than for work or conditions of work; and shall include payments falling within following list 'A' but exclude payments falling within following list 'B' or otherwise as agreed by the Trustees;

LIST A (included)

Antarctic Allowance
Basic Pay
Bonds Commission
Cargo Handling
Casual/Stand By Pay
Crossing International Date line
Dover Straits Allowance
Falklands Compensatory Payments
Far East Bonus
Higher Qualifications Allowance
Lack of fresh water/air conditioning
Leave Pay (i.e. when leave is taken or employee leaves company or dies)
Limitation of Hours
Location Allowance re Loss of Amenities
Loss of Sleep
Nights on Board
Overtime
Pilotage
Prolonged Service Abroad
Run Money
Shipwreck Unemployment Indemnity
Short Hand Pay
Sick Pay – Occupational
Sick Pay – Statutory
Signing Crew Agreements at Weekend
(Casual or Stand By Pay is only paid for Mon-Fri)
Special Vessel Bonus
St Lawrence Seaway and Welland Canal Bonus
Study Leave
Tanker Bonus
Termination Payment when vessel is sold abroad
(Section 15 of the Merchant Shipping Act 1970)
Towing Bonus
Travelling Wages (paid whilst travelling to meet ship)
Two Watch Allowance
War Risk Bonus
Weekend work in Port

LIST B (excluded)

Australian Leave Allowance
Private Health Insurance
Company Car Allowance
Company Profits %
Examination and Course Fees
Examination Success Bonus

Leave Food Allowances (non-consolidated)
 Liquidated Leave Pay, Extra Days (i.e. continues to work during Leave
 Period and therefore received pay in lieu)
 Lodging Allowance
 Maintenance Allowance for USA/Canada
 Maternity Benefit
 North and Central American Coastal Trade Bonus
 Pay in Lieu of Notice (not Leave Pay)
 Redundancy Payments
 Salvage Awards
 Service Award (e.g. 25 years)
 Severance Payment by Company
 Severance Payment due to Ill Health
 Subsistence Allowance
 Terminal Payments
 Travelling Expenses
 Uniform Allowances
 Wives Air Fare

Any dispute as to whether or not a particular payment forms part of Salary shall be referred to the Trustees whose decision shall be conclusive and final.

"Scheme" means the Merchant Navy Officers Pension Fund governed by the Trust Deed and the Rules.

"Section 9(2B) Rights" means the rights of a Member as set out in Rule 33.

"Service" means, subject to Rules 12.0 and 12.1, all periods of employment on and after 6 April 1978 in respect of which contributions have been paid to the Post 78 Section.

"Tax Year" means a year beginning on 6 April and ending on the next 5 April.

"the Taxes Act" means the Income and Corporation Taxes Act 1988.

"Trivial" when used to describe a pension or allowance payable to a person from the Scheme means that its annual amount is less than the excess of:

(1) the prescribed annual amount

over

(2) the annual amount of the pensions (and, in the case of a Member, pension equivalent of lump sums) to which that person is entitled under all other retirement benefits schemes to which any of the Participating Employers contributes or has contributed.

For this purpose, the "prescribed annual amount" is £260 or such other amount as shall not prejudice Approval nor exceed the amount prescribed under Section 21 of the 1993 Act.

"The Trust Deed" means the trust deed of the Scheme and Appendices as varied from time to time.

"The Trustees" means the trustees for the time being of the Scheme.

4.0 ELIGIBILITY TO JOIN SCHEME

No Officer or other person shall be eligible to become a Member of the Scheme, except with the consent of the Scheme Trustees.

4.1 Joining the Scheme

A person who becomes eligible to join the Scheme in accordance with Rule 4.0 shall become a Member on such date as the Trustees may decide. The Trustees may admit to membership of the Scheme on such special terms as the Trustees may decide any person who becomes eligible to join the Scheme in accordance with Rule 4.0.⁸

A person becoming a Member shall complete a Form of Agreement for Members as in the terms set out in the Second Appendix of the Trust Deed.

4.2 Opting Out

An Active Member may elect to be treated as leaving Service by giving written notice to the Trustees in a form acceptable to them. The election shall take effect on a date decided by the Trustees which shall normally be the end of the month following that in which the notice is received. An election shall not take effect after the Member has already left Service or reached Normal Pension Age.

A Member having made such an election may only rejoin in accordance with Rule 4.3

4.3 Re-joining the Scheme

A Member who is treated as leaving the Scheme may not rejoin the Scheme, except with the consent of the Scheme Trustees.

5.0 CONTRIBUTIONS

THE basis of contributions to the Scheme shall be as follows:

5.1 (a) Every Active Member shall contribute at the following rates in respect of the following periods:

(i) for the period ending on 30 September 2000, 5.4% of his Pensionable Salary; and

(ii) for the period commencing on 1 October 2000 and ending on 30 September 2010, 7.3% of his Post-2000 Pensionable Salary; and

(iii) for the period commencing on 1 October 2010, 9.5% of his Post-2000 Pensionable Salary.

~~Every Active Member shall contribute 5.4% of his Pensionable Salary~~ or at other such rate (not exceeding 15%) as may be decided by the Trustees, on the advice of the

⁸ Inserted by Deed of Amendment dated 30 January 2004 with effect from that date.

Actuary⁹ which shall be deducted from his Salary at the time of payment and held on trust by the Participating Employer to account to the Scheme therefor.⁹

- (b) The Participating Employer shall supply annually to the Trustees a statement from the auditors of the Participating Employer certifying that contributions to the Scheme have been deducted from salaries of Members employed by the Participating Employer in accordance with the Rules of the Scheme. The cost of such statements shall be borne by the Participating Employer.

5.2 Participating Employer's contributions

EACH Participating Employer shall contribute at the following rates in respect of the following periods:

- (i) for the period ending on 30 September 2000, at the rate of 7.9% of aggregate Pensionable Salaries of the Active Members in his employment ~~or at such other rate as may be decided by the Trustees, on the advice of the Actuary; and~~
- (ii) for the period commencing on 1 October 2000 and ending on 30 September 2010, at the rate of 11.9% of aggregate Post-2000 Pensionable Salaries of the Active Members in his employment; and
- (iii) for the period commencing on 1 October 2010, at the rate of 15.5% of aggregate Post-2000 Pensionable Salaries of the Active Members in his employment,

or at such other rate as may be decided by the Trustees, on the advice of the Actuary.¹⁰

5.2A Without prejudice to Rule 5.2, each Participating Employer (whether or not employing Active Members and whether or not employing persons in the categories described in Clause 6.1 of the Trust Deed) shall make such further contributions (if any), which may include lump sum contributions, from time to time as may be decided by the Trustees, having regard to the advice of the Actuary, in order to reduce or eliminate any deficiency or anticipated deficiency in the Scheme's resources. Such deficiency shall be calculated for this purpose by reference to the ongoing basis of calculation adopted in the then most recently completed actuarial valuation of the Scheme (that is, the basis which assumes that the Scheme remains in full operation), with such modifications, if any, as the Trustees shall determine having regard to the advice of the Actuary in order to take account of the lapse of time and any events during the intervening period. Where:

- (i) an Insolvency Event occurs or has occurred at any time in relation to a Participating Employer;
- (ii) the Trustees have reasonable grounds to believe that an Insolvency Event will occur in relation to a Participating Employer; or
- (iii) a Participating Employer requests that the Trustees consent to it ceasing to be a Participating Employer in the manner contemplated in this Rule 5.2A; or
- (iv) a statutory declaration of solvency is or has been made in relation to a Participating Employer under Section 89 of the Insolvency Act 1986 and a resolution is passed for

⁹ Substituted by Deeds of Amendment dated 27 September 2000 and 17 September 2010 with effect from 1 October 2000 and 1 October 2010.

¹⁰ Substituted by Deeds of Amendment dated 27 September 2000 and 17 September 2010 with effect from 1 October 2000 and 1 October 2010.

the commencement of a members' voluntary liquidation under Part IV of the Insolvency Act 1986; or

- (v) the Trustees so determine (provided that the exercise of the power to make such a determination shall not be delegated by the Trustees)¹¹; or
- (vi) any proceeding or action analogous to an Insolvency Event or to the event described in (iv) above is or has been commenced or taken in any jurisdiction other than England, Scotland and Wales¹²

the Trustees may, in calculating the contribution payable by Participating Employers or by a specific Participating Employer or specific Participating Employers under this Rule 5.2A and without prejudice to the exercise of the Trustees' powers under the preceding part of this Rule 5.2A, calculate the deficiency or anticipated deficiency in the Scheme's resources as the cost (or, if the Trustees so determine, an amount not exceeding the cost)¹³, estimated by the Actuary, of securing the Scheme's liabilities by the purchase of deferred and immediate annuities (as appropriate) from an Insurance Company, provided that, where the Trustees make such a determination, this shall not prejudice the exercise of their power under this Rule 5.2A to require contributions from Participating Employers at any time to reduce or eliminate the deficiency or anticipated deficiency calculated by reference to the ongoing basis of calculation. Where the Actuary considers that it is not practicable to make an estimate of the cost of securing the Scheme's liabilities by the purchase of deferred and immediate annuities (as appropriate) from an Insurance Company, he shall estimate the cost (on the Estimated Buy-out Basis).

Where any debt is to be treated as due by a Participating Employer under Section 75 of the Pensions Act 1995 ("Section 75") and is to be calculated by reference to the cost of purchasing annuities, the debt shall, if the Trustees so determine, be calculated and apportioned for the purposes of Regulation 6(2)(b) of the Occupational Pension Schemes (Employer Debt) Regulations 2005 as follows:

- (i) an amount calculated by the Actuary as the amount which would have been payable by the relevant Participating Employer under Section 75 if the calculation had been performed on the Estimated Buy-out Basis rather than the basis prescribed under Section 75 shall be apportioned to the relevant Participating Employer; and
- (ii) the balance of any amount which would otherwise have been payable by the relevant Participating Employer under Section 75 shall be reapportioned to the generality of employers (as defined for the purposes of Section 75).

Where a Participating Employer has ceased to employ Active Members and the Trustees consider that insufficient information is available to:

- (i) determine whether a debt is due from the Participating Employer under Section 75; and/or
- (ii) calculate the amount which is payable by the Participating Employer under Section 75.

¹¹ Inserted by Deed of Amendment dated 7 August 2007 with effect from that date.

¹¹ Inserted by Deed of Amendment dated 1 May 2008 with effect from that date.

¹² Inserted by Deed of Amendment dated 7 August 2007 with effect from that date.

the Trustees may calculate the contribution payable by Participating Employers or by a specific Participating Employer or specific Participating Employers under this Rule 5.2A, and without prejudice to the exercise of the Trustees' powers under the preceding parts of this Rule 5.2A, on the Estimated Section 75 Basis, provided that, where the Trustees make such a determination, this shall not prejudice the exercise of their power under this Rule 5.2A to require contributions from Participating Employers at any time to reduce or eliminate the deficiency or anticipated deficiency calculated by reference to the ongoing basis of calculation or the estimated cost of securing the Scheme's liabilities by the purchase of deferred and immediate annuities (as appropriate) from an Insurance Company or the Estimated Buy-out Basis.¹⁴

For the purpose of this Rule 5.2A:

"Estimated Buy-out Basis" means the Actuary's estimate of the cost of securing liabilities made in such manner (and with such estimations and approximations with regard to data or otherwise) as the Actuary considers appropriate in the circumstances of the case.

"Insolvency Event" has the meaning given to the expression in Section 121 of the Pensions Act 2004.¹⁵

"Estimated Section 75 Basis" means the amount which would have been payable by the relevant Participating Employer under Section 75 if each Participating Employer in respect of which there is insufficient information ceased to employ persons in the description of employment to which the Scheme relates at the same time as it ceased to employ Active Members or on such other date as the Trustees consider appropriate in the light of such information (if any) as may be available to the Trustees.¹⁶

For the purposes of the calculations in this Rule 5.2A, the Trustees and the Actuary shall take into account, to the extent that they consider it appropriate:

- (i) the proportion of the amount of the deficiency or potential deficiency which the Scheme's liabilities attributable to employment with that Participating Employer bear to the total amount of the Scheme's liabilities attributable to employment with all of the Participating Employers (provided that, in the case of the event described in (vi) above, the Trustees and the Actuary shall take into account, to the extent that they consider it appropriate, the proportion of the amount of the deficiency or potential deficiency which the Scheme's liabilities attributable to employment with that Participating Employer bear to the total amount of the Scheme's liabilities attributable to employment with the Participating Employers which are "employers" as that term is defined for the purposes of Section 75 of the Pensions Act 1995)¹⁷;
- (ii) any lump sums or other contributions paid, payable or prospectively payable by any Participating Employer for the purpose of reducing or eliminating a deficiency or potential deficiency, whether under this Rule 5.2A, Section 75 of the Pensions Act 1995 or otherwise; and
- (iii) any debt which, in the opinion of the Trustees, is unlikely to be recovered.

A Participating Employer may, if the Trustees consent, cease to be a Participating Employer for the purposes of the Scheme on such date as the Trustees shall determine if it shall make

¹⁴ Inserted by Deed of Amendment dated 12 October 2010 with effect from that date.

¹⁵ Inserted by Deed of Amendment dated 16 June 2006 with effect from that date.

¹⁶ Inserted by Deed of Amendment dated 12 October 2010 with effect from that date.

¹⁷ Inserted by Deed of Amendment dated 1 May 2008 with effect from that date.

such contributions (or undertakes to do so in terms satisfactory to the Trustees) as the Trustees, having regard to the advice of the Actuary, shall determine, or if the Trustees, having regard to such advice, shall determine that no such contribution shall be required. Such determination shall be made in accordance with this Rule 5.2A, but having regard to such basis of calculation as the Trustees may reasonably determine in order to protect the interests of the Members.¹⁸ Rule 5.10 shall not apply to any contributions which the Trustees shall require a Participating Employer or Participating Employers to pay under this Rule 5.2A.¹⁹

Where any contribution is payable under this Rule 5.2A, the Trustees may, if they so determine, make two or more Participating Employers jointly and severally liable for that contribution.

