

Deed of Amendment  
for the  
Sellec (Special Cables) Ltd Pension Fund

## DEED OF AMENDMENT GUIDANCE NOTES (SSAS)

The enclosed draft Deed of Amendment and Rules are intended to amend the provisions of the Scheme to allow the Scheme to operate as a Small Self-administered Scheme.

The Deed and Rules have been drafted to meet the requirements of Inland Revenue regulations governing Small Self-administered Schemes. The employer and the trustees should satisfy themselves that amendments to the provisions of the Scheme reflect their requirements. Norwich Union do not provide legal advice to managing trustees and would strongly recommend that the managing trustees take the advice of their own legal advisor before executing this document. Trustees who act on advice received from those who have not been appointed as their legal adviser are liable to fines.

The employer and the trustees should be aware of the following provisions within the Deed:

Please note the terms "Special Trustee" and "Pensioneer Trustee" are interchangeable because the Special Trustee is appointed as the Pensioneer Trustee.

- (1) Provisions relating to the requirement that one of the trustees must be a Special Trustee and the terms and conditions of the Special Trustee's appointment - See Clauses 3, 23 & 24 and sub-Clauses 7(i) (ii) & (iii).
- (2) The restrictions with regard to the trustee's capacity to lend money - See Proviso 2 to sub-Clause 6(v).
- (3) The restrictions on the trustee's power to hold certain investments as assets - See sub-Clauses 6(v) b. & c and Proviso 1 to sub-Clause 6(v).
- (4) The provision in relation to the power of the trustees to hold certain investments as assets - See sub-Clause 6(v).
- (5) The provision in relation to the power of the trustees to borrow money - See Clause 6(vi).
- (6) The provision that the trustee's are restricted from purchasing, selling or leasing to a scheme member or a connected person - See Clauses 6(vii) and 6(viii).
- (7) Provisions relating to the role of the Special Trustee - See Clauses 7 and 10.
- (8) Provision that the trustees must obtain an actuarial valuation of its assets and liabilities at intervals of no more than three years - See Clause 13 (ii).
- (9) The requirement that the trustees must keep audited scheme accounts - See Clause 14.
- (10) Provisions allowing Norwich Union Trustees Limited to recover unpaid fees and expenses from certain assets - See Clause 18.
- (11) Provisions relating to the Special Trustee not being liable for acts or omissions of the other trustees - See Clause 20.
- (12) Provisions relating to the indemnification of the trustees - See Clause 21.
- (13) The requirement that the minimum number of managing trustees must be two. - See Clause 25(i).
- (14) The requirement that decisions made by the trustees must be made unanimously or by majority - See Clause 25(ii)b. This provision also maximizes the Scheme's exemptions from the Pensions Act 1995.
- (15) The provision in relation to the power of the trustees to amend the trusts, powers and provisions of the Scheme - See Clause 27.

The employer and the trustees should be aware of the following provisions within the Rules:

- (1) Purchase of annuities and the deferment of the purchase of annuities - See Rule 23.
- (2) Pension sharing on divorce provisions- see Rule 24.

**THIS DEED** is made the

day of

**BETWEEN** Sellec (Special Cables) Ltd whose registered office is situate at Dukeries Way Dukeries Industrial Estate Worksop Nottingham S81 7DW (hereinafter called "**the Principal Employer**") of the first part Stephen Ron Hoole of 242 Carlton Road Worksop Nottinghamshire and Kay Hoole of 242 Carlton Road Worksop Nottinghamshire (hereinafter called "**the Managing Trustees**") of the second part **AND** Norwich Union Trustees Limited (formerly known as CGU Trustees Limited) whose registered office is situate at 2 Rougier Street York YO90 1UU (hereinafter called "**the Special Trustee**") of the third part the Managing Trustees and the Special Trustee being hereinafter together referred to where appropriate as "**the Trustees**".

#### **WHEREAS**

- (A) This Deed is supplemental to a deed made on 29 October 1986 between the parties named therein (hereinafter called "**the Principal Trust Deed**") which established the scheme currently known as the Sellec (Special Cables) Ltd Pension Fund (hereinafter called "**the Fund**") for the purpose of providing relevant benefits within the meaning in Chapter I of Part XIV of the Income and Corporation Taxes Act 1988 for certain persons therein stated together with any deeds made supplemental thereto but before the date of this Deed (hereinafter jointly with the Principal Trust Deed called "**the Trust Deeds**").
- (B) The Fund is defined in and administered in accordance with the Trust Deeds and rules executed or adopted by the Trust Deeds (the latest version of such rules together with any amendments made thereto hereinafter called "**the Current Rules**").
- (C) Pursuant to the powers contained in the Trust Deeds the Managing Trustees and the Principal Employer are desirous of amending the Trust Deeds in the manner hereinafter appearing.
- (D) Pursuant to the powers contained in the Trust Deeds the Managing Trustees and the Principal Employer are desirous of amending the Current Rules by deleting them and replacing them with the Rules attached hereto (hereinafter called "**the Rules**").

**NOW THIS DEED WITNESSETH** and it is hereby agreed and declared that

A. The provisions of this Deed as set out in the following Clauses numbered 1 to 31 shall apply and shall override any provisions of the Trust Deeds other than any provisions confirming the establishment of the Fund as a retirement benefits scheme approved by the Board of Inland Revenue under Chapter I Part XIV of the Income and Corporation Taxes Act 1988 **EXCEPT THAT** it is hereby confirmed the requirement in this Deed that the whole of the sums received by the Trustees shall be held in the names of or under the control of all the Trustees and the requirement in this Deed that at all times all the assets of the Fund are held in the names of all the Trustees shall apply only with effect from such date that such requirements have been effected which in any event shall be a date prior to when such requirements are required by law or such requirements are necessary for the continued approval of the Fund by the Board of Inland Revenue under Chapter I Part XIV of the Income and Corporation Taxes Act 1988 and until such time as these requirements have been effected such control and ownership shall continue to be vested in the Managing Trustees:

- “1. The Principal Employer shall have the right by deed to appoint new or additional Managing Trustees and may by deed remove from office any of the Managing Trustees.
2. The power to replace and appoint a “Pensioneer Trustee” shall be vested in the Principal Employer subject always to the agreement of the Managing Trustees and to the provisions set out in Clause 3.
3. One of the Trustees shall be a “Pensioneer Trustee” and the appointment of that trustee and his obligation and entitlement to act as a “Pensioneer Trustee” shall be incapable of termination at any time except:-
  - (i) by the death of the trustee,
  - (ii) by an order of the court,
  - (iii) by virtue of section 3, 4 or 29 of the Pensions Act or Article 3, 4 or 29 of the Pensions (Northern Ireland) Order 1995 (prohibition, suspension or disqualification),
  - (iv) by withdrawal by the Board of Inland Revenue of their approval of the trustee to act as a “Pensioneer Trustee”, or
  - (v) where termination occurs by virtue of the trustee having committed a fraudulent breach of trust in relation to the Fund, or
  - (vi) where another trustee is appointed to act as “Pensioneer Trustee” in place of the trustee, and the appointment of the other trustee takes effect at the same time as the termination.

The appointment of a successor to the former "Pensioner Trustee" shall, except where (vi) above applies, be made no more than 30 days after the termination.

