

**PRIVATE & CONFIDENTIAL**

Mr M Mehta  
16 Heathgate  
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Dear Mr Mehta

**MR & MRS M MEHTA PENSION SCHEME**

I am now in a position to advise on the income position in respect of Romee, reflecting which the rules of the pension scheme have been drafted to ensure that any pension paid to him meets current social security practice and does not remove him from the social security net. My advice on this is set out below:

From the 31st January 2011 people can no longer make new claims for Incapacity Benefit. This is replaced with the Employment and Support Allowance. This will be rolled out for people in receipt of an existing Incapacity Benefits to 2014. Romee will therefore be contacted by Job Centre Plus for a claim review (if he has not done so already). If he is deemed eligible for any form of work, then he will be removed from Employment and Support Allowance to the job seeker allowance/income support. The ability to receive income support will be removed where Romee has savings of more than £16,000. However, see my comments in relation to the new basis below.

On the assumption that Romee is transferred to Employment and Support Allowance (Disability) benefit then his current benefit will be transferred automatically and there will be no break in the payments received. If the amount of incapacity benefit is more than the amount of Employment and Support Allowance, Romee will get a top-up payment. The amount of benefit will not rise until the amount of Employment and Support Allowance catches up with the amount of the top-up payment.

Under the new basis, household income, pension and any savings of £6,000 or more are taken into account. The present weekly allowance is up to £67.50 per week, for the first 13 weeks and this then will rise up to up to £99.85 per week. If Romee has not already been assessed, he will fall into the new bands once assessment has been completed and agreed for him.

## Pension income rules

If we pay a gross pension income of more than £85 a week to Romee, the amount of benefit he receives will be reduced by half of the excess.

The excess is the difference between £85 and the actual pension income. For example, for a pension income of £100, the excess is £15. The amount of Incapacity Benefit payable is reduced by half of that, which is £7.50.

Therefore, if we pay a dependant's pension to Romee of up to £85.00 per week we need to ensure that this "pension payment" does not form part of a larger fund for him above £6,000. A pension fund does not count as savings; however if he is entitled to a prospectively higher pension then this would affect is Incapacity Benefit.

I have therefore had the new pension scheme rules drafted on the basis that this income is met from the general resources of the pension scheme and that Romee's interest is of not fixed monetary amount. This means that a "general fund" is operated whereby he is paid a variable rate of pension from the scheme.

## New Scheme Rules

The rules allow for the payment of income to be as cash and for the amount and timing to be varied on a discretionary basis. The actual rules are 24 pages long but I have highlighted the relevant sections for you:

On the death of a Member the Trustees shall apply his Individual Fund in such one or more of the following ways as the Trustees in their absolute discretion may determine including designation as available for the payment of Drawdown for one or more surviving Dependants in accordance with Rule **Error! Reference source not found.**;

Rule 21 states:

*The Trustees shall pay out of an individual's Drawdown Fund to the individual such amounts and at such times as the Trustees may determine, provided that:*

- 1.1.1 no payment shall be made if it would not qualify as Drawdown; and*
- 1.1.2 the Trustees may impose such restrictions as to timing and minimum and maximum amounts of payments as they reasonably consider appropriate.*
- 1.1.3 The Trustees may pay the Drawdown to such accounts and in a manner that they choose (including cash payments) and will report such payments to be taxed under PAYE, unless the individual is otherwise exempted.*

I have also have ensured that the payment of an income to Romee (or any grandchildren) allows for the money to be paid to a representative or persons authorised to receive the money on behalf of Romee – this is covered in 25.3 of the scheme rules

*If and for so long as a person entitled to a Benefit is a minor, or in the opinion of the Trustees unable to act by reason of mental disorder or otherwise, the Trustees may pay or direct the payment of the Benefit to any one or more of his parents, guardians, spouse or other person legally appointed or authorised to receive it on his behalf to be applied for his benefit. Any such payment shall operate as a complete discharge to the Trustees and they shall not be under any liability to enquire into its application.*

### **Payment of pension income to you and Mrs Mehta**

The rules of the pension scheme have been further altered so that you may, subject to income from other non-employment sources of no less than £20,000 pa, you may receive a nil income from the pension scheme.

### **Other Aspects of the Scheme Rules will allow you to:**

- purchase unlisted company shares in a company beyond a 30% limit.
- extending membership, to include other immediate family member regardless of employment status;
- making transfers in or out of the scheme even where benefits have already come into payment;
- allowing the scheme to continue indefinitely after the sale / winding-up of Romeera/Kearsley Airways;
- varying the level of pension from year to year from nil to no limit on the maximum available;

### **Invoice**

Finally, I attach our invoice in connection with this project. The cost charged to us for the new scheme rules amounts to £3200. I have also charge my own time on this project which amounts to £1400 over the last three weeks. This has been split between both companies.

Please let me know if you have any queries regarding this.

Yours sincerely

Gavin McCloskey  
**Pension Practitioner .Com**