The Trustees may add interest, at such rate as the Trustees may consider appropriate, to any contribution payable under this Rule 5.2A which is paid later than the due date for payment.

The Trustee may vary or revoke any decision or determination made under this Rule 5.2A.²⁰

5.3 **When payment of contributions due**

THE Participating Employer shall account to the Trustees for the Member's and Participating Employer's contributions on a monthly basis. Such contributions shall be paid to the Trustees on or before the 19th day of the month next following the calendar month during which Salary on which the contributions is assessed was earned. The Trustees shall have power to determine from time to time in any particular circumstances other intervals of payment. If any Participating Employer shall delay payment beyond the due date, he shall pay in addition interest on such delayed payment at a rate of four per cent (4%) per annum above the base rate for lending from time to time of the National Westminster Bank PLC for the period of such delay or at such other rate as the Trustees may from time to time determine.

5.4 **Insolvent Participating Employer**

IN any case where an insolvent Participating Employer fails to account to the Scheme in whole or in part for contributions owing by him to the Scheme, the Trustees shall have the power at their discretion to allow the Pensionable Salary and Post-2000 Pensionable Salary (as appropriate) in respect of which such contributions are owing to count in whole or in part for the purpose of calculating benefits payable under these Rules.²¹

5.5 **Contributions during unemployment or reduction in normal pay**

Effective from 25 June 1999

IN respect of any period of (1) unemployment or temporary absence approved by the Trustees not exceeding three years unless the absence be as a result of ill-health, or (2) absence for the purpose of national emergency or service in the armed forces or (3) reduction in the normal rate of pay of any Member for any reason and so long as the employee does not become a member of another retirement benefit scheme, the Trustees shall have power at their discretion and so as not to affect Approval to allow the Member, either by himself or in concert with any Participating Employer or other temporary employer for the time being, to pay to the Trustees direct and at such intervals as in Rule 5.3 the amount of contributions

¹⁸ Inserted by Deed of Amendment dated 8 June 2000 with effect from that date.

¹⁹ Inserted by Deed of Amendment dated 8 October 2002 with effect from that date.

²⁰ Inserted by Deed of Amendment dated 26 June 2009 with effect from that date.

²¹ Inserted by Deed of Amendment dated 27 September 2000 with effect from 1 October 2000.

which would have been paid by him and by the Participating Employer on his behalf had he during that period continued in Service at his normal rate of pay or at such lower rate of pay as the Member may select but not being less than a rate which would require a minimum contribution of £5 per month. In the event of payment of such contributions, the Member shall be treated in respect of that period as if in Service (and, therefore, as continuing to accrue benefits) at the rate of pay selected EXCEPT that the lump sum death benefit (Rule 9.4) shall not be payable otherwise than to the extent that the Trustees in their discretion may decide to make the payment thereunder either in whole or part.

5.6 Additional Voluntary Contributions

A Member whilst contributing to the Scheme, or, if he continues in employment where contributions would normally be payable except that Member has attained Normal Pension Age and has postponed retirement, may pay Additional Voluntary Contributions subject to the limitations stated under the next following sub-Rule.

5.7 Limitation on payment of Additional Voluntary Contributions

PAYMENT of Additional Voluntary Contributions shall only be permitted on terms that a Member's contributions to all Inland Revenue exempt approved schemes (including any free-standing additional voluntary contribution schemes) shall not in any year exceed 15 per cent of his remuneration as is allowed for this purpose by the Board of the Inland Revenue. Nor shall the total benefits to which such Member may become entitled exceed his maximum benefits for the purposes of Approval. Subject to these overriding limitations, Additional Voluntary Contributions may be of any amount.

5.8 Payment of Additional Voluntary Contributions

THE Additional Voluntary Contributions shall be deducted from Salary by the Participating Employer which will account to the Fund similarly as with ordinary Members' contributions (Rule 5.3).

5.9 Variation in payment of Additional Voluntary contributions

THE Member shall be entitled to increase reduce or cease paying Additional Voluntary Contributions by notice given to the Trustees in writing.

5.10 When contributions cease to be payable

CONTRIBUTIONS shall in any event cease to be payable by and in respect of any Member on attainment of Normal Pension Age other than Additional Voluntary Contributions permitted under Rule 5.7, provided that with effect from 6 April 2006, this limitation shall not apply while the Member continues to be an Active Member²².

6.0 PENSION AT NORMAL PENSION AGE

A Member shall on retirement at Normal Pension Age be entitled to a pension of annual amount of the aggregate of:

- (i) In respect of Service between 6 April 1978 and 31 March 1997 inclusive, 1/40th of his Average Revalued Pensionable Salary for each year (proportionately for part of a year) of his Service to which shall be added one year if the Member is male and both contributed in 1987 and will attain age 61 years in any of the years 1991 to 2000;

²² Inserted by Deed of Amendment dated 30 January 2007 with effect from 6 April 2006.

- (ii) in respect of Service ~~on and after~~between 1 April 1997 and 30 September 2000 inclusive, 1/60th of his Average Revalued Pensionable Salary for each year (and proportionately per part of a year) of such Service; ~~and~~
- (iii) in respect of Service on and after 1 October 2000, 1/80th of his Post-2000 Average Revalued Pensionable Salary for each year (and proportionately for part of a year) of such Service; and
- (iv) for his Pre 78 Service, the amount secured by the contributions paid in respect of him to the Pre 78 Section of the Fund.²³

6.1 Postponed Retirement

A Member who remains in employment beyond Normal Pension Age shall be entitled to postpone commencement of pension until actual retirement from employment. A Deferred Pensioner (whether or not still in employment) may similarly postpone commencement of the pension beyond Normal Pension Age, at any time up to (but not beyond) that Member's 75th birthday. In either case, the amount of the pension shall be actuarially increased as advised by the Actuary, according to the period of its postponement.

6.2.0 Ill-health pension with effect from 26 August 1988

EVERY Active Member with a period of two or more years Service (to include Pre 78 Service and to be counted to the later of the date of the relevant medical certificate or last contribution to the Fund or ceasing contributory membership of a Private Scheme or the MNRPF and to include periods of membership of a Private Scheme ranking for benefit in that Scheme) who leaves Service on or after 26 August 1988 because he is declared permanently unfit for further service on Form ENG3 or such other medical certificate as is acceptable to the Trustees (the relevant medical certificate), shall be entitled to a pension to commence from the date he leaves Service of an annual amount of the aggregate of:

- (i) In respect of Service between 6 April 1978 and 31 March 1997 inclusive, 1/40th of his Average Revalued Pensionable Salary for each year (proportionately for part of a year) of his Service. If the Member contributed in 1987 and will attain age 61 years in any of the years 1991 to 2000 he shall be credited with one year's additional Service;
- (ii) in respect of Service ~~on and after~~between 1 April 1997 and 30 September 2000, 1/60th of his Average Revalued Pensionable Salary for each year (and proportionately for part of a year) of such Service; ~~and~~
- (iii) in respect of Service on and after 1 October 2000, 1/80th of his Post-2000 Average Revalued Pensionable Salary for each year (and proportionately for part of a year) of such Service; and
- (iv) for his Pre 78 Service, as then secured to him by the contributions paid in respect of him to the Pre 1978 Section.²⁴

For the purposes of this Rule 6.3.1 only, "Active Member" means:

- (a) Members who were contributing to the Scheme at the date declared permanently unfit for further sea service; or

²³ Substituted by Deed of Amendment dated 27 September 2000 with effect from 1 October 2000.

²³ Substituted by Deed of Amendment dated 27 September 2000 with effect from 1 October 2000.

- (b) Members who: (1) ceased contributing less than twelve months before the date declared permanently unfit for further sea service (other than those who voluntarily ceased contributions); and (2) have not been employed since last contribution except in sea-going employment with a non-participating employer; or
- (c) Members who had ceased contributions but were members of a Private Scheme or MNRPF for which benefits were still accruing in respect of service up to the date declared permanently unfit for further sea service; or
- (d) such other Members as the Trustees may in their absolute discretion permit, in cases where (i) a Member has ceased contributing twelve months or more before the date on which the Member was declared permanently unfit for further sea service in accordance with this Rule, and (ii) that Member was, in the opinion of the Trustees, prevented by the illness or incapacity stated or referred to in the certificate from making an earlier application for a pension under this Rule.

6.2.1 IF a Member's Service (counted in accordance with Rule 6.2.0 above) is ten or more years, or if the Member's pension under Rule 6.2.0 above commences on or after 1 December 2006,²⁵ there will be immediately payable in addition to the pension under Rule 6.2.0 a cash payment equal to 1/75th of the Member's Average Revalued Pensionable Salary for each year and proportionately for part of a year of Service between the date on which the Member's Service first commenced and Normal Pension Age, together with any period of Pre 78 Service.

6.2.2 If the Member:

- (a) (in the case of a Member who ceased to be an Active Member before 1 December 2006)²⁶ has more than 10 years' Service ranking for pension under Rule 6.3.1 ignoring the additional one year's credit; and
 - (b) (in the case of a Member who ceased to be an Active Member before 1 December 2006)²⁷ was born before 1 April 1947; and
 - (c) contributed to the Scheme in the Pension Year ended 31 March 1989; and
 - (d) has not subsequent to 1 April 1988 left Service and then rejoined the Scheme,
- his pension under Rule 6.2.0 and 6.2.1 shall be increased, if necessary, so as to be equal to the aggregate of:
- (i) the commencing annual pension to which the Member is entitled under Rule 6.2.0; and
 - (ii) two thirds of an additional amount.

The additional annual amount for the purposes of (ii) above is the greater of zero and two-thirds of the Member's Average Revalued Pensionable Salary,

²⁴ Inserted by Deed of Amendment dated 30 January 2007 with effect from 1 December 2006.

²⁵ Inserted by Deed of Amendment dated 30 January 2007 with effect from 1 December 2006.

²⁶ Inserted by Deed of Amendment dated 30 January 2007 with effect from 1 December 2006.

- less the annual commencing pension payable to the Member under Rules 6.2.0(i) and ~~6.2.0(iii)(iv)~~,

- less 1.5 times the annual commencing pension payable to the Member under Rule 6.2.0(ii) ~~and (iii)~~.²⁸

Notwithstanding the previous provisions of this Rule 6.2.2, in the case of a Member who ceases to be an Active Member on or after 1 December 2006 and who was born on or after 1 April 1947, the additional amount shall be calculated by reference to rights accrued and benefits payable in respect of periods of Service on and after 1 December 2006 only. For the avoidance of doubt:

(i) rights accrued and benefits payable in respect of periods of Service prior to 1 December 2006 shall, for the purposes of this Rule 6.2.2, include the application of Revaluation to these rights and benefits up to the date of retirement; and

(ii) for the purposes of the reduction of the additional amount under this Rule 6.2.2, the annual commencing pension payable to the Member under Rules 6.2.0 (i), (ii) and (iii) shall be calculated by reference to Service both before and after 1 December 2006.²⁹

6.2.3 IF the Member is entitled to a disability pension from a Private Scheme or the MNRPF calculated by reference to the period from ceasing contributions to Normal Pension Age, there shall be ignored in calculating his pension the period after ceasing contributions. Instead he shall receive, additionally to the pension stated under sub-Rule 6.2.0, the amount (if any) by which that part of his commencing annual pension payable out of the Private Scheme or MNRPF calculated by reference to the period after ceasing contribution falls short of the pension equivalent (as determined by the Actuary) of the cash payment to be calculated under Rule 6.2.1 by reference to that same period.

6.2.4 Recovery enabling employment at sea

SHOULD any Member who retired under Rule 6.2.0 on the grounds of permanent medical unfitness recover to the extent that he is able to take up employment at sea, his pension will be suspended with effect from the time such employment is taken. Where such employment is eligible employment for purposes of the Scheme and the Member resumes contributions, his benefits at retirement will be calculated in accordance with the advice of the Actuary.

6.2.5 Recovery enabling restoration of earnings

WHILE any Member who retired under this Rule on grounds of permanent medical unfitness is under Normal Pension Age:

(i) the Trustees may at any time require him to supply such evidence as they consider necessary of his continued permanent medical unfitness and of the amount of his earnings (if any) when requested and, if he shall not supply such evidence, or such evidence is not satisfactory to the Trustees, they may vary, suspend or revoke his pension;

²⁸ Rectified by Supplemental Deed dated 29 November 2000 with effect from 1 October 2000.

²⁹ Inserted by Deed of Amendment dated 30 January 2007 with effect from 1 December 2006.

- (ii) if he subsequently recovers sufficient to be able to earn an income the Trustees may from time to time vary, suspend or revoke his pension as they may think the circumstances justify having regard to the amount of that income and what he might have been expected to earn had he continued in Service;
- (iii) the Member shall remain entitled, after any exercise by the Trustees of their powers under this Rule 6.2.5, to payment of a pension which is of actuarial equivalent value to a pension at Normal Pension Age equal to the deferred pension to which he would have been entitled had the reason for his leaving Service been other than due to permanent medical unfitness, adjusted to take account of any increases which would have been granted to such deferred pension since his leaving Service and the pension equivalent of any capital sum by way of commutation taken by the Member under Rule 14.0 at the date of retirement;
- (iv) in determining the benefits payable on the death of the Member under Rules 6.6 and 8.0, any suspension or adjustment of the Member's pension under this Rule ~~6.3.66.2.5~~ shall be disregarded.³⁰

6.3 **Early Retirement**

THE Trustees shall have power at the request of the Member to provide an immediate pension on retirement from Service at or after the age of 50 years. In that event the Member shall be entitled to an immediate pension calculated in accordance with Rule 6.0 but reduced as the Actuary may certify to be reasonable having regard to the period of early retirement and so as to ensure that from age 65 years (females 60 years) the pension will not be less than the GMP. In addition, the Member will be entitled to benefits in accordance with any Optional Early Retirement Scheme which may be in force from time to time, as announced to Members, provided that the Member meets any conditions imposed by any such Scheme.