4. The definitions contained in the Rules shall also apply to this Deed and vice versa.
5. The whole of the sums received by the Trustees in accordance with the terms of this Deed and the Rules shall be held in the names of or under the legal control of the Trustees.
6. (i) In this Clause the following expressions shall have the meanings ascribed to them:-
  - a. **"Business"** includes:
    - i. a trade or profession, or
    - ii. any activity other than investment carried on by a body of persons, whether corporate or unincorporated or
    - iii. any activity carried on by a holding company for a trading group.
  - b. **"Close Company"** has the meaning given by sections 414 and 415 of the Act.
  - c. **"Company"** means any body corporate or unincorporated association, but does not include a partnership.
  - d. **"Control"** in relation to a body corporate (other than a Close Company) or partnership shall be construed in accordance with section 840 of the Act and in relation to an unincorporated association that section shall be applied as it applies to a body corporate. In relation to a Close Company "Control" shall be construed in accordance with section 416 of the Act.
  - e. **"Fund Member"** means a member of the Fund to whom benefit is currently accruing by virtue of service as an employee.
  - f. **"Ordinary Annual Contribution"** means for the purpose of sub-Clause 6 (vi) the smaller of:
    - i. the amount found:-
      - (1) where the Fund has been established for three years or more at the time of any borrowing, by dividing the amount of the contributions paid by the Employers in

- the period of three years which ended at the end of the previous accounting period of the Fund by three, or
- (2) where the Fund has been established for less than three years at the time of any borrowing, by dividing the amount of the contributions paid by the Employers in the period since the Fund was established ending at the time of the borrowing by the number of years falling within that period (a part year being counted as one year), and;
- ii. the amount of the annual contributions which, within the period of 3 years immediately preceding the date of the borrowing, the Actuary has advised in writing would be necessary to secure the benefits payable under the Fund.
- g. **"Private Company"** means a company which is not officially listed on a recognised stock exchange within the meaning of section 841 of the Act.
- h. **"Relative"** means a brother sister ancestor or lineal descendant.
- i. **"Residential property"** means property normally used, or adapted for use as one or more dwellings.
- (ii) In this Clause any question of whether a person is connected with another shall be determined as follows:
- a. person is connected with an individual if that person is the individual's spouse or is a Relative or the spouse of a Relative of the individual or of the individual's spouse;
- b. a Fund Member is connected with an Employer if:
- i. the Employer is a partnership and the Fund Member is connected with a partner, or
- ii. the Employer is a Company and the Fund Member or any person connected with him or her is or has been during the last 10 years a Controlling Director of the Company;
- c. a Company is connected with another Company if:
- i. the same person has Control of both, or

- ii. a person has Control of one and persons connected with that person have Control of the other, or
    - iii. a person has Control of one and that person and persons connected with that person have Control over the other;
  - d. a Company is connected with another person if that person has Control of it or if that person and a person or persons connected with him or her together have Control of it;
  - e. any two or more persons acting together to secure or exercise Control of a Company shall be treated in relation to that Company as connected one with another and with any person acting on the directions of any of them to secure or exercise Control of the Company.
- (iii) In this Clause a Company is associated with an Employer if (directly or indirectly) the Employer controls that Company or that Company controls the Employer or if both are controlled by a third person.
- (iv) For the purpose of this Clause a member of the Fund includes:
- a. a Fund Member, or
  - b. a person in receipt of a pension from the Fund, or
  - c. a person who has been a Fund Member.
- (v) Subject always to the provisions of Clause 7 the Managing Trustees shall have power to invest in accordance with this sub Clause all moneys on account of the Fund and to transpose transfer and vary any such investments in any form of investment in accordance with this sub Clause (whether involving liability or not and whether or not authorised by law for the investment of trust monies) which the Managing Trustees could make if they were absolutely and beneficially entitled thereto. Provided that in any event such powers shall be subject to the terms of the Pensions Act and any decision of the Managing Trustees as to the investment of the assets of the Fund shall be agreed in writing by all the Managing Trustees prior to any such investment being made:
- a. subject always to the provisions of Clause 7 in making loans provided that the Managing Trustees shall not directly or indirectly lend money:

- i. to a member of the Fund or to a person who is connected with a member of the Fund other than an Employer or any Company associated with an Employer, or
  - ii. to an Employer or a Company associated with an Employer unless the loan is:
    - (1) utilised for the purpose of the borrower's Business, and
    - (2) for a fixed term, and
    - (3) at a commercial rate of interest, and
    - (4) evidenced by an agreement in writing which contains all the conditions on which it is made and in particular the provisions specified in paragraph iii. below.
  - iii. the provisions specified in this paragraph are that the lending shall be repaid immediately if:
    - (1) the borrower is in breach of the conditions of the agreement, or
    - (2) the borrower ceases to carry on business, or
    - (3) the borrower becomes insolvent within the meaning defined for the purposes of Regulation 6 of the Retirement Benefit Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991, or
    - (4) the money is required to enable the Managing Trustees to pay benefits which have already become due under the Fund.
- b. in stocks, shares, debenture stocks, bearer securities, or other investments of that nature provided that the Managing Trustees' powers of investment shall be restricted to preclude investment either directly or indirectly in stocks or shares in a Private Company which:
  - i. carry more than thirty per cent of the voting power in the Company, or
  - ii. entitle the holder to more than thirty per cent of any dividends declared by the Company in respect of shares of the class held.
- c. in any interest in real property including leasehold property provided that the Managing Trustees' power of investment shall be restricted to



preclude investment either directly or indirectly in Residential Property other than that which is or is to be occupied:

- i. by an employee who is not connected with his or her Employer and who is required as a condition of employment to occupy that property, or
- ii. by a person other than a Fund Member or a person connected with a Fund Member where that person also occupies connected business premises which are also held by the Managing Trustees as an investment of the Fund.

Except that for the purposes of this sub-Clause the Managing Trustees are not regarded as:

- (1) holding a Residential Property where they hold as an investment units in a unit trust scheme:
  - A. which is an authorised unit trust scheme within the meaning of section 468(6) of the Act, or
  - B. an exempt unit trust within the meaning of section 96 of the Capital Gains Tax Act 1979, and
  - C. that unit trust scheme holds Residential Property as an investment.
- (2) indirectly holding as an investment Residential Property other than that specified in sub-Clause 6 (v) c. i. and ii. above where:
  - A. they hold as an investment subject to the trusts of the Fund a right which confers entitlement to receive payment of any rent charge, ground annual, feu duty or other annual payment reserved in respect of, or charged on or issuing out of, that property, and
  - B. the property is not occupied by a Fund Member or a person connected with him.

- d. in units in unit trusts (whether authorised or unauthorised by the Trustee Investment Act 1961).
- e. In underwriting, sub-underwriting, or guaranteeing the subscription of any stocks shares debenture stocks or other investments.

- f. in any policy of an insurance company as described in Section 659B of the Act.
- g. subject always to the provisions of Clause 7 in any deposit or current account with any bank or with any company or society of good repute in the name of the Trustees such moneys as the Managing Trustees may consider proper and the Trustees may from time to time authorise in writing one or more of their number for the time being to draw or to endorse cheques and to authorise banker's drafts standing orders and direct debits. Such transactions shall be as valid and effective as if the relevant documents had been signed by all the Trustees.

PROVIDED THAT

- 1. Subject always to the provisions of Clause 7 the Managing Trustees' powers of investment shall be restricted to preclude investment either directly or indirectly in personal chattels other than choses in action, and
- 2. At the time any money is lent, or any shares in the Employer or any company associated with an Employer are acquired, the aggregate of:
  - (a) the amount outstanding of any lending to an Employer and/or a Company associated with an Employer made in accordance with sub-Clause 6 (v) a. ii. and iii. above, and
  - (b) the market value of stock and shares in the Employer and/or a Company associated with an Employer held by the Managing Trustees in that capacity shall not, where that time is after the end of a period of two years from the date on which the Fund was established, exceed the amount found by the formula:-

$$\frac{(E-F) \times 50}{100}$$

100

where -

E is the market value at the time in question of all assets of the Fund, other than assets franking any pension in payment under the Rules of the Fund where the purchase of an annuity has been deferred (including any pension that would be payable to a widow or widower of a Member following the Member's death in a case where the Rules of the Fund limit such pension to the person to whom the Member was married at retirement), and

F is the aggregate of any sums borrowed to purchase those assets which are outstanding at that time, and any other liabilities incurred

by the Managing Trustees which are outstanding at that time, other than liabilities to pay benefits under the Fund and shall not, where that time is during the period of two years from the date in which the Fund was established, exceed the amount found of the formula:-

$$\frac{(C-D) \times 25}{100}$$

100

where -

C is the market value at the time in question of the assets of the Fund which are derived from contributions made by an Employer and by employees since the Fund was established, other than assets franking any pension in payment under the Rules of the Fund where the purchase of the annuity has been deferred (including any pension that would be payable to a widow or widower of a Member following the Member's death in a case where the Rules of the Fund limit such pension to the person to whom the Member was married at retirement), and

D is the aggregate of any sums borrowed to purchase those assets which are outstanding at that time, and any other liabilities incurred by the Managing Trustees which are outstanding at that time, other than liabilities to pay benefits under the Fund.

- (vi) Subject always to the provisions of Clause 7 the Managing Trustees may borrow money for the purposes of the Fund and may invest any such money in the purchase of any investments authorised by this Clause and may charge burden or grant security over the assets of the Fund or any of them to secure the repayment of any borrowed money and the payment of any interest thereon provided that any power of the Managing Trustees to borrow shall be restricted so that at the time of borrowing the Managing Trustees shall not have borrowed and not repaid an aggregate amount including the amount of that borrowing in excess of the total of:

- a. three times the Ordinary Annual Contribution, and
- b. three times the annual amount of contributions paid or payable as a condition of membership by Fund Members in the year of assessment ending immediately before that time and
- c. the amount found by the formula:-

$$\frac{(A-B) \times 45}{100}$$

100

where -

A is the market value of the assets of the Fund at that time, other than assets franking any pension in payment under the Rules of the Fund where the

purchase of an annuity has been deferred (including any pension that would be payable to a widow or widower of a Member following the Member' in a case where the Rules of the Fund limit such pension to the person to whom the Member was married at retirement), and

B is the aggregate of any sums borrowed to purchase those assets which are outstanding at that time, and any other liabilities incurred by the Managing Trustees which are outstanding at that time, other than liabilities to pay benefits under the Fund.

- (vii) Subject always to the provisions of Clause 7 the Managing Trustees shall not directly or indirectly purchase sell or lease any investment or asset from or to a member of the Fund or a person (other than an Employer or a Company associated with an Employer) connected with a member. A purchase will not be construed as being an indirect purchase from a member of the Fund or a connected person if at the time of purchase 3 or more years have elapsed since the investment or asset was owned by the member or connected person. A sale will not be construed as an indirect sale to a member of the Fund or a connected person if the purchase by the member or connected person takes place 3 years or more after the sale by the Managing Trustees.
- (viii) Subject always to the provisions of Clause 7 the Managing Trustees shall not directly or indirectly sell or lease any investment or asset from or to an Employer or a Company associated with an Employer except in accordance with independent professional advice obtained in writing.
- (ix) Notwithstanding the foregoing provisions of this Clause the Managing Trustees shall always comply with Regulations made in accordance with the provisions of Section 40 of the Pensions Act (Restriction on employer-related investments) and shall not make any employer-related investment without the prior written agreement of each Member to the making of that investment.
- (x)
  - a. The effect of this Clause shall not be to limit or nullify any such transaction proscribed thereunder already undertaken prior to the 15th day of July 1991;
  - b. Where a proscribed transaction has been undertaken in relation to this Clause prior to the 15th day of July 1991 the effect of this Clause shall not limit or nullify the Trustees power to sell to a member of the Fund or a person connected with a Member the specific asset or investment comprising such transaction.

7. (i) The Special Trustee shall be included as a signatory of any such account referred to at item g. of sub-Clause 6 (v) or at Clause 9 and of any cheques, endorsements, banker's drafts, standing orders and direct debits in respect of such accounts;
- (ii) The Special Trustee shall join with the Managing Trustees in the execution of such documents as are necessary to ensure the investment decisions (including decisions to make loans in accordance with sub-Clause 6 (v) a. or to borrow in accordance with sub-Clause 6 (vi)) of the Managing Trustees are given full affect and that at all times all the assets of the Fund are held in the names of all the Trustees (except where sub-Clause 7 (iv) applies);
- (iii) The Special Trustee will take no part in the Managing Trustees investment decision and will not be in any way responsible for or liable in respect of any such decision;
- (iv) The Trustees shall ensure that each asset of the Fund is at all times held in the names of the Trustees or their nominee or nominees or jointly in the names of the Trustees and any one or more of their nominees or in the name of a nominee or nominees of an investment manager appointed under sub-Clause 8 (ii). Except with the consent of the Special Trustee no Fund asset shall be held by a custodian or nominee outside the United Kingdom;
- (v) The Trustees may insure or procure the insurance of any asset of the Fund against such risks and for such amounts as they may determine and may apply any part of the Fund whether income or capital in effecting and maintaining the insurance. The Trustees shall hold the proceeds of the insurance upon the trusts of the Fund with power to pay or apply the proceeds in whole or in part in or towards the repair, replacement, reinstatement or preservation of the asset insured or (as the case may be) in indemnifying the Trustees or the Fund against any claim made in relation to that asset. These powers must be exercised by the Trustees as if they were the absolute owners of the assets of the Fund.
8. (i) The Trustees may at their discretion give indemnities in connection with the proper exercise of their powers and may bind all or any part of the assets of the Fund to secure any such indemnities;
- (ii) The Trustees shall have power to appoint an investment manager to the Fund (who may be one of the Managing Trustees) Such investment manager may

be empowered by the Trustees to exercise or carry out the power of investment set out in sub-Clause 6 (v) and such of the other powers and duties of the Trustees as they shall deem expedient subject always to the provisions of sub-Clause 6 (ix).

9. Subject always to the provisions of Clause 7 the Trustees shall retain in any deposit or current account with any bank or with any company or society of good repute in their own name such moneys as the Managing Trustees may consider proper pending investment of such moneys in accordance with sub-Clause 6 (v) or pending payment of such moneys to meet any expenses that may be due or pending the payment of such moneys to provide any benefits that may be due to the Members under the Fund. The Trustees may from time to time authorise in writing one or more of their number for the time being to draw or to endorse cheques and to authorise bankers drafts standing orders and direct debits. Such transactions shall be as valid and effective as if the relevant documents had been signed by all the Trustees.
10. The Fund may be terminated and payment made out of the assets of the Fund only in accordance with the Rules and provided always that the consent of the Special Trustee shall first be obtained.
11. The Trustees shall have and be entitled to exercise all powers, rights and privileges in connection with the Fund requisite or proper to enable them to carry out any transaction, act, deed or other matter subsidiary or incidental to the trusts hereof. The consent or concurrence of the Principal Employer the other Employers or the Members or any of them shall not be necessary in connection with the giving of any receipt or discharge or the making of any payment or the doing of any act or thing made or done in the exercise of their powers as Trustees or in connection with the Rules except as is expressly provided in this Deed or in the Rules.
12. The Trustees with the approval of the Principal Employer shall have power from time to time to employ any person or persons (including one of their own number or the Special Trustee) to act as Secretary or as agent for the purpose of transacting any business of the Fund and to pay remuneration to any such person or persons which remuneration shall be deemed to be part of the expenses incurred by the Trustees in connection with the Fund.
13. (i) The Managing Trustees shall appoint as actuary to the Fund ("the Actuary") an actuary (being a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland) and may at any time and from time to time revoke such appointment and appoint another such actuary;

- (ii) The Managing Trustees shall instruct the Actuary to make an actuarial investigation of the financial condition of the Fund at such intervals not exceeding three years as the Managing Trustees shall arrange.
- The Trustees and the Employers shall furnish to the Actuary all information which the Actuary may reasonably require for that purpose. The Managing Trustees shall require the Actuary to report to the Trustees in writing on the completion of each such actuarial investigation.
14. The Managing Trustees shall produce to the satisfaction of the Special Trustee annual audited accounts showing the income and expenditure of the Fund and a statement of investments of the Fund.
15. The Managing Trustees and the Special Trustee respectively shall have the power to delegate to any person or body of persons (whether or not that person or one of those persons is a Trustee) so far as the law permits all or any of the powers duties and discretions vested in them respectively hereunder and any such delegation may be on such terms and conditions as the Managing Trustees and Special Trustee respectively think fit (including the power to sub-delegate) and the Trustees shall not be bound to supervise the proceedings of or be in any way responsible for any loss incurred as a result of such delegation or sub-delegation or the negligence or default of any delegate or sub-delegate.
- The Managing Trustees may only exercise the aforesaid powers of delegation by unanimous agreement.
16. No decision of or exercise of a power by the Trustees shall be invalidated or questioned on the grounds that the Trustees or any of them had a direct or indirect interest in the mode or result of such decision or of exercising such power but nothing herein shall affect the duty owed by any one who has a material interest in such decision or in the exercise of such power to disclose the interest.
17. (i) Any Trustee may receive and retain beneficially as remuneration for the performance of his duties hereunder such fees as may from time to time be agreed upon in writing between the Trustee and the Principal Employer and all expenses incurred by the Trustee in the performance of his duties hereunder. In addition to any such fees any Trustee or any agent acting on behalf of the Trustees or to whom any duties have been delegated and any firm of which such Trustee or agent is a partner and any subsidiary or associated company of such Trustee or agent is interested whether as an officer or shareholder shall be entitled (subject to Clause 19) to retain for his

or its own benefit any brokerage interest commission or other rewards or remuneration received in respect of any transactions carried out concerning and in accordance with the provisions of the Fund;

- (ii) Any Trustee may act as professional adviser to the Fund and may charge and be paid all professional charges incurred by him or his firm in connection with the trusts hereof.