6.3.0 Early Retirement GMP

SUCH early retirement pension shall be restricted so as to ensure payment of the GMP.

6.3.1 Deferred Pensioner Ill-Health Pension

THE Trustees shall have power at the request of a Deferred Pensioner to provide an immediate pension at any age where medical evidence is received which satisfies the Trustees that the Deferred Pensioner is permanently unfit due to ill-health or incapacity for any form of remunerative employment or self-employment.

The pension provided will be equal to the deferred pension at the date of leaving Service revalued between the date of leaving Service and the date the pension starts in accordance with Rule 10.1. Rules 6.5 and 8.0 shall apply on the death of a Pensioner after starting to receive a pension under this Rule 6.3.1.

In the event of a Pensioner to whom a pension has been provided under this Rule 6.3.1 subsequently earning any income from employment or self employment, the pension under this Rule 6.3.1 may be suspended until Normal Pension Age. Thereafter, the Pensioner will be paid a pension equal to the deferred pension which would have been paid at Normal Pension Age had Rule 6.3.1 not applied to the

³⁰ [Rectified by Supplemental Deed dated 20 October 2004 with effect from that date.](#)

Pensioner, reduced to take account of benefits already received under this Rule 6.3.1. In determining the benefits payable on the death of the Pensioner under Rules 6.5 and 8.0, any suspension or adjustment of the Pensioner's pension under this Rule 6.3.1 shall be disregarded.

6.4 Surrender for additional spouse's pension

THE Trustees at their discretion may arrange with an Active Member or Deferred Pensioner who so applies in writing to the Trustees within three months of becoming entitled to pension under these Rules for the surrender by him of part of his pension (but so as not to reduce his pension below his GMP) in order to provide for an additional pension to his widow or widower. Such arrangement shall not allow the total of the widow's or widower's pension payable under these Rules to exceed the pension taken by the Member. Such an arrangement once made shall be irrevocable under all circumstances including the death of the spouse prior to the Member who shall continue entitled only to his reduced pension. The Trustees shall have power to allow the arrangement to be revoked in exceptional circumstances such as divorce. In the event that the Member shall have surrendered part of his pension to provide an additional pension for his spouse, under Rule 6.5 the period of 60 months shall relate to their joint lives and the balance of pension be that applicable to the last survivor of them.

6.5 Pension guaranteed for sixty months

IF on the death of a Pensioner the total pension paid following retirement shall be less than 60 monthly payments, the balance of such monthly Payments at the rate applicable at the date of death shall be paid as a lump sum out of the Fund to his Dependents under and in accordance with Rule 24.0

6.6 Pension increases

EVERY pension in Payment shall be increased annually on 1 April at the rate of the percentage increase in the RPI for the period of twelve months ending on the 30 September preceding the date of the increase up to a maximum of 5%, insofar as that pension is attributable (or is deemed by Regulations to be attributable) to a Member's Service on or after 1 April 1997 or to a transfer payment (or part of a transfer payment) received by the Scheme in respect of employment under the transferring scheme on and after that date.

The Trustees may, having taken the advice of the Actuary, in addition grant discretionary increases to any pensions in payment. The Trustees will consider at intervals not exceeding twelve months whether they can and if so, whether they wish to grant such discretionary pension increases.

7.0 ADDITIONAL VOLUNTARY CONTRIBUTIONS' BENEFITS

THE Trustees may grant in respect of any Additional Voluntary Contributions paid by a Member such additional benefits as shall be determined on the advice of the Actuary which in respect of an arrangement entered into on or after 8th April 1987 shall be non-commutable.

7.1 Additional Voluntary Contribution Investments

IF and to the extent that benefits are not granted under the preceding sub-Rule 7.3 or refundable under Rule 7.3 the Trustees must with the consent of the Member apply such Additional Voluntary Contributions in the purchase of investments authorised by Clause 16.0 of the Trust Deed (Investment Powers).

7.2 Records Relating to Additional Voluntary Contributions

INDIVIDUAL records shall be kept of the purchase of investments under the preceding sub-Rule and the Trustees shall (within Inland Revenue Limits) grant in respect thereof such additional benefits as they may with the approval of the Member determine which, in respect of an arrangement entered into on or after 8th April 1987, shall be non-commutable. Such additional benefits shall be of reasonable value in relation to the Additional Voluntary Contributions paid by or invested on behalf of the Member.

7.3 Refunds of excess Additional Contributions

IF and to the extent that the value of Additional Voluntary Contributions exceeds the amount required to augment Scheme benefits up to the maximum required or permitted by the Inland Revenue, such excess shall be refunded by the Trustees to the Member although the Trustees will deduct from the refund the amount of any tax chargeable under Section 599A of the Taxes Act.

7.4 Winding up in relation to Additional Voluntary Contributions

IN the event of the Scheme being wound-up, the Member shall be entitled in respect of his Additional Voluntary Contributions only to such additional benefits as may be provided by the investments purchased by his Additional Voluntary Contributions but so that the total of his benefits shall not exceed the limits imposed by Inland Revenue limits as set out in the Appendix to these Rules. The Member shall be entitled to those additional benefits in priority to all other charges except the payment of outstanding expenses of the Scheme which relate to the administration of that part of the Scheme covered by this Rule. Any excess contributions shall be refunded as detailed in preceding sub-Rule 7.3.

However, in the event that his Additional Voluntary Contributions shall have been implied to secure additional benefits under Rule 7.0 the entitlement of the Member upon the Scheme being wound-up shall be governed by Rule 31 (Winding-up).

8.0 DEATH OF A PENSIONER

UPON the death of a Pensioner benefits are payable in accordance with Rules 8.1 and 8.2.

8.1 Widow's/Widower's pension

There shall be paid to a widow or widower a pension equal to one-half of the pension that was payable to the Pensioner but ignoring any commutation, surrender or reduction in pension on early retirement or adjustment in pension to take account of the basic state pension or (in relation only to a widow or widower whose pension commenced on or after 1 April 1997) because of a reduction of the Pensioner's pension in order to comply with Inland Revenue limits, provided that the Inland Revenue limits contained in the Appendix to these Rules imposed on the widow's or widower's pension, would not be breached and Approval would not otherwise be prejudiced. The pension shall be payable during the remainder of the life of the widow or widower.

Death within six months of marriage

If the marriage shall have taken place after retirement and within six months of death, that part of pension in excess of the GMP payable to the widow or widower shall be payable only to the extent that the Trustees in their discretion may decide.

8.2 Children's Pensions

There shall be paid for the benefit of a Dependant Child or Dependant Children an annuity equal to one quarter, whilst there be one Dependant Child, and one half, whilst there be two or more Dependant Children, of his pension for Service payable out of both the Pre 78 Section and the Post 78 Section but ignoring any commutation, surrender or reduction in pension on early retirement or adjustment to take account of commencement of the basic state pension. The Trustees, at their discretion may pay such annuity to any one or more of such Dependant Children personally or to their parent or guardian and a receipt by any of them shall be a complete discharge to the Trustees as under Rule 24.2.

In the event that no widow's or widower's pension is payable then the annuities under this sub-Rule 8.2 shall be doubled.

9.0 DEATH OF AN ACTIVE MEMBER

IN the event of the death of an Active Member benefits are payable in accordance with the following Rules 9.1 to 9.7.

9.1 Pension to widow/widower

There shall be paid to a widow or widower for life a pension of one-half the aggregate of:

- (i) In respect of Service between 6 April 1978 and 31 March 1997 inclusive, 1/40th of the Member's Average Revalued Pensionable Salary for each year (proportionately for part of a year) of his Service;
- (ii) in respect of Service ~~on and after~~between 1 April 1997 and 30 September 2000, 1/60th of his Average Revalued Pensionable Salary for each year (and proportionately for part of a year) of such Service;
- (iii) in respect of Service on and after 1 October 2000, 1/80th of his Post-2000 Average Revalued Pensionable Salary for each year (and proportionately for part of a year) of such Service; and
- (iv) the pension secured to the Member at the date of his death by payment of contributions for Pre 78 Service to the Pre 1978 Section.³¹

A lump sum shall also become payable in accordance with Rule 24.0, of an amount equivalent to the Member's Pre 78 Contributions.

9.2 Children's pensions

There shall be paid for the benefit of a Dependant Child or Dependant Children an annuity equal, whilst there be more than one Dependant Child, to the amount of widow's or widower's pension calculated under Rule 9.1 and, whilst there is only one Dependant Child, to half that amount. The Trustees, at their discretion, may pay such annuity to any one or more such Dependant Children personally, or to their parent or guardian, and a receipt by any of them shall be a complete discharge to the Trustees as under Rule 24.2.

In the event that no widow's or widower's pension is payable then the annuities under this sub-Rule 9.2 shall be doubled and a lump sum shall also become payable in accordance with Rule 24.0, of an amount equivalent to the Member's Pre 78 Contributions.

³¹ Substituted by Deed of Amendment dated 27 September 2000 with effect from 1 October 2000.

- 9.3 IF the Member shall leave no surviving widow or widower or Dependant Children, there shall be paid instead in accordance with Rule 24.0:
- (i) the amount of his own contributions to the Post 1978 Section with interest compounded at two and one half per cent (2½%) annually from commencement of the Pension Year following payment of such contributions to the date of death;
 - (ii) a sum equivalent to the Members' Pre 78 Contributions;
 - (iii) if there be no entitlement to the death benefit under the following sub-Rule 9.4 by reason that (i) contributions were not being received from the Member up to the time of his death on account of ill health or unemployment (as to which the decision of the Trustees shall be final) or (ii) the Member had left the Service after attainment of age 58 years and died before attainment of Normal Pension Age and before commencing pension, the Participating Employers' contributions paid to the Pre 1978 Section in respect of him.

9.4 **Lump sum payment**

Effective from 25 June 1999

IF contributions to the Scheme were received in respect of the Member in respect of the period up to the date of his death (other than contributions paid under Rule 5.5, unless the Trustees decide otherwise in accordance with that Rule) there shall be payable in accordance with Rule 24.0 a lump sum equal to the greater of:

- (i) twice the Member's Salary in either of the last two Pension Years or, in the last two calendar years immediately preceding death, revalued in accordance with the last order made under Section 148 of the Social Security Administration Act 1992 ("Section 148 Orders") preceding death;
- (ii) £30,738 as at April 1997 revalued in accordance with the last Section 148 Orders made before death.

9.5 **Death within 18 months of last contribution**

Effective from 25 June 1999

THE Trustees shall have power at their discretion to pay the lump sum stated under Rule 9.4 (or such part of it as they consider appropriate) in any other case where contributions paid in accordance with Rule 5.1 have been received from the Member at any time within eighteen months of death and the Trustees consider special circumstances prevailed at the time of death whereby contributions in accordance with Rule 5.1 were not being paid to the Scheme.

9.6 **Death during postponement of pension [after Normal Pension Age](#)³²**

A Member who dies having postponed his retirement beyond Normal Pension Age shall be treated for all purposes of these Rules as if he had retired on the day immediately preceding his death, [provided that the benefits payable in respect of an Active Member who dies on or after 1 December 2006 and after Normal Pension Age shall be no less favourable than the benefits that would have been payable in respect of an Active Member who dies before Normal Pension Age](#)³³.

³² [Inserted by Deed of Amendment dated 30 January 2007 with effect from 1 December 2006.](#)

³³ [Inserted by Deed of Amendment dated 30 January 2007 with effect from 1 December 2006.](#)

9.7 The lump sum not payable in the event of death by hostilities

THE lump sum stated under Rule 9.4 shall not be payable in the case of the death of any Member arising out of or consequent upon hostilities or warlike operations whether the United Kingdom be a belligerent or not (and the Trustees shall be the sole arbiter as to whether death be do caused) unless in any such case the Trustees, in their discretion, shall allow a payment to be made.

10.0 BENEFITS ON LEAVING SERVICE

An Active Member who leaves Service (by satisfying one of the conditions provided in Rule 12.0) other than to retire on pension or to join the MNRPF shall be entitled to receive out of the Scheme as he shall select one of the benefits stated under this Rule.

10.1.1 Deferred pension at Normal Pension Age

A deferred pension to commence on attainment of Normal Pension Age or earlier retirement permitted under these Rules of an annual amount calculated in accordance with Rule 6.0.

10.1.2 In respect of those Deferred Pensioners who left Service on or after 1 January 1986 and started to draw their pension at Normal Pension Age before 1 April 1990 the part of their Deferred Pension under Rule 10.1.1 that is in excess of the GMP shall be increased at Normal Pension Age by the appropriate percentage as prescribed in the 1993 Act.

10.1.3 In respect of those Deferred Pensioners who left Service on or after 1 January ~~1986~~ and who start to draw their pension at Normal Pension Age on or after 1 April 1990 (other than those referred to in Rule 10.1.5 below), the whole of their Deferred Pension under Rule 10.1.1 above shall be increased at Normal Pension Age by the appropriate percentage as prescribed in the 1993 Act.³⁴

10.1.4 In respect of those Deferred Pensioners who left Service prior to 1 January 1986 and who start to draw their pension at Normal Pension Age on or after 1 April 1990 the whole of their Deferred Pension under Rule 10.1.1 shall be increased at Normal Pension Age as follows:

- (i) by 3% per annum compound for each complete year between the date of leaving Service and 31 March 1997;
- (ii) on the Deferred Pension as increased under (i) above, by a further 15% as at 1 April 1997;
- (iii) on the Deferred Pension, as increased under (i) and (ii) above, by 3% per annum compound for each complete year between the anniversary of the date of leaving Service which falls immediately prior to 1 April 1997 and Normal Pension Age.