18. Unless otherwise agreed by the Principal Employer and the Managing Trustees all costs, charges and expenses of or incidental to the establishment, administration and management of the Fund (including any remuneration fees or expenses payable pursuant to Clause 12 or Clause 17) shall be met by the Employers in such proportions as the Principal Employers shall decide. To the extent that the Employers fail to make payment or it is so agreed such costs, charges and expenses shall be payable out of the assets of the Fund Without prejudice to the generality of the foregoing Norwich Union Trustees Limited shall be entitled to recover out of any policies, investments or contracts insured or made with the CGNU Life Assurance Limited or any subsidiary company of CGNU plc the amount of any fees or expenses due to it (whether in its capacity as Special Trustee or otherwise) which are not otherwise paid.
19. The Managing Trustees shall be liable to account for any profit or benefit accruing to each of them personally in respect of any matter concerning the Fund or any transaction involving the Fund (other than as a beneficiary under the Fund) unless the trustee or trustees concerned make a full disclosure of such interest to the Managing Trustees prior to any decision being taken by the Managing Trustees in respect of that transaction.
20. In the professed execution of the trusts and powers hereof the Managing Trustees or the Special Trustee shall not be liable by reason of any matter or thing whatever except for wilful and individual fraud or wrongdoing on the part of the Trustee whom it is sought to make liable and the Special Trustee shall not be liable by reason of any act or omission by the Managing Trustees:  
In particular but without prejudice to the generality of the above:
  - (i) The Special Trustee shall not be liable for any loss to the Fund arising by reason of any investment decision made by the Managing Trustees nor by reason of any other dealing with any asset of the Fund;



- (ii) The Special Trustee shall not be liable for any failure of the Managing Trustees or any of them to obey the terms of this Trust Deed or of the Rules annexed hereto nor for any failure of the Special Trustee to inquire into prevent, restrain or seek redress for such disobedience;
- (iii) The Special Trustee shall not be liable for any failure of the Managing Trustees or any of them to act impartially as between the Members of the Fund nor by reason of any failure of the Special Trustee to inquire into prevent, restrain or seek redress for such lack of impartiality;
- (iv) The Special Trustee shall not be liable for any failure of the Managing Trustees or any of them to exercise reasonable care in carrying out any power, duty, discretion or other matter under the trusts hereof nor by reason of any failure of the Special Trustee to inquire into prevent, restrain or seek redress for such failure to exercise reasonable care;
- (v) The Special Trustee shall not be liable for any losses arising out of any delegation whether made by itself or the Managing Trustees or any of them and whether such delegation is to a co trustee or trustees or to any other agent Further but without prejudice to the generality of the above
  - a. The Special Trustee shall not be liable for any act, omission or failure to act of any agent employed by it or by the Managing Trustees or any of them although the employment of such agent was not strictly necessary or expedient nor shall the Special Trustee be liable for any wrongful or careless selection of such agent by itself or by all or any of the Managing Trustees;
  - b. The Special Trustee shall not be liable as a result of leaving any matter in the hands of the Managing Trustees or any of them without inquiry or supervision nor shall the Special Trustee be liable by reason of becoming aware of a breach of trust committed or contemplated by the Managing Trustees or any of them and abstaining from taking steps or proceedings to prevent the breach or to obtain redress for the breach;
- (vi) The Special Trustee shall not be liable for any breach of trust whatsoever occurring after the retirement of the Special Trustee whether or not such breach was facilitated by the retirement and

whether or not it was foreseen by the Special Trustee or was reasonably foreseeable;

- (vii) a. In respect of any matter under the Fund the Special Trustee shall be entitled to rely on the accuracy and completeness of any statements made by the Managing Trustees or by any Employer or by any other person advising the Trustees (in a professional capacity) and shall not be obliged to inquire further into such statements;
  - b. The Special Trustee shall also be entitled to assume in any event that the Managing Trustees, the Employers and any actuary, lawyer, broker, accountant, auditor, investment adviser or other person advising the Trustees (whether instructed by them or by any Employer or by CGNU Life Assurance Limited) are at all times acting honestly and in good faith and competently and with proper care and skill in respect of any matter pertaining to the Fund including (without prejudice to the generality hereof) the making of any statements referred to in sub-Clause 20 (vii) a. and the giving of any advice or opinion;
- (viii) The Special Trustee shall not be required by reason only of the general rule preventing a trustee from deriving a profit from his trusteeship to account for any profit made in the ordinary course of business by the Special Trustee or any parent or associated or subsidiary company arising from the exercise of any power or discretion conferred by this Deed or by the Rules or by law.

21. The Principal Employer hereby indemnifies the Trustees and each of them against all claims, costs, losses, damages or expenses which they or any of them may pay or incur or which may be made against them or any of them in connection with the carrying out of the trusts of these presents or with anything herein contained other than such as arise from wilful and individual fraud or wrongdoing on the part of the Trustee or Trustees concerned and to the extent that the Principal Employer fails to indemnify the Trustees and each of them the Trustee or Trustees concerned shall be entitled to be indemnified out of the assets of the Fund. Each of the Employers other than the Principal Employer shall on being admitted agree at all times to indemnify the Principal Employer for that part of the liabilities under this Clause which is in the same proportion as the particular Employer's contributions to the Fund bear to the total contributions paid by the Employers to the Fund. The foregoing provisions of

this Clause shall apply likewise to any officer of a company acting as trustee hereof and to any Secretary or other person lawfully appointed by the Managing Trustees for the carrying out of the purposes of this Deed or the Rules Provided always that no such indemnity as set out above shall apply in respect of a Trustee where such indemnity would be contrary to any provisions contained in the Pensions Act.

22. The Trustees shall be entitled to act on the advice of the Actuary or on the advice or opinion (whether obtained by them or by the Employers or CGNU Life Assurance Limited) of any lawyer, broker, accountant, auditor, investment adviser or any other professional person and the Trustees shall not be responsible or liable for any loss or breach of trust occasioned by so acting.
23. The Special Trustee shall be a person acceptable to the Board of Inland Revenue as being suitable to give such an undertaking as shall be required by the Board of Inland Revenue.
24. The Special Trustee shall immediately inform the Board of Inland Revenue upon its retirement or removal from that role and may not be appointed as a Managing Trustee.
25.
  - (i) The minimum number of Trustees shall be two. There shall always be a Managing Trustee and in the event of there being no Managing Trustee the Principal Employer shall appoint a new Managing Trustee as soon as possible Provided always that pending such appointment the Principal Employer shall act as Managing Trustee in cases of emergency;
  - (ii) The Trustees may make and vary regulations for the conduct of their business and by such regulations provide for the election of a chairman and for voting at their meetings. Notwithstanding such regulations any decisions made by the Trustees in accordance with the powers vested in them by this Deed and the Rules must be exercised by:-
    - a. if at such time a decision is being made there is only one Member in the Fund a majority agreement of the Trustees, or
    - b. if at such time a decision is being made there are two or more Members in the Fund a unanimous agreement of all the Trustees who are at that time Members except that the participation of the Special Trustee in the making of a decision (other than a decision wind-up the Fund to which the Special Trustee must be in agreement) may be disregarded.

26. Any company (being a subsidiary of the Principal Employer within the meaning of Section 736 of the Companies Act 1985 or a company otherwise associated in business with the Principal Employer) which is desirous of participating in the Fund shall be admitted as a party to the Fund on entering into a Supplemental Deed with the Principal Employer and the Trustees whereby such company shall agree to observe and perform such of the provisions of this Deed and the Rules as it is specified by this Deed and the Rules are to be observed and performed by a company admitted as a party to the Fund provided always that a company may with the approval of the Board of Inland Revenue become and shall remain a party to the Fund only if and for so long as such participation shall not jeopardise the Approval of the Fund for the purposes of Chapter I of Part XIV of the Act.

27. The Managing Trustees shall have power with the consent of the Principal Employer at any time and from time to time by deed to alter, modify or add to all or any of the provisions of this Deed and with the like consent by instrument in writing under their hand to alter, modify or add to all or any of the provisions of the Rules provided that no such alteration, modification or addition shall be made:

(i) if it would operate so as to prejudice materially without his written consent the rights or interests of any person already a Member or any person receiving benefits by virtue of the membership of any deceased Member in so far as they concern benefits secured in respect of Service prior to the date of such alteration, modification or addition, or

(ii) if it would result or be capable of resulting in a Member whose Pensionable Service with the Employer is terminated before the date of such alteration, modification or addition being treated less favourably than would have been the case had there been no such alteration modification or addition;

(iii) without the prior written consent of the Special Trustee and the prior agreement of the Board of Inland Revenue;

The Managing Trustees shall notify in writing each Member affected by any such alteration modification or addition.

28. (i) If the Principal Employer's undertaking is acquired by (or vested in) any other party and that party enters into a deed with the Trustees and the Principal Employer in which it covenants to observe and perform the Principal Employer's obligations under this Deed and the Rules (and any consequent amendments made thereto) or in any other circumstances any other party with the approval of the Board of Inland Revenue enters into a

deed with the Trustees and the Principal Employer in which it covenants to observe and perform the Principal Employer's obligations under this Deed and the Rules (and any consequent amendments made thereto) the Principal Employer shall be released from all its obligations and the other party shall be deemed to be substituted for the Principal Employer as the party liable to perform those obligations and this Deed and the Rules (and any consequent amendments made thereto) shall have effect as if that other party had executed the said documents in place of the Principal Employer and as if references in this Deed and the Rules (and any consequent amendments made thereto) to the Principal Employer were references to that party;

- (ii) If the Principal Employer is to continue to participate in the Fund as an Associated Employer following its release as Principal Employer it shall enter into a covenant in the form contained in Clause 26 or in such other form as the Trustees may require.

- 29. All questions, disputes or differences as to the true intent or meaning of the Trust Deeds or this Deed or the Fund or the Current Rules or the Rules or as to the due and proper carrying out thereof except questions and matters which by the Trust Deeds or this Deed or the Current Rules or the Rules are left for final decision by the Managing Trustees the Principal Employer or by the Employer shall be determined by the Managing Trustees whose decision shall so far as the law permits be binding on all parties except where the Trust Deeds or this Deed or the Current Rules or the Rules expressly leave a decision to the Special Trustee.
- 30. The Trust Deeds and this Deed and the trusts of the Fund established by the Principal Trust Deed shall in all respects including their form validity construction and method of execution be governed by and in accordance with English Law and any dispute in respect thereof shall (save as provided by Clause 29 hereof) be determined by the English courts.
- 31. The Principal Employer and the Trustees confirm that the Fund will in any event be operated in conformity with the requirements of the Pensions Act and its associated Regulations. To the extent that any provisions applicable to the Fund shall be inconsistent with such requirements the latter shall prevail."

B. The Current Rules are hereby deleted and replaced with the Rules as the Rules of the Fund.

**IN WITNESS WHEREOF** the parties hereto have executed this **DEED** the day and year first above written

**SIGNED as a DEED** by  
Sellec (Special Cables) Ltd  
acting by a Director and Secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Secretary

**SIGNED as a DEED** by the said  
Stephen Ron Hoole

in the presence of

Full name

Address

Occupation

Signature

Signature

**SIGNED as a DEED** by the said  
Kay Hoole

in the presence of

Full name

Address

Occupation

Signature

Signature

THE COMMON SEAL of

**Norwich Union Trustees Limited**

was hereunto affixed in the presence of

\_\_\_\_\_  
Authorised

Signatory

\_\_\_\_\_

## RULES

RULE	CONTENTS	PAGE
1.	DEFINITIONS AND INTERPRETATION	2
2.	PROVISION OF BENEFITS	10
3.	MEMBER'S PENSION ON RETIREMENT	11
4.	MEMBER'S CASH BENEFIT ON RETIREMENT	13
5.	CASH BENEFITS ON DEATH	14
6.	DEPENDANT'S OR CHILD'S PENSION	15
7.	INCREASING PENSIONS	16
8.	EXCESS PENSION ACCOUNT OR LUMP SUM DEATH BENEFIT	17
9.	LEAVING PENSIONABLE SERVICE	17
10.	TRANSFER VALUE TO ANOTHER SCHEME OR TO A SUBSTITUTE POLICY	18
11.	TRANSFER VALUE FROM ANOTHER SCHEME	21
12.	AUGMENTATION	22
13.	TEMPORARY ABSENCE FROM WORK	22
14.	PRODUCTION OF EVIDENCE AND INFORMATION	23
15.	TAX LIABILITY	23
16.	BANKRUPTCY OR ANTICIPATION OF BENEFITS	23
17.	EMPLOYER'S RIGHT OF LIEN	23
18.	EMPLOYER'S RIGHT TO TERMINATE EMPLOYMENT	24
19.	WINDING UP THE FUND	24
20.	LIQUIDATION OR DISSOLUTION OF THE EMPLOYER	25
21.	INLAND REVENUE MAXIMA	26
22.	DIRECTORS	33
23.	ANNUITY PURCHASE REQUIREMENTS	34
24.	PENSION SHARING ON DIVORCE	36
25.	EMPLOYMENT WITH AN OVERSEAS EMPLOYER WHICH PARTICIPATES IN THE FUND	40



## 1. DEFINITIONS AND INTERPRETATION

If the Administrator receives a valid order as is mentioned in Section 28(1) of the Welfare Reform and Pensions Act 1999 or Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 he shall comply with such order. Where the Administrator receives such an order the provisions of Rule 24 shall override any other provisions of the Rules which are inconsistent with that Rule.

Rule 25 applies solely to employees of an Employer not resident in the United Kingdom and the provisions of Rule 25 shall override as appropriate any other provisions of the Rules which are inconsistent with that Rule.

In these Rules except where the context otherwise requires the masculine shall include the feminine, and the singular shall include the plural and vice versa, and the following expressions shall be construed as follows:-

**"Acceptable Scheme"** means any scheme approved or seeking approval under the Act or any other fund scheme or arrangement approved for the purpose of these Rules by the Board of Inland Revenue.

**"Act"** means the Income and Corporation Taxes Act 1988 and any statutory modification and any re-enactment thereof for the time being in force.

**"Administrator"** means the Managing Trustees of the Fund who are the administrator of the Fund for the purposes of Chapter I of Part XIV of the Act.

**"Anniversary Date"** means the Commencement Date and such other date as agreed by the Administrator and each anniversary thereof.

**"Announcement"** means the statement or announcement of benefits issued from time to time in respect of a Member.

**"Approval"** means exempt approval of the Fund by the Board of Inland Revenue under Chapter I of Part XIV of the Act and any statutory modification and any re-enactment thereof for the time being in force.

**"Associated Employment"** means two or more concurrent employments held by the Member which are associated, i.e. where:-

- (i) there is a period during which the Member has held all of them,
- (ii) the period counts under the Fund in the case of all of them as a period in respect of which benefits are payable,
- (iii) during the period all the employers in question are associated.

For the purpose of this definition employers are associated if one is controlled by the other, or both are controlled by a third party. Control has the meaning in Section 840 of the Act, or in the case of a close company, Section 416 of the Act.