10.1.5 The deferred pension of those Deferred Pensioners who left Service on 31 March 1997 and who were then active members of the MNPA Staff Pension Fund will be increased by the greater of:

- (i) the aggregate of:

³⁴ [Rectified by Supplemental Deed dated 20 October 2000 with effect from that date.](#)

- (a) revaluation in accordance with the last Section 148 Order issued prior to the Member ceasing to be an active member of the MNPA Staff Pension Fund of the total of each Pensionable Salary divided by the period of Service; and
 - (b) at Normal Pension Age, an increase to the whole of the Deferred Pension under Rule 10.1.1 (including the revaluation described in (a) above), in respect of the period (if any) between ceasing to be an active member of the MNPA Staff Pension Fund and Normal Pension Age, by the appropriate percentage as prescribed in the 1993 Act, or
- (ii) at Normal Pension Age, an increase to the whole of the Deferred Pension under Rule 10.1.1, in respect of the period between 31 March 1997 and Normal Pension Age, by the appropriate percentage as prescribed in the 1993 Act.

10.2 Refund of contributions

A Member shall be entitled at his option, in lieu of any other benefit out of the Scheme, to receive a refund of the Member's Accumulated Contributions on leaving Service unless:

- (a) the Member has completed two or more years' qualifying service (as defined in Section 71 of the 1993 Act); or
- (b) a transfer payment has been received in respect of the Member under Rule 28.0 from a personal pension scheme.

For the purpose of this Rule, "Accumulated Contributions" means Member's contributions together with interest calculated from 1 April next following the date of receipt by the Scheme of such contributions at 5% compounded annually at the end of each complete Pension Year which precedes the date of leaving Service.

10.3.0 Statements of entitlement

The Trustees will, on the application of a Member, comply with the requirements of the 1993 Act to provide statements of entitlement of the amount of a Member's cash equivalent (if any) at a guarantee date.

10.3.1 Transfer out to another Approved Scheme

A Deferred Pensioner, at his request, shall be entitled to a transfer payment, as calculated on the advice of the Actuary in accordance with the cash equivalent provisions of the 1993 Act, to another pension scheme (including a personal pension scheme) only if:

- (a) the scheme is approved for this purpose by the Board of the Inland Revenue; and
- (b) the scheme satisfies prescribed requirements under the 1993 Act; and
- (c) in the case of a transfer to an occupational pension scheme, not more than the amount included in the transfer payment attributable to the Member's contributions to the Scheme may be treated as having been contributed by him to the other pension scheme.

10.3.2 A Deferred Pensioner can exercise the right to a cash equivalent by application in writing to the Trustees at any time up to a year before Normal Pension Age (or, if later, 6 months after leaving Service or opting out). [The Trustees may, at their discretion, permit a Deferred](#)

Pensioner who will reach Normal Pension Age within one year or who has postponed commencement of his pension in accordance with the Rules, to exercise this right at a later date by application in writing to the Trustees, but subject to all applicable restrictions imposed by the Inland Revenue as a condition of Approval.³⁵

10.3.3 A transfer in respect of a Deferred Pensioner's accrued GMP and Section 9 (2B) Rights shall only be made to another scheme which is a contracted-out scheme (as defined in the 1993 Act) and in accordance with the requirements of the 1993 Act. The Trustees may, with the consent of the Deferred Pensioner, make a transfer payment under this Rule on the basis that GMP and Section 9(2B) Rights to be retained by the Scheme. The amount of the transfer payment which would otherwise have been payable shall then be reduced by the value (as determined by the Actuary) of such GMP and Section 9(2B) Rights or the cost of securing them.

10.3.4 If a transfer payment is made in accordance with Rule 10.3.3 on the basis that GMP and Section 9(2B) Rights are retained by the Scheme, the Trustees may discharge those liabilities and benefits by making a payment to an Insurance Company to purchase a policy or annuity contract which satisfies the requirements of the 1993 Act and the Preservation Requirements.

10.4 **Buy-out Policy**

IN respect of a Member who leaves Service entitled to a cash equivalent under the 1993 Act who validly exercises this option and requests the Trustees so to do, the Trustees shall purchase in substitution for such cash equivalent one or more policies of insurance or annuity contracts (together 'the Policy') in the name of the Member ('the Policyholder') issued by an Insurance Company only if:

- (a) it will issue a policy or annuity contract which satisfies the requirements of Section 19(3) of the 1993 Act; and
- (b) the Member has selected the Insurance Company.

10.5 **Consent required by Trustees and Trustees' discharge**

THE Trustees will not be obliged to obtain any consent other than that of the Member to effect a transfer payment and the making of a transfer payment will discharge the Trustees from any further liability to pay the benefits under the Scheme, except insofar as Section 9(2B) or GMPs are retained under Rule 10.3.2. The Trustees are not obliged to enquire into the application of the cash equivalent transferred.

10.6 **Early Retirement**

AT the request of a Deferred Pensioner at or after the age of 50 years, the Trustees shall provide an immediate pension. The amount of that pension shall be such as the Actuary shall advise to be of actuarial equivalent value to the deferred pension calculated in accordance with Rule 10.1 above which would otherwise be payable from Normal Pension Age. This pension shall be restricted, if necessary, so as to ensure payment of the GMP from age 65 years (females 60 years).

11.0 **DEATH OF DEFERRED PENSIONER**

ON the death of a Deferred Pensioner, benefits will be payable in accordance with Rules 11.1 to 11.3.

³⁵ Inserted by Deed of Amendment dated 15 April 2003 with effect from that date.

- 11.1 THERE shall be paid to a widow or widower, a pension equal to one-half of the deferred pension, revalued between the date of leaving Service and the date of death in accordance with Rule 10.1, which pension shall be payable to the widow or widower for life.

A lump sum shall also become payable in accordance with Rule 24.0, of an amount equivalent to the Member's Pre 78 Contributions.

- 11.2 THERE shall be paid for the benefit of a Dependant Child or Dependant Children, an annuity equivalent to, whilst there is more than one Dependant Child, one half of the Member's deferred pension as calculated in Rule 10.1 including Revaluation between the date of leaving Service and the date of death and half that annuity whilst there is only one Dependant Child.

In the event there is no widow's or widower's pension payable the annuities under this sub-Rule 11.2 shall be doubled and a lump sum shall also become payable in accordance with Rule 24.0, of an amount equivalent to the Member's Pre 78 Contributions.

- 11.3 IF the Member shall leave no surviving widow or widower or Dependant Children there shall be paid in accordance with Rule 24.0 the aggregate of:

- (i) the amount of his own contributions to the Post 1978 Section with interest compounded at two and half per cent (2½%) annually from the commencement of the Pension Year following payment of such contributions to the date of death;
- (ii) the amount of his own Pre 78 Contributions; and
- (iii) if there be no entitlement to the lump sum benefit on death as a contributing Member (Rule 9.4) by reason that (i) contributions were not being received from him up to the time of his death on account of ill health or unemployment (as to which the decision of the Trustees shall be final) or (ii) the Member had left Service after attainment of age 58 years and dies before attainment of Normal Pension Age and before commencing pension, the Participating Employers' contributions in respect of him to the Pre 78 Section.

12.0 WHEN SERVICE TERMINATES

FOR the purposes of Rule 10 an Active Member shall be treated as having left Service if any of the following conditions or circumstances shall apply:

When Service terminates

- (i) immediately on expiry of notice to discontinue membership of the Scheme;
- (ii) immediately on starting permanent non-seagoing employment;

Effective from 31 March 1997

- (iii) at the end of a consecutive period of twelve months during which no contributions have been received in respect of his membership, other than in a case to which Rule 12.1 applies.
- (iv) those Members who were on 31 March 1997, both Active Members and active members of the MNPA Staff Pension Fund are treated as having left Service on that date.

(v) with effect from 29 June 2006, those Members who are qualifying persons (as that term is used in the Occupational Pension Schemes (Cross-border Activities) Regulations 2005) shall be treated as having left Service on that date;

(vi) Members who would otherwise become qualifying persons (as that term is used in the Occupational Pension Schemes (Cross-border Activities) Regulations 2005) after 29 June 2006 shall be treated as having left Service with effect from the date on which they would otherwise become a qualifying person.³⁶

The Trustees may extend the said period of twelve months in (iii) above to a maximum of three years or reduce it to not less than six months.

12.1 Continuing Membership whilst in a Private Scheme or serving as a Rating

A Member who ceases to pay contributions to the Scheme under Rule 5.0 on entering the employment of an employer with a Private Scheme before 1 April 1988 or on becoming a rating and joining or rejoining the MNRPF shall be treated, so long as he shall remain a contributing member of that Private Scheme or the MNRPF, as continuing in Service but without earning salary or paying contributions. In all events, on a transfer payment made under Rule 10, the Member shall be treated as having left Service.

13.0 MEMBERS WHO REJOIN

A person who leaves Service in a manner stated under Rule 12 and subsequently rejoins the Service shall continue to be entitled to the benefits and Service already credited to him in the Scheme. A person may not subsequently rejoin the Scheme for further Service, except with the consent of the Trustees. If a person is permitted to rejoin the Scheme, he shall be treated for all the purposes of the Scheme as if he had then joined Service for the first time unless, in any case of special circumstances, the Trustees see fit to arrange otherwise. If he has already completed 2 years' Service prior to rejoining (excluding that credited to him by a transfer payment) he shall not be entitled to a return of contributions on again leaving Service.

14.0 COMMUTATION

An Active Member, or Deferred Pensioner, may elect on retirement to receive a capital sum by way of commutation of part of his pension in excess of his GMP (if any), which capital sum shall be calculated as advised by the Actuary and shall not exceed the maximum amount permitted under Inland Revenue limits as set out in the Appendix to these Rules.

14.1 **Commutation by reason of serious ill-health**

IF an Active Member is in exceptional circumstances of serious ill health at the time of commencement of pension, the Trustees may pay to him a lump sum calculated as advised by the Actuary representing the value of ~~that part of his pension in excess of any GMP.~~³⁷

14.2 **Commutation of Trivial Pension**

If a pension or allowance would be Trivial, the Trustees may commute it for a cash sum when it would otherwise come into payment, where permitted in accordance with the 1993 Act, and with the requirements of this Rule. The cash sum must be of such amount as the Actuary certifies to be reasonable having regard to the benefits commuted and any entitlement to increases. In the case of a Member's pension, the Trustees may at the same time commute any pension or allowance prospectively payable on the Member's death and the cash sum will be paid, as the Trustees decide, to the Member or to the person who was prospectively entitled to the commuted pension or allowance.

³⁶ Inserted by Deed of Amendment dated 27 June 2006 with effect from 29 June 2006.

³⁷ Deleted by Deed of Amendment dated 27 June 2006 with effect from 14 June 2006.

Where part of a Member's pension relates to Service prior to 6 April 1997 and is payable prior to GMP Age, that part of the pension will for this purpose be deemed to be no less than his GMP revalued to GMP Age. A GMP may, however, only be commuted prior to GMP Age if the Trustees have paid (or are treated as having paid) a contribution equivalent premium in respect of the liability for that GMP.

Where the Member is also a member of other retirement benefits schemes relating to the same employment, commutation will only be permitted where the Member is treated by all those schemes as being retired (or the schemes are being wound-up) and all those schemes in which the Member has contracted-out service before 6 April 1997 have paid (or are treated as having paid) contributions equivalent premiums in respect of liabilities for GMPs.

15.0 ELIMINATION OF EXCESS BENEFIT

If any benefit has to be reduced to comply with Inland Revenue limits as set out in the Appendix to these Rules, the Trustees may apply an amount equal in value to the reduction to provide an annuity for any person who in the opinion of the Trustees is dependent on the Member at his death. The amount of the annuity shall be advised by the Actuary and the Revenue limits in the Appendix to these Rules shall apply to that annuity.

16.0 SUSPENSION OF PENSION ON RETURN TO SERVICE

IF any Member has retired from Service other than a Pensioner to whom a pension under Rule 6.2 has been paid and is in receipt of a pension under these Rules, and subsequently shall rejoin Service, then, unless in any such case the Trustees shall be satisfied that the resumption of employment by such Pensioner is only of a temporary character, the pension payable to such Pensioner shall be suspended and cease to be payable during such period as he shall continue in Service. On his again retiring from Service, he shall be entitled to receive the same pension as that which became payable to him on his original retirement but actuarially increased according to the period of suspension as advised by the Actuary.

17.0 PAYMENT OF PENSIONS AND OTHER BENEFITS AND SCHEME EXPENSES

All pensions and other benefits, salaries, remuneration and other expenses shall be paid out of the Scheme by way of cheque, credit transfer or by any other method which in the particular circumstances the Trustees may consider appropriate. No Member or other beneficiary entitled to any pension or other benefit, and no officer or other employee appointed or engaged under the provisions of the Trust Deed and entitled to any salary or other remuneration, shall have any claim to the payment of any pension or other benefit, salary or other remuneration except out of the Scheme. He shall not in any case have any claim to the payment thereof against the Trustees or the directors of any corporate Trustee or any of them personally.

18.0 FREQUENCY OF PENSION INSTALMENTS

THE first instalment of pension shall be made so soon as practicable after the date of retirement and subsequently 1/12 of the annual amount of pension shall be paid in arrears on the fifteenth day of each month. The Trustees may from time to time determine that other amounts may be paid at other intervals and will so advise the Pensioner.

19.0 SCHEME BOOKLETS AND BENEFIT STATEMENTS

EVERY Active Member shall be provided with an explanatory booklet setting out the required basic information relating to the Scheme and an annual benefits statement as far as is practicable.

19.1 Disclosure Requirements

EVERY Member and beneficiary shall be provided with all such information as they may be entitled to under the provisions contained in the Disclosure Requirements.