**"Associated Scheme"** shall mean either (i) or (ii) below as appropriate:-

- (i) in respect of a Class A Member any Relevant Scheme which is a Connected Scheme or which provides benefits in respect of Service.
- (ii) in respect of a Class B or Class C Member any Relevant Scheme providing benefits in respect of Service.

**"Child"** means a child (including an unborn child):-

- (i) who is a legitimate child of a Member or a child of a Member who has been legitimised by the date of the death of a Member or a child of a Member, born illegitimate satisfactory evidence of whose identity and relationship has been shown to the Administrator prior to the date of the Member's death (the Administrator's decision as to whether such evidence is satisfactory being in all events absolute) or a step-child of a Member or a legally adopted child of a Member

AND

- (ii) who at the date of death of a Member was, in the opinion of the Administrator, dependent upon the Member for the necessities of life, and who is:-
  - (a) under the age of eighteen, or
  - (b) at the discretion of the Administrator, under the age of twenty-one if he is in receipt of full-time educational or vocational training.

**"Class A Member"** means any Member who joined a Fund established on or after 14 March 1989, or a Fund in existence prior to 14 March 1989 on or after 1 June 1989 and any other Member who has elected or opted to become a Class A Member.

**"Class B Member"** means any Member:-

- (i) who before 1 June 1989 and on or after 17 March 1987 joined a Fund established before 14 March 1989, or
- (ii) who the Board of Inland Revenue have agreed in writing to be a Class B Member by virtue of previous membership of a Relevant Scheme

Provided that in either case the Member may elect at any time before benefits commence, are bought-out or otherwise transferred outside the Fund, or attainment of age 75, whichever first occurs, to be deemed to have become a Class A Member.

**"Class C Member"** means any Member:-

- (i) who before 17 March 1987 joined a Fund in existence prior to 17 March 1987, or
- (ii) who joined subsequently and who the Board of Inland Revenue have agreed in writing to be a Class C Member by virtue of previous membership of a Relevant Scheme

Provided that in either case the Member may elect at any time before benefits commence, are bought-out or otherwise transferred outside the Fund, or attainment of age 75 whichever first occurs, to be deemed to have become a Class A Member.

**"Commencement Date"** means the date contained in the Deed as the date the Fund commenced.

**"Connected Scheme"** means any Relevant Scheme which is connected with the Fund in relation to a Member, i.e. if:-

- (i) there is a period during which the Member has been the employee of two associated employers,
- (ii) that period counts under both schemes as a period in respect of which benefits are payable,

(iii) the period counts under one scheme for service with one employer and under the other for service with the other employer.

For the purpose of this definition employers are associated if one is controlled by the other, or both are controlled by a third party. Control has the meaning in Section 840 of the Act, or in the case of a close company, Section 416 of the Act.

**"Controlling Director"** means a Member who, at any time on or after 17 March 1987 and in the last 10 years before the Relevant Date has, in relation to the Employer, been both within the definition in Section 612(1) of the Act and within paragraph (b) of Section 417 (5) of the Act.

**"Deed"** means the Deed executed by the Principal Employer and as appropriate the Trustees or the Managing Trustees and the Special Trustee and which established the Fund.

**"Dependant"** means the Member's spouse whether or not he or she is in any way supported or assisted financially by the Member and any other individual whose identity has been notified to the Administrator and who in the opinion of the Administrator is wholly or partly maintained or given regular financial assistance by the Member.

**"Director's Fees"** means those fees from the Employers to which the director is beneficially entitled and which are not treated for tax purposes as a receipt of a profession trade or vocation in which the director is engaged.

**"Employer"** means the Principal Employer and any other employer which has for the time being agreed to be an employer under the Fund and "Employer" in relation to a Member means such one or more of the employers as shall for the time being be the employer of such a Member.

**"Final Remuneration"** means the greater of:-

- (i) the highest remuneration upon which tax liability has been determined for any one of the 5 years preceding the Relevant Date being the aggregate of
  - (a) the basic pay for the year in question, and
  - (b) the yearly average over 3 or more consecutive years ending with the expiry of the corresponding basic pay year, of any Fluctuating Emoluments provided that Fluctuating Emoluments of a year other than the basic pay year may be increased in proportion to any increase in the Index from the last day of that year up to the last day of the basic pay year. Remuneration that is received after the Relevant Date and upon which tax liability has been determined will be treated as a Fluctuating Emolument (providing it was earned or qualified for prior to the Relevant Date). In these circumstances it may be included provided the yearly average of 3 or more consecutive years begins no later than the commencement of the basic pay year; or
- (ii) the yearly average of the total emoluments from the Employer which are assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined for any 3 or more consecutive years ending not earlier than 10 years before Relevant Date. Where such emoluments are received after the Relevant Date but are earned or qualified for prior to that date, they may be included provided that in these circumstances the yearly average of 3 or more consecutive years begins no later than the commencement of the year ending with the Relevant Date.

Provided that:-

- (1) remuneration and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of Section 148 of the Act, except where the shares or rights etc. which give rise to such an amount liable to tax under Schedule E had been acquired before 17 March 1987, or anything in respect of which tax is chargeable by virtue of Section 148;
- (2) in relation to a Controlling Director or any other Member who is a Class B Member or a Class C Member whose relevant remuneration in any year subsequent to 5 April 1987 used for the purpose of calculating benefits has exceeded £100,000 or such other figures as may be prescribed in an order made by the Treasury, Final Remuneration shall (subject to provision (5) below) be the amount ascertained in accordance with (ii) above and (i) above shall not apply. If the resulting figure is less than £100,000 and the Member is not a Controlling Director, Final Remuneration shall be deemed to be £100,000 (or such other figure as may be prescribed by the Treasury);
- (3) a Member who remains, or is treated as remaining, in Service but by reason of Incapacity is in respect of a much reduced remuneration i.e. under a sick pay or permanent health insurance scheme, for more than 10 years up to the Relevant Date, may calculate Final Remuneration under (i) or (ii) above with the Final Remuneration calculated at the cessation of normal pay and increased in accordance with the Index;
- (4) where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's remuneration (as calculated in (i) above) or total emoluments (for the purposes of (ii) above) of any year may be increased in proportion to any increase in the Index from the last day of that year up to the Relevant Date. For a Class C Member this proviso shall not apply to the calculation of the Maximum Permitted Cash Benefit as defined in Rule 21 unless the Member's Maximum Permitted Pension as defined in Rule 21 is similarly increased beyond the maximum amount which could have been paid but for this proviso and the proviso to (i)(b) above and then only to the same proportionate extent;
- (5) for the purposes of the calculation of the Maximum Permitted Cash Benefit as defined in Rule 21(i)(b) Final Remuneration shall not in any event exceed £100,000 or such other sum as may be specified in an order made by the Treasury. This proviso applies only to Class B Members;
- (6) for the purposes of the calculation of the Inland Revenue Maxima defined in Rule 21 and Maximum Benefits for Directors as defined in Rule 22 Final Remuneration shall not in any event exceed £60,000 or such other sum as may be specified in an order made by the Treasury. This proviso applies only to Class A Members.
- (7) the total amount of any profit related pay (whether relieved from income tax or not) may be classed as pensionable remuneration and treated as a Fluctuating Emolument.
- (8) an early retirement pension in payment from the Employer may not be included in Final Remuneration

Notes: Except as in proviso (1) above, benefits in kind may be taken into account when they are assessed to income tax as emoluments under Schedule E, and will normally be regarded as Fluctuating Emoluments. If benefits are not so assessable, they may not be included as part of Final Remuneration except with the agreement of the Pension Schemes Office.

Where at the Relevant Date Final Remuneration cannot be precisely established because tax liability on all the constituent elements of remuneration for the year in question has not been determined, Final Remuneration may be calculated on the appropriate basis above using those elements of remuneration which have been finally determined for tax purposes. Immediate "on account" pension and lump sum benefits may be provided based on Final Remuneration so calculated. When tax liability on remuneration is fully determined, and Final Remuneration recalculated providing scope for further benefits (both pension and lump sum), these may be paid out but they must not cause total benefits to exceed Inland Revenue limits calculated as at the date benefits were first taken.