19.2 Supply of copies

EVERY Member and person having any rights in the Scheme and every Participating Employer shall be entitled, on demand made by him, to receive one copy of the Trust Deed and Rules together with any amendments, the Trustees' annual report and statement of accounts of the Scheme, the Auditor's report, the Actuary's actuarial report and any other documents to which the Member is entitled under the 1995 Act or the Disclosure Requirements. Additional copies shall be made available on such terms as the Trustees decide.

20.0 TRUSTEES' RIGHT TO MATERIAL INFORMATION

EVERY Member or other person for the time being entitled to any benefit under the Rules and every Participating Employer³⁸ shall from time to time give to the Trustees such information as they may require for the purposes of the administration of the Scheme or for the exercise of any powers and duties thereunder or under any relevant legislative or regulatory provision or requirement³⁹. Such information (in the case of a Member or other such person)⁴⁰ shall include his or her postal address and, where necessary, the production of birth, marriage or death certificates and in the case of a Pensioner or other beneficiary evidence of continued survival. Personal representatives making claims on the Scheme shall in addition produce Probate or Letters of Administration whenever required.

21.0 PROHIBITION OF ASSIGNMENT

21.1 SUBJECT to the provisions of the 1995 Act, every pension and other benefit under this Scheme shall be strictly personal, and shall not be assigned, charged or alienated in any way. No Member, Deferred Pensioner, Pensioner or other beneficiary entitled to any benefit out of the Fund shall assign, charge or alienate his pension or any part thereof or any sum payable to him under these Rules. If any act not hereby authorised shall have been done or any event should have happened whereby any such pension or sum if belonging to the Member, Deferred Pensioner, Pensioner or other beneficiary absolutely would have become vested in or charged in favour of some other person or persons, such pension or sum shall (subject to the provisions of the 1995 Act) be forfeited. In such event, the Trustees may in their absolute discretion pay or apply the same to or for the benefit of such one or more exclusively of the others or other of the following persons, namely the Member, Deferred Pensioner, Pensioner or other beneficiary or his or her wife or husband, children and other dependants in such manner, and if more than one, in such proportions as the Trustees shall from time to time decide. However, the Trustees shall not cause any payment to be made to any person to whom the Member, Deferred Pensioner, Pensioner or other beneficiary had purported to assign, charge or alienate his pension, allowance or other benefit.

Provided that:

- (i) any GMP shall not be so forfeited but shall continue to be payable only to the person entitled to the same pursuant to these Rules and without regard to any such

³⁸ Inserted by Deed of Amendment dated 7 April 2011 with effect from that date.

³⁹ Inserted by Deed of Amendment dated 7 April 2011 with effect from that date.

⁴⁰ Inserted by Deed of Amendment dated 7 April 2011 with effect from that date.

assignment, charge or alienation which shall be null and void for all the purposes of these Rules; and

- (ii) nothing in these Rules shall be deemed to stop any Member, Deferred Pensioner, Pensioner or other beneficiary from bequeathing by will any moneys in which he may have a transmissible interest.

22.0 PERSONS INCAPABLE OF MANAGING THEIR OWN AFFAIRS

IF any Active Member, Deferred Pensioner or other beneficiary shall be of unsound mind or in the opinion of the Trustees otherwise incapable of managing his own affairs, the Trustees, shall at their absolute discretion, be entitled to apply any sum which otherwise would have been payable to him or her for his or her benefit or for that of his or her wife or husband, children or other dependants in such manner and if more than one in such proportions as the Trustees shall from time to time decide.

23.0 POWER OF PARTICIPATING EMPLOYER OR OF MEMBER TO DETERMINE EMPLOYMENT

MEMBERSHIP of the Scheme shall not restrict the right of any Participating Employer to determine the employment by him of any Member in his employ or the right of any Member to terminate his employment with any Participating Employer.

24.0 PAYMENT OF DEATH BENEFIT

THE benefits payable on the death of an Active Member, Deferred Pensioner, Pensioner or other person (in this Rule referred to as "the deceased") under Rules 6.5, 9.1, 9.2, 9.3, 9.4, 11.1, 11.2, and 11.3 shall be payable to or for the benefit of such one or more to the exclusion of the other or others of his or her dependants in such amounts at such times and generally in such manner or upon such trusts whether discretionary or otherwise as the Trustees in their absolute discretion shall from time to time decide.

24.1 Definition of "Dependants"

"DEPENDANTS" means for the purposes of this Rule any one or more of the following:

- (a) a widow or widower;
- (b) the following relatives of the deceased (whether by birth or adoption) living at the date of death of the deceased, namely child, step-child, parent, brother or sister or the wife, husband or child of any such person;
- (c) any other person who was at any time prior to the date of death of the deceased in the sole opinion of the Trustees wholly or partly dependent upon the deceased for the provision of all or any of the ordinary necessities of life;
- (d) any individual or individuals or charity or charities registered with the Charity Commissioners nominated for this purpose by the Member by written notice addressed to and received by the Trustees during his lifetime but without binding the Trustees in any way; or
- (e) the deceased's personal representatives.

24.2 Minor

IF any Dependant shall be a minor, the Trustees may at their discretion pay any sums under this Rule to such minor personally or to his parent or guardian and the receipt of such minor

notwithstanding his minority, or of such parent or guardian, shall be a complete discharge and the Trustees shall not be under any liability to see to the application of the sum paid.

24.3 **Bona vacantia**

If any part of a lump sum shall remain unpaid or unapplied at the expiration of 2 years from the date of death of the deceased, it shall be paid to the deceased's personal representatives unless either the Crown, the Duchy of Lancaster or the Duke of Cornwall shall be entitled by way of bona vacantia to the deceased's estate in which case the amount remaining shall be forfeited and revert to the Fund.

25.0 **UNCLAIMED PENSION OR OTHER BENEFITS**

THE Trustees shall be entitled to treat as unclaimed and to forfeit and use for the general purposes of the Scheme any moneys standing to the credit in the books of the Scheme of any Member whose whereabouts are unknown to the Trustees in circumstances where no claim is made thereto by such Member or his personal representatives or other person or persons claiming on behalf of or through him within six years after the date upon which according to such records the same became due and payable. The Trustees may, at their discretion, in any case where in their opinion special circumstances exist to justify the exercise of such discretion, meet, in whole or in part, a claim notwithstanding that forfeiture has taken place. The Trustees may at like discretion and in the absence of knowledge of the whereabouts of the Member, use such monies for the benefit of any one or more of the dependants to whom they would have been entitled to make payment on death pursuant to the preceding Rule 24.0.

25A POWER TO DEDUCT FROM PAYMENTS FROM THE SCHEME

25A.1 The Trustees may treat as a pre-payment of a benefit to a recipient (and adjust future payments of benefit to the said recipient accordingly):

- (i) any overpayment of the benefit to the recipient;
- (ii) any payment of the benefit made to the recipient in error; and
- (iii) any payment of benefit which was intended to be made to another person but which was instead received in error by the said recipient.

25A.2 On the determination of the Trustees, the interest of any Member or any other person under the Scheme (excluding any rights earned before 26 June 2009) shall stand charged with:

- (i) the payment of any debts or liabilities to the Scheme arising out of any criminal, negligent or fraudulent act or omission of a Member or any other person with an interest under the Scheme; and
- (ii) the payment of any monetary obligation due to the Scheme arising out of a payment made in error in respect of the pension.

The Trustees shall deduct the relevant amount from the relevant interest. However, in the event of a dispute as to the amount to be recovered, the Trustees may not exercise the charge unless the debt or liability has become enforceable under an order of a competent court or arbitrator. The Trustees may release their charge at any time.

25A.3 Mis-statement of information

If any mis-statement is made by a Member or any other person with an interest under the Scheme as to his or his Dependants' status or age the Trustees shall be entitled to make adjustments to the benefits payable in respect of the Member.⁴¹

26.0 DEDUCTION FOR TAX PURPOSES

IN every case where the Trustees are liable to account for income or other tax on any payments made out of the Fund to any Member or other beneficiary, there shall be deducted from such payment a sum equivalent to the amount for which the Trustees are so liable to account.

27.0 MANAGEMENT ACCOUNT

ALL expenses incurred in the administration of the Scheme including expenses of the Trustees are payable out of the Fund. A special management account shall be established for the purpose of meeting such expenses to which account there shall be paid such proportion of contributions as the Trustees shall from time to time decide is appropriate for the purpose.

28.0 TRANSFERS FROM OTHER SCHEMES

SUBJECT to approval of the Inland Revenue and to any undertakings given by the Trustees to the Board of the Inland Revenue, it shall be competent to the Trustees to arrange, in the case of an Active Member who has joined the Service of a Participating Employer and who was a member of another superannuation scheme or arrangement or personal pension ("the other scheme") meeting with the conditions required for this purpose under the 1993 Act, for any sum or part thereof standing to his credit in that other scheme or paid out to him under the rules thereof to be transferred or paid by him, as the case may be, to his credit in this Scheme. In such event there shall be such adjustment of pension or other rights in the Scheme as the Actuary certifies to be appropriate to the circumstances. In any such case where a payment in by the Member is permitted, the whole amount so paid in shall be treated as contributions in respect of that Member for the purposes of these Rules. Further, there shall be treated as contributions by the Member for the purposes of these Rules such part of the total sum transferred as may be certified by the Trustees or administrator of the other scheme as being paid by such Member himself under the rules of such other scheme and no more.

28.1 Subject to approval of the Inland Revenue, the Trustees may in respect of a Member accept from another superannuation scheme, arrangement or personal pension which is approved by the Inland Revenue for the purpose of making a transfer payment to the Scheme and of which the Member was formerly a member a transfer payment to stand to his credit in the Scheme, provided that:

(i) the rights to be conferred on the Member in the Scheme shall be those that the Trustees determine to be appropriate in the circumstances, having regard to such advice of the Actuary as they shall decide;

(ii) that part of the transfer payment which is certified by the trustees or administrator of the transferring scheme as deriving from contributions to that scheme by the Member shall be treated as contributions by the Member to the Scheme;

⁴¹ Inserted by Deed of Amendment dated 26 June 2009 with effect from that date.

(iii) the Trustees shall not exercise the power under this Rule 28.1 so as to diminish or prejudicially affect the rights of any person in receipt of a pension or the pensionable or other rights already accrued by any other Member or former Member; and

(iv) the Trustees shall not exercise the power under this Rule 28.1 so as to affect adversely the accrued rights or entitlements of any other member (such requirement to be construed in accordance with Section 67 of the 1995 Act).⁴²

29.0 TRIENNIAL VALUATION

THE Trustees will instruct the Actuary to assess the values of the Scheme's assets and liabilities as at dates fixed by them, but at least once in every three years and at such other intervals as may be required to comply with the 1995 Act. All necessary accounts and information shall be furnished to the Actuary who shall report to the Trustees in writing upon the financial position of the Scheme together with such recommendations as he may think fit.

29.1 Schedule of Contributions

The Trustees shall prepare, maintain and from time to time revise a Schedule of Contributions in accordance with the requirements of Section 58 of the 1995 Act in order to secure compliance with the Minimum Funding Requirement.

29.2 Deficiency

IF, as a result of the Actuary's report, it shall appear that there is a deficiency or anticipated deficiency in the Scheme's resources, the Trustees shall consider what if any action, having regard to any recommendations made by the Actuary in his report, should be taken either by way of increasing contributions or decreasing benefits to render the Scheme solvent. If necessary, the Trustees shall take such steps as are herein laid down for amendment of the Trust Deed and the Rules, or if the deficiency or anticipated deficiency cannot be made good, for the winding up of the Scheme.

29.3 Surplus

If the Actuary's report shows a surplus, all of part of that surplus may be applied by the Trustees, having regard to any recommendations made by the Actuary and subject to the overriding obligation to maintain segregation of the two Sections, and to do any one or more of the following:

- (i) to create a reserve fund;
- (ii) to decrease contributions;
- (iii) to increase or extend benefits; or
- (iv) to lower the pensionable age.

The Trustees' approval to the above applications shall be signified in like manner as is laid down under the Trust Deed for an alteration of the Rules except that a Deed executed under the seal of the Trustees shall not be required to give effect to such application.

⁴² Inserted by Deed of Amended dated 30 January 2004 with effect from that date.

30.0 MERGER OF OTHER SCHEME

IT shall be competent to the Trustees in consultation with the Actuary to arrange terms for the merger of any Private Scheme, whether conveying legal rights or not, or any part or parts of such scheme relative to a particular class or classes of employees, into this Scheme. Such merger shall be on such terms as the Trustees acting on the advice of the Actuary may consider fair in the circumstances of the particular case. No merger shall be allowed so as to prejudice Approval or the approval of the Contributions Agency for the purposes of contracting-out. A Private Scheme for the purposes of this Rule shall include a scheme conducted by a Participating Employer as a supplementary and additional scheme to this Scheme.

31.0 WINDING UP

THE trusts hereby constituted shall continue unless and until determined by a resolution to determine the Scheme passed by the Trustees, which resolution shall not be passed unless the Trustees are satisfied after due enquiry that the majority, both of the Participating Employers and the Members, desire that the Scheme shall be wound-up.

It shall be competent for the Trustees to so resolve that one Section of the Scheme only shall be determined. In any event, on a winding-up each Section of the Scheme shall be the subject of a separate winding-up with the intent that no benefit payable out of one Section shall be paid out of the other Section but that each Section shall be employed solely for the purpose of providing benefits in respect of Service covered by that Section.

Where a Member's Additional Voluntary Contributions are being used to provide benefits on a money purchase basis and where there are separately identifiable assets attributable to those Additional Voluntary Contributions, this Rule shall apply in relation to those separately identifiable assets as if they were a separate section of the Scheme.

- 31.1 Subject to Rule 31.3, upon the determination of the trusts, the Scheme or Section shall be wound-up, and the Fund shall be converted into money and, subject to payment of all costs, charges and expenses then owing, including any amount due to the Inland Revenue, the proceeds of such conversion shall be applied in accordance with the requirements of Section 73 of the 1995 Act (if applicable) and otherwise in the manner following:

FIRSTLY, in making provision for annuities whether immediate or deferred to secure as far as practicable upon the same terms any of the following:

- (a) GMPs and accrued rights to GMPs;
- (b) pensions and other benefits in respect of which entitlement to payment has already arisen;
- (c) the payment of contributions equivalent premiums under the 1993 Act.