Where the above applies in the case of a Member who is governed by Rule 21(ii), and whose lump sum retirement benefit is calculated on a basis that is greater than 3/80ths of Final Remuneration for each year of Service, a subsequent additional lump sum will not be possible if Final Remuneration is not finally determined for tax purposes until after the end of the first year in which the pension has been in payment.

Where immediate benefits are not being provided or where a transfer is to be made in respect of accrued pension rights then Final Remuneration may only be calculated using remuneration assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined.

**"Fluctuating Emoluments"** means any part of an employees earnings which are not paid on a fixed basis and are additional to the basic wage or salary. They include overtime, commission, bonuses or benefits in kind as long as they are assessable to tax under Case I or II of Schedule E and profit related pay (see proviso (7) to the definition of Final Remuneration). Directors' fees may rank as Fluctuating Emoluments according to the basis on which they are voted.

**"Fund"** means the scheme the title of which is described in the Deed or if appropriate any subsequent deed amending the said Deed.

**"Incapacity"** means physical and mental deterioration which in the opinion of the Administrator is sufficient to prevent the Member from following his or her normal employment, or which seriously impairs his or her earning capacity. It does not mean simply a decline in energy or ability.

**"Index"** means the Government Index of Retail Prices.

**"Insurance Company"** means CGNU Life Assurance Limited or any other insurance company as described in Section 659B of the Act.

**"Long Service Benefit"** means the benefits to which a Member, his Dependants, Relatives and legal personal representatives will be entitled under the Fund if he remains in Pensionable Service until the Normal Retirement Date.

**"Lump Sum Death Benefit"** means the life assurance payable under a policy or contract effected by the Administrator with an Insurance Company on the life of a Member on such terms as the Insurance Company shall decide, by contributions paid by the Employer.

**"Maximum Emoluments"** means the greater of:-

- (i) the basic annual rate of emoluments payable at the date of the Member's death plus the yearly average of any Fluctuating Emoluments for the year ending with the date of death and the two or more preceding years or for such shorter period as such emoluments have been receivable unless otherwise required by the Board of Inland Revenue, or
- (ii) the total actual emoluments received during any period of one year prior to the date of the Member's death such period ending not more than three years prior to the date of death; where the period is a year other than that ending with the date of death, increase can be made in respect of such year's emoluments not exceeding the rate of any increase in the Index from the last day of the year in question up to the date of death.

Provided that for the purpose of the calculation of Maximum Cash Benefit on Death as defined in Rule 21 Maximum Emoluments shall not in any event exceed £60,000 or such other sum as may be specified in an order made by the Treasury. This proviso applies only to Class A Members.

**"Member"** means:-

- (i) a director of the Employer who at the Employer's absolute discretion has been admitted to membership of the Fund and who remains in membership, and
- (ii) an employee of the Employer who is not a director who at the Employer's absolute discretion, but only with the written consent of the Special Trustee, may also be admitted to membership of the Fund

Provided that:-

- (a) with effect from the later of 6 April 1988 and the date the Member is admitted to membership of the Fund, the Member agrees to be a Member of the Fund
- (b) any Member who becomes entitled to a benefit under Rule 9(ii) shall continue to be regarded as a Member where the context of the Rules so requires so long as any benefit is contingently or actually payable to or in respect of him under the Fund.

**"Non-approved scheme"** means a non-approved scheme regarded as such for the purposes of the Finance Act 1989 and any statutory modification and any re-enactment thereof for the time being in force.

**"Normal Retirement Date"** means the date so described and included in the Announcement in respect of each Member which date shall not in any event be later than the 75th birthday nor earlier than the 60th birthday.

**"Pension Account"** means the value of a Member's notional interest in a policy or contract effected by the Administrator with an Insurance Company (other than a policy or contract solely securing the Member's Lump Sum Death Benefit or part of a policy or contract securing such benefits,) for which contributions have been paid in respect of the Member, together with the value as determined by the Administrator acting on the advice of the Actuary of that part of the other assets of the Fund representing the Member's interest in the Fund secured by any contributions made by the Member and on his behalf by the Employer, excluding any made to insure the Lump Sum Death Benefit or applied to any aforementioned policies or contracts.

The Principal Employer shall at the request of the Administrator make available all such information as may be required with the assistance where necessary of appropriate professional advisers to enable the Administrator acting on the advice of the Actuary to prepare a valuation of the assets of the Fund for the purposes of determining the value of the Pension Account of a Member.

Notwithstanding the allocation of assets for benefit calculation purposes all the assets remain assets of the common trust fund against which the rights of each Member lie.

**"Pensions Act"** means the Pensions Act 1995 and any statutory modification and any re-enactment thereof for the time being in force.

**"Pensionable Service"** means in relation to a Member the aggregate of the following periods, namely:-

- (i) Service (whether or not continuous) whilst remaining in membership of the Fund
- (ii) years of service relating to the same or any other employment in respect of which rights to Long Service Benefit have been granted under the Fund,

Provided that:-

- (a) no account shall be taken of any period which does not qualify the Member for Long Service Benefit,
- (b) no period shall be reckoned more than once.

**"Pensioner"** means a Member in receipt of a pension payable in accordance with the Rules.

**"Principal Employer"** means the Employer so described in the Deed or if appropriate any subsequent deed amending the said Deed.

**"Qualifying Service"** means in relation to a Member the aggregate of the following periods, namely:-

- (i) Service (whether or not continuous) whilst a Member
- (ii) Service which qualifies the Member for benefit under any other scheme of the Employer, and
- (iii) years of service whilst a member of another scheme relating to the same or any other employment in respect of which additional rights to Long Service Benefit have been granted under the Fund in substitution for accrued rights under such other scheme,

provided that:-

- (a) no account shall be taken of any period which does not qualify the Member for Long Service Benefit,
- (b) no period shall be reckoned more than once.

**"Relatives"** means the Member's spouse, children (including legally adopted children and step-children), grandchildren, parents, grandparents, brothers, sisters, nephews and nieces, but excluding those persons whose relationship to the Member at the date of his death depends upon an illegitimate person or who are themselves illegitimate at that date, satisfactory evidence of whose identity and relationship has not been shown to the Administrator prior to that date. In determining whether such evidence is satisfactory the Administrator's decision shall be absolute.

**"Relevant Date"** shall mean the date of retirement, leaving Pensionable Service or death as the case may be.

**"Relevant Scheme"** means any other scheme approved or seeking approval under Chapter I Part XIV of the Act and in respect of a Class A Member who is a Controlling Director also any retirement annuity contract or trust scheme approved under Chapter III Part

XIV or any personal pension scheme as approved under Chapter IV Part XIV of the Act insofar as it provides benefits secured by contributions in respect of Service.

**"Remuneration"** means in relation to any year:-

- (i) as regards a Class A Member the aggregate of the total emoluments for the year in question:-
  - (a) from the Employer and
  - (b) in respect of any Associated Employment or any Connected Scheme which are assessable to Income Tax under Schedule E but excluding any amounts which arise from the acquisition or disposal of shares or an interest in shares or a right to acquire shares or anything in respect of which tax is chargeable by virtue of Section 148 of the Act. Provided that in arriving at such emoluments there shall be disregarded any emoluments in excess of £60,000 or such other sum as may be specified in an order made by the Treasury.
- (ii) as regards a Class B Member and a Class C Member total emoluments from the Employer in the year in question which are assessable to Income Tax under Schedule E but excluding any amounts which arise from the acquisition or disposal of shares or an interest in shares or a right to acquire shares or anything in respect of which tax is chargeable by virtue of Section 148 of the Act.

**"Rules"** means the Rules as originally adopted or as altered from time to time.

**"Service"** means:-

- (i) in respect of a Class A Member the aggregate of:-
  - (a) all periods of service with the Employer, and
  - (b) all other periods which count in respect of any Associated Employment or any Connected Scheme

Provided that for a Controlling Director the definition of Service may not be interpreted as including a period of service for an employer who is associated with the Employer by virtue of a permanent community of interest rather than because one employer is controlled by the other or both are controlled by a third party. Where both such employers are participating in the Fund separate calculations of maximum benefits are required in respect of the separate periods of service. Control has the meaning in Section 840 of the Act or, in the case of a close company, Section 416 of the Act.