SECONDLY, once the benefits and premiums listed in FIRSTLY have been secured in full, in the purchase *pari passu* under the direction of the Trustees and in consultation with the Actuary of deferred annuities for Deferred Pensioners and their spouses entitled in anticipation to the pension benefits out of the Fund and treating Members in Service immediately prior to winding-up as if they had left Service at the date of winding-up entitled to benefits provided under these Rules on leaving Service.

THIRDLY, the Trustees may apply all or any part of any surplus then remaining at their discretion in increasing any benefit provided under FIRSTLY, and SECONDLY provided

that in so doing the Trustees shall be bound by the benefit limits imposed by the Inland Revenue and set out in the Appendix to these Rules.

LASTLY, any surplus then remaining shall, subject to complying with the requirements of the 1995 Act, be paid to the Participating Employers in such manner as the Trustees may determine to be just and equitable.

- 31.2 Any annuities to be purchased under Rule 31.1 shall be purchased under the direction of the Trustees and in consultation with the Actuary. Immediate annuities shall be in amount equal and in character and terms (so far as practicable) similar to the respective pensions then being paid to the Pensioners or other beneficiaries concerned. Deferred annuities shall be non-assignable and, save as permitted under the Rules, non-commutable. In any particular case or cases, the Trustees may, instead of purchasing an annuity, make a transfer payment in accordance with the Rules to another approved scheme or arrangement.
- 31.3 Upon the determination of the trusts, the Trustees shall have power to postpone the conversion of the Fund into money for as long as they think fit. During such postponement, any benefits which would otherwise have had to be secured by the purchase of immediate annuities under Rule 31.1 shall be paid out of the Fund.

32.0 ALTERATION OF RULES

THESE Rules may be varied or added to in accordance with the provisions of the Trust Deed (Clause 30.0).

33.0 CONTRACTING-OUT

THIS Rule applies for the purposes of securing the issue of a contracting-out certificate in respect of the Scheme and shall apply if any employment becomes contracted-out by reference to the Scheme. This Rule 33 shall override any other provisions of these Rules which are inconsistent with it (other than Rule 14.2).

THE words and expressions used in this Rule shall have the same meaning as in the 1993 Act.

THE Scheme must be operated in conformity with all the contracting-out requirements of the 1993 Act, the Occupational Pension Schemes (Contracting-out) Regulations 1996 and, where appropriate, Memorandum 77 issued by the Joint Office of the Inland Revenue Pension Schemes Office and the Occupational Pensions Board (as amended and substituted from time to time).

33.1 General

Prior to 6 April 1997, the Scheme was contracted-out on a salary-related basis whereby Guaranteed Minimum Pensions (GMPs) accrued for and on behalf of Members in contracted-out employment. From 6 April 1997, the Scheme became contracted-out on a salary-related basis under Section 12A of the 1993 Act.

In relation to benefits which accrue in respect of Pensionable Service after 5 April 1997, the Trustees will ensure that the benefits provided under the Scheme overall satisfy the statutory standard under the 1993 Act and that the Rules comply with those requirements of the Occupational Pension Schemes (Contracting-out) Regulations (1996) which apply to contracted-out salary related schemes. That part of a Member's benefits which meets the statutory standard is referred to as the Member's Section 9(2B) Rights. If these Rules fail to provide benefits which overall comply with that statutory standard, or if the Rules fail to comply with those Regulations, the Rules shall, unless the Trustees direct otherwise, be

deemed to be amended to the extent which the Trustees, having considered the advice of the Actuary, consider is reasonable to ensure that they do comply.

33.2 IF a Member has a guaranteed minimum in relation to any pension under the Scheme in accordance with Section 14 of the 1993 Act:

- (i) the Member will be entitled to a pension from the Scheme, in respect of the Member's Pensionable Service prior to 6 April 1997, which, in respect of that Pensionable Service, shall from GMP Age be paid at a weekly rate of not less than the guaranteed minimum; and
- (ii) if the Member is a man and dies leaving a widow, she will be entitled to a pension from the Scheme, in respect of the Member's Pensionable Service prior to 6 April 1997. That pension will be payable during any period such as is mentioned in Section 17(5) of the 1993 Act at the weekly rate of not less than half of that Member's guaranteed minimum; and
- (iii) if the Member is a woman and dies on or after 6 April 1989 leaving a widower he will be entitled to a pension from the Scheme, in respect of the Member's Pensionable Service prior to 6 April 1997, in the circumstances and for the period prescribed by regulations made under Section 17(6) of the 1993 Act. That pension will be payable at a weekly rate of not less than half of that part of the Member's guaranteed minimum which is attributable to earnings for the Tax Year 1988/89 and subsequent Tax Years.

33.3 **Increases in payment**

GMPs will, insofar as they are attributable to earnings in the Tax Years from and including 1988/9, be increased in accordance with the requirements of Sections 109 and 110 of the 1993 Act to the extent of any order made under those sections.

33.4 **Late Retirement**

IF the commencement of any Member's GMP is postponed for any period allowed under Section 13 of the Pension Schemes Act the GMP will be increased to the extent, if any, specified in Section 15 of the 1993 Act, as amended from time to time.

33.5 **Increases in Deferment**

IN the event of any Member leaving contracted-out employment by reference to the Scheme before GMP Age the GMP to which he will be entitled at GMP Age will be calculated on the basis that the GMP which has accrued up to termination of contracted-out employment is increased:

- (1) by the percentage by which earnings factors for the Tax Year in which such termination occurred are increased by the last order under Section 148 of the Social Security Administration Act 1992 to come into force before the Tax Year in which the Member reaches GMP Age or earlier death of the Member occurs (known as "Section 148 Orders"); or, at the discretion of the Trustee,
- (2) by such rate as may be prescribed under the 1993 Act at the time of such termination for each complete Tax Year between such termination and GMP Age or earlier death (known as "Fixed Rate Revaluation").

- 33.6 WHERE a Member leaves contracted-out employment but GMP liabilities or Section 9(2B) Rights are retained by the Scheme, the amount of any refund or transfer equivalent of the refund shall be reduced by the certified amount as defined in the 1993 Act.

34.0 PAYMENT OF ADDITIONAL BENEFITS

SUBJECT to such payment into the Fund as the Actuary may advise to be necessary to meet the additional liability thereby imposed upon the Scheme, the Trustees shall have power to augment any pension or other benefit payable under the Rules or to pay a pension or other benefit otherwise than in accordance with the Rules providing that in so doing the Trustees shall be bound by the Inland Revenue limits which are set out in the Appendix to these Rules and shall comply with the requirements of the 1993 Act.

35.0 UNMARRIED PARTNERS

Subject to Rules 35.1 and 35.2, in the Trust Deed and these Rules (with the exception of Rule 33), where any benefit would be payable to a widow or widower in respect of the Member's Pre 78 Service but no such widow or widower exists at the time the benefit is payable, the Trustees may at their discretion deem to be a widow or widower (as appropriate) another person who is or was, in the opinion of the Trustees, dependent on the Member for the provision of all or any of the ordinary necessities of life and pay to that other person at their discretion the whole or such part of the benefit which would otherwise have been payable to the widow or widower of the Member.

- 35.1 Without prejudice to the scope of the Trustees' discretion under this Rule and to their ability to take other issues into consideration, the Trustees shall be entitled to have regard to the financial position of the Pre 78 Section in deciding whether and in what manner to exercise their discretion under this Rule.
- 35.2 The Trustees shall not exercise their discretion under this Rule 35 so as to diminish or prejudicially affect the rights of any person in receipt of a pension or the pensionable or other rights already earned by any Member or former Member.
- 35.3 Where a benefit is payable (whether in whole or in part) to a person owing to their having been deemed to be a widow or widower (as appropriate) in accordance with this Rule, the benefits which would otherwise have been payable under Rules 8.2, 9.2, 9.3, 11.2 and 11.3 if no widow or widower existed shall be payable to such extent as the Actuary shall advise to be required in order to ensure that the accrued rights and entitlements of the Member (construed in accordance with Section 67 of the 1995 Act) are not adversely affected.
- 35.4 References to "widow or widower" in the Rules shall include references to a husband, wife or spouse.⁴³

36.0 CIVIL PARTNERS

Subject to Rule 36.1, in the Trust Deed and these Rules, references to a widow or widower shall include:

- (i) in respect of GMPs accrued in respect of Service between 6 April 1988 and 5 April 1997,
- (ii) in respect of Section 9(2B) Rights accrued in respect of Service between 6 April 1997 and 4 December 2005, and

⁴³ Inserted by Deed of Amendment dated 22 July 2002 with effect from that date.

(iii) in respect of pension accrued in respect of Service on and after 5 December 2005,

a Surviving Civil Partner.

- 36.1 To the extent that such benefit shall be referable to the accrual of benefit prior to 5 December 2005, where a benefit is payable to a Surviving Civil Partner in accordance with this Rule, the benefits payable under Rules 8.2, 9.2, 9.3, 11.2 and 11.3 shall be calculated as if no widow or widower exists (so that the Surviving Civil Partner shall not be deemed to be a widow or widower for this purpose).
- 36.2 Surviving Civil Partner shall mean a civil partner as defined in the Civil Partnership Act 2004 who survives the Member.⁴⁴

37.0 TAX SIMPLIFICATION

The provisions of this Rule 37 shall take effect in the order in which they appear in this Rule and shall override any provisions of the Rules which are inconsistent with them.

- 37.1 With effect from 6 April 2006, the Trust Deed and Rules are modified to adopt and incorporate the provisions of regulations 3 to 8 of the Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006 (the "**Modification Regulations**").
- 37.2 Notwithstanding the terms of the announcements issued to Active Members, Deferred Pensioners and Pensioners in November 2005 and appended at Appendix 1 (the "**Announcements**"), no such terms shall have effect to affect adversely any accrued right or entitlement (as defined for the purposes of Section 67 of the Pensions Act 1995) under the Scheme as at 5 April 2006. Subject to that restriction, the provisions of the Trust Deed and Rules shall be administered with effect from 6 April 2006 in accordance with the Announcements, pending the detailed description of such changes in the Trust Deed and Rules.
- 37.3 Subject to Rule 37.2, the provisions of regulations 3 to 8 of the Modification Regulations as incorporated into the Trust Deed and Rules under Rule 37.1 shall be modified in their application to a specific provision of the Trust Deed and Rules (as amended by the Announcements) to the extent (and only to the extent) that the relevant provision or provisions is or are inconsistent with the provision or relevant provisions of the Trust Deed and Rules (as amended by the Announcements).
- 37.4 Notwithstanding any other provisions of the Scheme, the provisions of regulation 3 of the Modification Regulations as adopted and incorporated into the Trust Deed and Rules under Rule 37.1 shall apply to any payment under the Scheme which relates to rights which accrued prior to 6 April 2006 and which would by virtue of Section 160 of the Finance Act 2004 be an unauthorised payment.
- 37.5 Notwithstanding any other provisions of the Scheme, no payment shall be made under the Scheme which relates to rights which accrue on or after 6 April 2006 to the extent that such payment would by virtue of Section 160 of the Finance Act 2004 be an unauthorised payment.
- 37.5A With effect from the day before the end of the transitional period (as defined in Regulation 1(2) of the Modification Regulations), Regulations 3 to 8 of those Regulations as adopted and

⁴⁴ Inserted by Deed of Amendment dated 5 December 2005 with effect from that date.

incorporated into the Trust Deed and Rules (and the definitions in Regulation 1 of those Regulations as consequently adopted and applied) are amended to the extent necessary to remove any limitation of their application by reference to the transitional period.⁴⁵

- 37.6 Notwithstanding any other provisions of the Scheme, if any provision of this Rule 37 shall infringe Section 67 of the Pensions Act 1995, such provision shall be void and be given no effect and shall be deemed not to be included in the Trust Deed and Rules but without invalidating any of the remaining provisions. Any provision which shall infringe Section 67 only in part or degree will remain in full force and effect to the extent that it does not infringe Section 67.⁴⁶

38.0 COMMUTATION OF TRIVIAL PENSION

The Trustee may commute any pension or allowance for a cash sum where permitted in accordance with Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009. The provisions of the first paragraph of Rule 14.2 shall apply to the calculation of any cash sum paid in accordance with this Rule 38.0.⁴⁷

⁴⁵ Inserted by Deed of Amendment dated 16 March 2011 with effect from that date.

⁴⁶ Inserted by Deed of Amendment dated 5 April 2006 with effect from 6 April 2006.

⁴⁷ Inserted by Deed of Amendment dated 1 February 2010 with effect from that date.

APPENDIX

Revenue Limits

1. AGGREGATE BENEFITS

This Appendix is a summary of Revenue Limits. These limits apply to the aggregate of like benefits under all Relevant Schemes.

2. MEMBER'S PENSION

The Revenue Limits for a Member's pension (including the pension equivalent of a lump sum retirement benefit, such equivalence being on a basis acceptable for the purposes of Approval) are:

- (1) on retirement at or before NRD, 1/60th of Final Remuneration for each year of service with the Participating Employers (not exceeding 40) or such greater amount as will not prejudice Approval; or
- (2) on retirement after NRD, the greatest of:
 - (a) the amount in (1) above calculated as if the date of retirement was NRD;
 - (b) the amount which could have been provided at NRD under (1) above increased either actuarially in respect of the period of postponement or in line with RPI over that period; and
 - (c) 1/60th of Final Remuneration for each year of service with the Participating Employers up to NRD (not exceeding 40) and also for each year of service after NRD, but with no more than 45 years counting overall,

but (b) and (c) shall only apply to a Member who does not make an election under paragraph 8(2).

Except for the purpose of satisfying the requirements of the Pension Schemes Act 1993 or where Approval would not be affected, a Member will not be entitled to take any pension until he actually leaves the employment of the Participating Employers but shall not take pension any later than age 75; or

- (3) on leaving pensionable service before NRD, an amount calculated as in (1) above increased at 5% p.a. compound or in line with RPI (whichever is greater) from the end of pensionable service to commencement of pension (plus such further increases as may be required for the GMP).

3. MEMBER'S LUMP SUM

The Revenue Limits for a Member's lump sum on retirement are:

- (1) on retirement at or before NRD, 3/80ths of Final Remuneration for each year of service with the Participating Employers (not exceeding 40) or such greater amount as will not prejudice Approval; or
- (2) on retirement after NRD, the greatest of:
 - (a) the amount in (1) above calculated as if the date of retirement was NRD,

- (b) the amount which could have been provided at NRD under (1) above plus an amount representing interest thereon, and
- (c) 3/80ths of Final Remuneration for each year of service with the Participating Employers up to NRD (not exceeding 40) and also for each year of service after NRD, but with no more than 45 years counting overall,

but (b) and (c) shall only apply to a Pre 1987 Member or a Pre 1989 Member who does not make an election under paragraph 8(2).

Except where Approval would not be affected, a Member will not be entitled to take any lump sum until he actually leaves the employment of the Participating Employers but shall not take a lump sum any later than age 75; or

- (3) on leaving pensionable service before NRD, an amount calculated as in (1) above including increases in line with RPI.

4. LUMP SUM DEATH BENEFIT

The Revenue Limit for the lump sum payable on a Member's death in service before NRD (or after NRD if Approval would not be affected) or after leaving pensionable service with a deferred pension before the Member's pension comes into payment is:

- (1) four times the greater at Exit Date of Final Remuneration and the annual amount of remuneration (including fluctuating emoluments calculated as in (1)(b) of the definition of Final Remuneration) excluding except for any Pre 1987 Member or any Pre 1989 Member, any excess over the permitted maximum as defined in Section 590C (2) of the Taxes Act, plus
- (2) an amount equal to the Member's own contributions (if any) with interest; less
- (3) the aggregate (if it exceeds £2,500) of any lump sums (other than refunds of contributions) payable on the death of the Member under all schemes of previous employers or as a life assurance benefit under a retirement annuity contract or trust scheme approved under section 621 Taxes Act or a personal pension scheme approved under section 631 of that Act;

or such greater amount as will not prejudice Approval.

5. DEPENDANTS PENSION

- (1) The Revenue Limit for the aggregate pensions paid to more than one of a Member's dependants (other than from surrender of the Member's own pension) is equal to:
 - (a) if the Member died in service before NRD, the Member's pension which could have been provided had he remained in service until NRD but on the basis of Final Remuneration or annual remuneration (calculated as provided in paragraph 4(1)) at Exit Date; or
 - (b) if the Member died in service after NRD, the Member's pension which could have been provided had he retired immediately before death; or
 - (c) in other cases, the Member's pension before any commutation and including any increases in deferment and in payment;

or such greater amount as will not prejudice Approval.

- (2) The Revenue Limit for one dependant is 2/3rds that in (1) above.

6. PENSION INCREASES

The maximum pension (including, unless Approval would be affected, any pension commuted if the commutation rates took no account of prospective increases, but excluding any pension surrendered to provide additional dependants' pensions) may be increased whilst in payment at 3% p.a. compound or (if greater) in line with RPI. Where a pension of less than the maximum is payable, it may be increased by a greater annual amount, provided the total pension remains within this limit.

7. LATE RETIREMENT

If a Member who has not made an election under paragraph 8(2) receives a benefit in advance of actual retirement, the Revenue Limits in paragraphs 2 and 3 above shall apply as if the Member had retired when the benefit was paid, except that:

- (1) uncommuted pension not commencing immediately may be increased actuarially for the period of postponement or in line with RPI over that period and
- (2) any postponed lump sum may be increased by an amount reflecting reasonable interest on such amount during the period of postponement.

8. ELECTION FOR DIFFERENT REVENUE LIMITS

- (1) A Pre 1989 Member may elect to be treated for the purposes of Part II of Schedule 6 of the Finance Act 1989 as having become a Member on 1st June 1989.
- (2) In addition to the election in (1) above, any Member may (if the Participating Employer consents) elect that the Revenue Limits applicable to him or her under this Appendix shall be those that would have applied had the Scheme been established on or after 27th July 1989 and the Member was not a Pre 1987 or Pre 1989 Member. This election must be made before the Member attains age 75 and before payment of benefits from the Scheme commences.

9. MEMBERS MAKING VOLUNTARY CONTRIBUTIONS

The administrator of the Scheme shall comply with the requirements of Regulation 5 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993 (SI 1993/3016) and, where the Scheme is the "leading scheme" in relation to a member, with the requirements of Regulation 6 of those Regulations so far as they concern "main schemes", ("leading scheme" and "main scheme" having the meaning given under those Regulations).

Where a Member's benefits are augmented under the Scheme after he has ceased to participate in the Scheme and the Member is also a member of a free-standing additional voluntary contributions scheme, this Appendix shall apply as if the limits on benefits it contains were reduced by the amount of any like benefit provided for or in respect of the Member by that scheme.

10. RESTRICTED MEMBERS

The provisions of this Appendix shall be modified in respect of a Member who is a Restricted Member as follows:

- (1) the maximum pension in paragraph 2 and the maximum lump sum in paragraph 3 shall be reduced, where necessary for Approval, to take account of any benefits

payable under a retirement annuity contract or trust scheme approved under section 620 Taxes Act, or a personal pension scheme approved under section 631 of that Act

- (2) where a Restricted Member retires after NRD but before his 70th birthday paragraphs 2(2)(b) and (c) and paragraphs 3(2)(b) and (c) shall not apply. If he retires after age 70 then the above paragraphs shall apply as if age 70 were his NRD
- (3) where paragraph 7 applies to a Restricted Member the rate of the actuarial increase over any period of deferment to age 70 shall not exceed the percentage increase in line with RPI
- (4) total commutation of pension on grounds of exceptional circumstances of serious ill-health will only be allowed with the prior approval of the Board of Inland Revenue.

11. INTERPRETATION

In this Appendix:

"Approval" means treatment of the Scheme as an exempt approved scheme under Chapter I of Part XIV of the Taxes Act.

"Associated" means in relation to employers that one of such employers is controlled by the other, or both of them are controlled by a third party. Control has the meaning in Section 840 of the Taxes Act or, in the case of a close company, Section 416 of the Taxes Act.

"Exit Date" means the date the Member leaves or retires from service with the Participating Employers or the date of his death (if earlier).

"Final Remuneration" of a Member means the greater of:

- (1) the highest remuneration for any one of the 5 years preceding Exit Date, being the aggregate of:
 - (a) basic pay for the chosen year, and
 - (b) the yearly average over 3 years or more consecutive years ending with the chosen year of any fluctuating emoluments (or if fluctuating emoluments have not been payable over a period of at least three years, the yearly average over the period during which they have been payable), and
- (2) the yearly average of the total emoluments for any 3 or more consecutive years ending not earlier than 10 years before Exit Date.

For these purposes:

- (A) If remuneration is reduced due to incapacity, Final Remuneration may be calculated as if the date of first reduction was the Exit Date.
- (B) Remuneration and emoluments for any year except the last before the Exit Date shall be increased in line with RPI from the last day of that year up to the Exit Date (except that unless Approval would not be affected such increases may be made when calculating the maximum lump sum on retirement to such extent only as the Member's pension is more than the maximum which would have applied without such increases).
- (C) Emoluments shall be deemed to include the value assessed for income tax of benefits in kind.

- (D) Directors' fees may rank either as basic salary or as fluctuating emoluments according to the basis on which they are voted.
- (E) Except for the purposes of paragraphs 4 and 5(1)(a), amounts arising from the acquisition or disposal of shares or interests in shares or from a right to acquire shares shall be excluded from emoluments unless the acquisition of the shares, interest or right was made before 17 March 1987. Amounts charged to tax under section 148 Taxes Act are not emoluments.
- (F) To the extent that Approval would not be affected, and provided they were earned prior to Exit Date, fluctuating emoluments received after Exit Date may be taken into account having regard to the year to which they relate.
- (G) Profit related pay may be treated as a fluctuating emolument whether or not it is assessable to income tax.
- (H) Overtime, commissions and bonuses may be included as fluctuating emoluments so long as they are assessable to income tax.
- (I) A fluctuating emolument payable only in a single year can be included as part of Final Remuneration with the agreement of the Board of Inland Revenue.
- (J) Except for the purposes of paragraphs 4 and 5(1)(a), for a Restricted Member or any other Member whose remuneration in any year beginning after 5 April 1987 is used in calculating benefits and exceeds the Fixed Amount, Final Remuneration shall be calculated as in (2) above and (1) shall not apply, except that for a Member who is not a Restricted Member:
 - (i) Final Remuneration may be calculated in accordance with (1) subject to a maximum of the Fixed Amount; and
 - (ii) if Exit Date is before 6 April 1991, Final Remuneration may be remuneration assessable to Schedule E Income Tax for the tax year 1986/87.
- (K) For the purpose of calculating the maximum lump sum on retirement of a Member except for a Pre 1987 Member, Final Remuneration shall not exceed the Fixed Amount unless legislation or the Board of Inland Revenue allow otherwise.
- (L) For a Member, except for a Pre 1987 Member or a Pre 1989 Member, Final Remuneration shall not when aggregated with remuneration pensionable under all other Relevant Schemes exceed the permitted maximum as defined in section 590C(2) of the Taxes Act.

"**Fixed Amount**" means £100,000 or such other amount as may have been fixed for the purpose in an Order of HM Treasury.

"**in line with RPI**" over a period means in proportion to increases between figures for the months in which that period begins and ends in the General Index of Retail Prices published by the Department of Employment (or a replacement of that Index not prejudicing Approval), with appropriate restatement of the later figure if the Index has been replaced or rebased during the period.

"**NRD**" means the normal retirement date specified for the Member under the Scheme.

"**pensionable service**" has the same meaning as in the preservation requirements of the Pension Schemes Act 1993.

"**Pre 1987 Member**" means a Member who became a Member of a Relevant Scheme before the 17th March 1987 and continued in membership of that Scheme or any other Relevant Scheme until joining the Scheme.

"**Pre 1989 Member**" means a Member (other than a Pre 1987 Member) who became a Member of a Relevant Scheme before 1st June 1989 and continued in membership of that Scheme or any other Relevant Scheme until joining the Scheme.

"**Restricted Member**" means a Member who at any time in the ten years up to the Exit Date has been a "controlling director", within the definition in paragraph 5(5) of Schedule 23 to the Taxes Act, in relation to the Participating Employer.

"**Relevant Scheme**" means a retirement benefits scheme of the Participating Employers or any other employer which is Associated with the Participating Employers and which has Approval or is seeking Approval.

"**Taxes Act**" means the Income and Corporation Taxes Act 1988 and/or any modification or re-enactment of it.

PENSION SHARING ON DIVORCE SCHEDULE⁴⁸

1. INTERPRETATION AND DEFINITIONS

- 1.1 The provisions of this Schedule shall apply with effect from 1 December 2000 and shall override any provision to the contrary in the Rules.
- 1.2 Terms used in this Schedule are defined in this paragraph 1, unless defined elsewhere in the Rules or in the Appendix to the Rules (Revenue Limits).
- 1.3 References to paragraphs in this Schedule refer to paragraphs in this Schedule.

Aggregate Retirement Benefit means the aggregate of: (1) the Member's pension under the Scheme and any Associated Scheme; and (2) the pension equivalent of the Member's Lump Sum Retirement Benefit.

Associated Scheme means any Relevant Scheme providing benefits in respect of Pre 78 Service or Service, as appropriate.

Connected Scheme means any Relevant Scheme which is connected with the Scheme in relation to the Member, that is, if:

- (1) there is a period during which the Member has been the employee of two Associated employers;
- (2) that period counts under both schemes as a period in respect of which benefits are payable; and
- (3) the period counts under one scheme for service with one employer and under the other scheme for service with the other employer.

Dependant means a person to whom benefits may be paid on a Member's death in accordance with the Rules.

Ex-Spouse means an individual to whom Pension Credit Rights have been or are to be allocated following a Pension Sharing Order.

Ex-Spouse Participant means an Ex-Spouse who participates in the Scheme.

Initial Annual Pension means in respect of an Ex-Spouse Participant or a Pension Debit Member (as applicable) the annual rate of pension payable to the Ex-Spouse Participant or the Pension Debit Member at the date when the pension commences calculated on the following bases:

- (i) if the pension payable for the year changes, the initial pension payable shall be taken;
- (ii) it shall be assumed that the Ex-Spouse Participant or the Pension Debit Member (as applicable) will survive for a year; and
- (iii) the effect of commutation shall be ignored.

Lump Sum Retirement Benefit means the total value of all retirement benefits payable in any form other than non-commutable pension under this and any Associated Scheme.

⁴⁸ Inserted by Deed of Amendment dated 21 March 2002 with effect from 1 December 2000.

Negative Deferred Pension means the amount by which a Member's pension or deferred pension under the Scheme, which arose or arises from his pensionable service, is reduced at the relevant date by Section 31 of the WRPA following a Pension Sharing Order. For this purpose, pensionable service includes all periods of service with other employers which have been treated as if they were service with a Participating Employer, where a transfer payment has been made to the Scheme in respect of that other service. References to negative deferred pensions in the context of other schemes shall be construed in a similar manner.

Pension Credit means a credit under Section 29(1)(b) of the WRPA.

Pension Credit Benefits means the benefits payable under the Scheme to or in respect of a person by virtue of rights under the Scheme directly or indirectly attributable to a Pension Credit.

Pension Credit Rights means rights to future benefits under the Scheme which are attributable (directly or indirectly) to a Pension Credit.

Pension Debit means a debit under Section 29(1)(a) of the WRPA.

Pension Debit Member means a Member whose benefits have been permanently reduced by a Pension Debit. If a Pension Debit Member is either:

(i) a Member who is a controlling director of a company which is his employer if he is a director of the company to whom Section 417(5)(b) of the Taxes Act applies either at the date on which the marriage was dissolved or annulled, or at any time within the period of 10 years before that date; or

(ii) a Member whose earnings at the date at which his marriage was dissolved or annulled exceeded one quarter of the permitted maximum (as defined in Section 590C(2) of the Taxes Act) for the year of assessment in which the dissolution or annulment occurred,

the limits specified in paragraph 6 shall apply in respect of him. For this purpose, "earnings" shall be taken to be the total emoluments:

(a) which were paid to the Member in consequence of pensionable service during the year of assessment before the year of assessment in which the marriage was dissolved or annulled; and

(b) from which tax was deducted in accordance with the Income Tax (Employments) Regulations 1993.

Pension Sharing Order means any order or provision mentioned in Section 28(1) of the WRPA.

Post 89 Member means any Member who is not a Pre 1987 Member or a Pre 1989 Member.

Social Security Legislation means the WRPA and the 1993 Act and regulations made under these Acts.

WRPA means the Welfare Reform and Pensions Act 1999.

2. ASSIGNMENT

2.1 A Member may assign all or part of his retirement benefits or rights to benefits under the Scheme to his Ex-Spouse to the extent necessary to comply with a Pension Sharing Order.

2.2 An Ex-Spouse Participant may assign all or part of his Pension Credit Benefits under the Scheme to his Ex-Spouse to the extent necessary to comply with a Pension Sharing Order.

3. TRANSFERS OF PENSION CREDITS

3.1 The Trustees may, at the request of an Ex-Spouse, transfer his Pension Credit to another pension scheme (which satisfies the requirements set out in Rule 10.3.1).

3.2 In the circumstances prescribed under the WRPA, the Trustees may transfer an Ex-Spouse's Pension Credit to another pension scheme (which satisfies the requirements set out in Rule 10.3.1) without obtaining the Ex-Spouse's consent.

4. SEPARATE PROVISION FOR EX-SPOUSE PARTICIPANTS

4.1 The Trustees may admit an Ex-Spouse into participation in the Scheme as an Ex-Spouse Participant.

4.2 The Pension Credit Benefits to be provided for the Ex-Spouse Participant shall be as determined by the Trustees having regard to advice from the Actuary. The Trustees shall inform the Ex-Spouse Participant in writing of the benefits that are to apply for and in respect of him.

4.3 The Trustees shall ensure that Pension Credit Benefits under the Scheme in respect of an Ex-Spouse Participant shall be treated as provided separately from any other benefits provided under the Scheme for the same person either as a Member or as a Dependant of a Member.

5. PENSION CREDIT BENEFITS

5.1 The provisions of this paragraph 5 will apply to an Ex-Spouse Participant in relation to his Pension Credit Benefits, subject to compliance with Social Security Legislation.

5.2 The Trustees may pay a pension to an Ex-Spouse Participant at any time between attainment of age 50 and 75, or earlier on the grounds of incapacity (as determined in accordance with Rules 6.2.0 or 6.3.1, as applicable) where he is simultaneously taking benefits on grounds of such incapacity arising from pensionable service in accordance with the Rules. A pension not yet in payment may be fully commuted at any age on the grounds of exceptional circumstances of serious ill-health. An Ex-Spouse Participant may not defer commencement of the pension beyond his 75th birthday. If he is aged 75 or over at the date when the Pension Sharing Order is implemented, the pension must come into payment immediately. There is no limit on the amount of the pension. The pension may not be commuted, surrendered or assigned, except in accordance with the Rules. The pension shall be payable for life unless it is fully commuted under the Rules and may be guaranteed for a fixed period.

5.3 Subject to the provisos to this paragraph, an Ex-Spouse Participant may elect to receive a lump sum in lieu of part of his pension, at the time at which the pension first becomes payable. The lump sum is limited to a maximum of 2.25 x the Initial Annual Pension.

Provided that:

5.3.1 no lump sum benefit (in lieu of pension) may be paid to an Ex-Spouse Participant if the Member who was formerly married to the Ex-Spouse Participant has already received a lump sum retirement benefit from the Scheme before the Trustees have implemented the Pension Sharing Order; and

- 5.3.2 no lump sum benefit (in lieu of pension) may be paid to an Ex-Spouse Participant where all of his Pension Credit Rights under the Scheme derive from a transfer payment into the Scheme with a lump sum nil certificate.
- 5.4 Where an Ex-Spouse Participant dies before benefits come into payment, a lump sum death benefit may be paid. The Trustees may pay such lump sum death benefit to the Ex-Spouse Participant's legal personal representatives. The lump sum death benefit shall be limited to 25% of what would have been the cash equivalent of the Ex-Spouse Participant's Pension Credit Rights calculated in accordance with the 1993 Act at the date of death.
- 5.5 The Trustees may apply the balance of the cash equivalent of the Ex-Spouse Participant's Pension Credit Rights calculated in accordance with the 1993 Act to provide a non-commutable pension for any one or more Dependants of the Ex-Spouse Participant. The amount of pension payable to a Dependant is limited to a maximum of two-thirds of the amount of the pension that could have been paid to the Ex-Spouse Participant at the date of death had the whole of the cash equivalent of the Pension Credit Rights been used to purchase an annuity at an available market rate. For the purpose of determining the pension which could have been paid to the Ex-Spouse Participant, it will be assumed that he was aged 50 at the date of death, if he died at an earlier age. If more than one pension is to be paid, the total of all the pensions shall not exceed the amount of the pension that could have been paid to the Ex-Spouse Participant. These pensions shall be payable for life, except that pensions paid to children shall cease on the attainment of age 18 or, if later, on the cessation of full-time education. These pensions may be fully commuted for a lump sum on the grounds of triviality at the time when the pension becomes payable.
- 5.6 Where an Ex-Spouse Participant dies after his pension has come into payment, a non-commutable pension may be paid to one or more of his Dependants. The amount of pension payable to a Dependant is limited to a maximum of two-thirds of the Initial Annual Pension which was paid to the Ex-Spouse Participant as increased by the rise in the RPI since the commencement of the Ex-Spouse Participant's pension. Where more than one pension is to be paid, the total of all the pensions shall not exceed the amount of the Initial Annual Pension which was paid to the Ex-Spouse Participant. These pensions shall be payable for life, except that pensions paid to children shall cease on the attainment of age 18 or, if later, on the cessation of full-time education. These pensions may be fully commuted for a lump sum on the grounds of triviality at the time when the pension becomes payable.
- 5.7 Where the Ex-Spouse Participant is awarded a benefit with a guarantee not exceeding 5 years and the guarantee period has not expired, the Trustees may pay the remaining balance of the pension as a lump sum to one or more of his Dependants or to the Ex-Spouse Participant's legal personal representatives. Where the Ex-Spouse Participant is awarded a benefit with a guarantee exceeding 5 years and the guarantee period has not expired, the remaining balance of the pension instalments shall be paid in pension form to an individual or individuals at the discretion of the Trustees.
- 5.8 On the date upon which the Ex-Spouse Participant's pension becomes payable (but not where the pension is paid in the form of income drawdown), part of this pension may be surrendered subject to the consent of the Trustees for the provision, on the death of the Ex-Spouse Participant, of a pension payable to a Dependant of the Ex-Spouse Participant. The amount of pension surrendered shall not exceed the reduced pension that the Ex-Spouse Participant retains.
- 5.9 Pension Credit Rights may be fully commuted on the grounds of triviality or in exceptional circumstances of serious ill-health when the pension first becomes payable. Where an Ex-Spouse Participant is also entitled to benefits under the Scheme arising from his own pensionable service, for the purposes of determining the aggregate value of the benefit

payable to the Member for the purpose of full commutation on the grounds of triviality under the Rules, benefits from Pension Credit Rights must be included. In this case, full commutation of Pension Credit Rights on the grounds of triviality shall be permitted only where those other benefits are simultaneously commuted.

5.10 An Ex-Spouse Participant may request the Trustees to arrange a transfer of his Pension Credit Rights to another pension arrangement (which satisfies the requirements set out in Rule 10.3.1) in accordance with the Rules. The Trustees shall notify that other arrangement that the transfer value consists wholly or partly of Pension Credit Rights for the benefit of an Ex-Spouse Participant.

5.11 At the time when his pension becomes payable, if an Ex-Spouse Participant so requests, the Trustees may agree to arrange for the purchase of annuity from an Insurance Company in accordance with the Rules.

5.12 The rights to Pension Credit Benefits under the Scheme shall cease upon the bankruptcy of the Ex-Spouse Participant. In these circumstances, the Trustees may pay the benefits in accordance with the Rules.

6. LIMITS ON BENEFITS

6.1 Notwithstanding any other provisions of the Rules, the benefits for a Pension Debit Member are additionally subject to the following limits and compliance with Social Security legislation.

6.1.1 A pension from the Scheme shall not exceed the Member's Aggregate Retirement Benefit less the Negative Deferred Pension under the Scheme and his negative deferred pension in any Associated Scheme and, in the case of a Post 89 Member, the negative deferred pension in any Connected Scheme.

6.1.2 A lump sum from the Scheme and any Associated Scheme shall not exceed:

6.1.2.1 for a Pension Debit Member who is a Post 89 Member or a Pre 1989 Member, the amount calculated by multiplying the Initial Annual Pension payable by 2.25; and

6.1.2.2 for a Pension Debit Member who is a Pre 1987 Member, the greater of:

(i) the amount calculated by multiplying the Initial Annual Pension payable by 2.25, and

(ii) the amount calculated in accordance with the Appendix to the Rules (Revenue Limits) as if there had been no Pension Debit, less the amount calculated by multiplying the Negative Deferred Pension by 2.25.

6.1.3 On the death of a Pension Debit Member, any pension for a Dependant shall not exceed two-thirds of the amount determined in accordance with the Appendix to the Rules (Revenue Limits) as if there had been no Pension Debit, less the Negative Deferred Pension and the negative deferred pension in any Associated Scheme and, in the case of a Post 1989 Member, the negative deferred pension in any Connected Scheme. Where more than one pension is to be paid the total of all the pensions cannot exceed 100% of an amount determined in accordance with the Appendix to the Rules (Revenue Limits) as if there had been no Pension Debit, less the Negative Deferred Pension and the negative deferred pension in any Associated Scheme and, in

the case of a Post 1989 Member, the negative deferred pension in any Connected Scheme.

7. TRANSFERS OF PENSION CREDIT RIGHTS INTO THE SCHEME

7.1 Where the Trustees accept a transfer payment in accordance with the Rules for an individual who is already a Member of the Scheme or is already an Ex-Spouse Participant in the Scheme and are informed by the transferor that the transfer value consists wholly or partly of Pension Credit Rights in the former scheme or arrangement, then the Trustees shall separately identify the transfer payment relating to the Pension Credit Rights (or the part of the transfer payment relating to the Pension Credit Rights) from other assets held for the benefit of the Member.

7.2 The Trustees shall comply with the requirements of paragraph 4 in respect of the transferred-in Pension Credit Rights.

7.3 The person in respect of whom Pension Credit Rights are received will acquire the status of an Ex-Spouse Participant in the Scheme in relation to his transferred-in Pension Credit Benefits. The Pension Credit Rights will become Pension Credit Benefits under the Scheme and do not count towards any limits on benefits for that Member or Ex-Spouse Participant.

8. ALL TRANSFERS - PENSION DEBITS

8.1 Where the Trustees accept a transfer payment in accordance with the Rules and are informed by the transferor of the details of a Pension Debit relating to the transfer payment, the Trustees shall take account of the Pension Debit, if appropriate, in the calculation of any limit on benefits for that Member.

8.2 Where the Trustees pay a transfer payment to another pension arrangement (which satisfies the requirements set out in Rule 10.3.1) in respect of a Pension Debit Member, the Trustees shall provide that other arrangement with full details of the Pension Debit together with a lump sum certificate specifying the maximum permissible lump sum.

9. DEATH OF EX-SPOUSE BEFORE IMPLEMENTATION OF PENSION SHARING ORDER

9.1 If an Ex-Spouse dies after a Pension Sharing Order is made but before it is acted upon by the Trustees, the following benefits may be paid:

9.1.1 a lump sum death benefit; and

9.1.2 a non-commutable pension to any one or more Dependants of the Ex-Spouse.

9.2 If there is also a lump sum death benefit payable under the Scheme because the Ex-Spouse is a Member of the Scheme, the lump sum death benefit shall be held in accordance with Rule 24.0. If there is no other lump sum death benefit payable under the Scheme in respect of the Ex-Spouse, the Trustees may pay the lump sum death benefit to the legal personal representatives of the Ex-Spouse.

9.3 The lump sum death benefit is limited to 25% of what would have been the cash equivalent of the Pension Credit Rights for the Ex-Spouse that would have applied had the Trustees acted upon the Pension Sharing Order.

9.4 The balance of the fund may be used to provide a non-commutable pension to any one or more Dependants of the Ex-Spouse. The amount of pension payable to a Dependant is limited to a maximum of two-thirds of the amount of the pension that could have been paid to the Ex-Spouse at the date of death if the whole of what would have been the cash equivalent

of the fund which would have provided the Pension Credit Rights had been used to purchase an annuity at an available market rate. Where more than one pension is to be paid, the total of all the pensions cannot exceed the amount of the pension that could have been paid to the Ex-Spouse. These pensions shall be payable for life, except that pensions paid to children shall cease on the attainment of age 18 or if later on the cessation of full-time education. These pensions may be fully commuted for a lump sum on the grounds of triviality under the Rules at the time when the pension becomes payable.