- (ii) in respect of a Class B Member or a Class C Member, service with the Employer.

Service shall include:-

- (1) service as a whole-time member of the armed forces or civil defence organisation of the United Kingdom and
- (2) any period of secondment to another employer or full-time education connected with the employment not exceeding three years in duration immediately preceded and followed by service with the Employer.

A Member who transfers from the service of one Employer to another Employer shall be deemed to remain in Service for the purposes of the Fund.

**"Short Service Benefit"** means the benefits payable to or in respect of a Member under the Fund on termination of Service with the Employer (otherwise than on retirement with immediate benefits or by death) before the Normal Retirement Date such benefits



consisting of or comprising benefits of any description (whether pension or cash sum and including any option contained in the Rules to substitute the one for the other in whole or in part) which would have been payable to, or in respect of him, or available to him as Long Service Benefit.

**"Special Trustee"** means the trustee who is approved by the Board of Inland Revenue to act as a Pensioner Trustee.

## **2. PROVISION OF BENEFITS**

### **(i) Benefits**

The benefits payable to or in respect of a Member will be in accordance with his Announcement and will be provided from his Pension Account and Lump Sum Death Benefit if any. The amount of the Pension Account will be determined by the Administrator acting on the advice of the Actuary.

### **(ii) Contributions**

The Employer shall pay contributions in respect of each Member and the rate of such contribution shall be at the Employer's discretion and with the consent of the Administrator acting on the advice of the Actuary provided that Approval is not prejudiced thereby. If at the Employer's discretion the Member is required to contribute towards the cost of his benefits, the rate of any such contributions will be notified to him in writing. The Member's contribution cannot be altered before the expiry of a twelve month period commencing on the date the first contribution at the current level became due without the specific agreement of the Board of Inland Revenue.

Any benefits payable on the Member's death in Service, apart from any arising out of the Pension Account, shall be secured by means of a policy or contract effected by the Administrator with an Insurance Company.

### **(iii) Termination and Suspension of Contributions**

(a) The Principal Employer or any other employer with the consent of the Principal Employer may at any time terminate its liability and (where applicable) that of the Members to pay contributions to the Fund by giving one month's notice in writing to the Trustees. The Employer's liability to pay contributions assessed and due before the date of such termination shall not be affected.

(b) The liability of the Employers or any of them to pay contributions to the Fund may, with the consent of all the Employers, be suspended or reduced at any time by giving one months notice in writing to the Trustees by the Principal Employer in which event the Rules shall be appropriately altered or added to in accordance with the provisions of the Deed to such extent as may be necessary in the opinion of the Trustees on the advice of the Actuary to take account of such suspension or reduction.

### **(iv) Additional Voluntary Contributions**

A Member may, subject to Rule 4(i), provide for extra benefits under the Fund by paying additional contributions if he is not within one year of his Normal Retirement Date nor has reached Normal Retirement Date and he gives the Administrator twelve months notice of his intention to commence or vary such contributions or such shorter period as the Administrator may at his discretion decide.

The minimum amount of additional contributions shall be the greater of ½% of his earnings in respect of which he pays Class 1 National Insurance contributions and which are attributable to his employment which relates to the Fund or three times the lower earnings limit within the meaning of Section 5 of the Social Security Contributions and Benefits Act 1992 for that tax year, but shall not be such that the Inland Revenue maxima as stated in Rule 21 shall be exceeded. Such contributions shall not be payable after the Member ceases to be in Service by reference to the Fund. The Administrator shall ensure that the extra pension is reasonable having regard to the amount of additional contributions paid. If the extra pension does prove to be excessive the Administrator may, subject to the Employer's agreement, return any excess additional contributions to the Member having first deducted any tax for which he is accountable.

(v) **Limitations in Benefits and Contributions**

All benefits payable under the Fund will be relevant benefits within the meaning given to this term by Section 612(1) of the Act.

The Member's contributions in any year of assessment to the Fund and to all other retirement benefits schemes providing benefits in respect of Service which are treated as exempt approved schemes within the meaning of Section 592(1) of the Act or schemes where exempt approval has been sought but is yet to be granted shall not exceed 15% of his Remuneration for that year in respect of Service.

No benefit provided under the Fund will be such as to exceed the limits laid down in Rule 21 or in any way to prejudice Approval.

(vi) **Free-Standing Additional Voluntary Contribution Schemes**

The Administrator of the Fund shall comply with the requirements of Regulation 5 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993 and where the Fund 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. If these Regulations are amended or replaced by any other Regulations then this Rule will have effect as if it had been amended or replaced accordingly.

### **3. MEMBER'S PENSION ON RETIREMENT**

(i) **Pension Payable**

On retirement the Pension Account shall be available to provide the Member with a pension payable in accordance with the terms of this Rule and Rule 7 subject to the Inland Revenue Maximum as stated in Rule 21 not being exceeded and a pension for a Dependant or Child (if the Announcement in respect of the Member so provides) payable in accordance with Rule 6(ii). At his retirement the Member may elect to surrender part (or all) of his pension entitlement for a cash sum or to provide additional pension for a Dependant or Child in accordance with Rules 4 and 6(ii)(b). In addition a Member may elect before any pension commences to be paid to surrender part of his entitlement together with an appropriate part of any pension for a Dependent or Child so that such pensions shall increase in course of payment in accordance with Rule 7.

(ii) **Retirement on the Normal Retirement Date**

A Member who retires from Service on the Normal Retirement Date will be entitled to an immediate pension payable from the Normal Retirement Date.

(iii) **Retirement after Leaving Service or Early Retirement**

A Member who either left Service under the terms of Rule 9(ii) or who with the consent of the Employer retires from Service before the Normal Retirement Date and who in either event has passed his 50th birthday and is entitled to a deferred benefit will be entitled to a pension payable from the Normal Retirement Date, or at his option on his retirement or at any time up to the Normal Retirement Date, but not later than the date a cash benefit is taken in accordance with Rule 4(iii). Such benefit may be taken before the Member's 50th birthday if his retirement was due to his Incapacity, subject always to the agreement of the Board of Inland Revenue in respect of a Member who is a Controlling Director.

(iv) **Deferred Retirement**

A Member who with the Employer's consent defers his retirement until after the Normal Retirement Date shall defer the commencement of all his benefits until the date of his actual retirement which shall not be later than his 75th birthday, unless he is a Member whose benefits are governed by Rule 21(i) in which case he will be entitled to a pension commencing at any time on or after the Normal Retirement Date up to the date of actual retirement (except that in the case of a Controlling Director Rule 22 shall apply). Provided that the Administrator acting on the advice of the Actuary shall determine at the Normal Retirement Date whether the benefits payable are such as might prejudice Approval and shall take steps to reduce any excessive benefits to the extent necessary to obtain or retain Approval.

(v) **Payment of Pension**

Any pension payable shall be paid by instalments during the Member's lifetime, the first instalment being due on the Normal Retirement Date (or such other date on which retirement occurs in accordance with this Rule) and the last payment being the instalment due immediately preceding the Member's death or the end of the period for which payment of the pension is guaranteed if later. Instalments will normally be payable monthly except that where the pension from the Fund is less than £240 per annum (or such other amount as shall from time to time be notified by the Administrator) it may be payable at less frequent intervals.

If the Member's pension and the pension equivalent of any non-pension benefits payable under the Fund and from all other Relevant Schemes providing benefits in respect of Service (but excluding those from any Non-approved scheme) are less than £260 per annum (or any higher amount which may be prescribed from time to time by Regulations made under Section 91 of the Pensions Act and is consistent with Approval) then the Member shall, irrespective of whether the Inland Revenue Maximum Cash Benefit on Retirement is exceeded, and irrespective of whether the benefits are secured in part by additional contributions as described in Rule 2(iv), receive the benefits as a cash sum subject to any deduction in accordance with Rule 15 and subject to the provisions of Rule 14.

The Administrator shall purchase in the names of the Managing Trustees from an Insurance Company an annuity on the life of any individual who has become entitled to an immediate pension under the Fund, or who is

contingently entitled on the death of a Member to a pension from the Fund, of an amount not in excess of that individual's entitlement.

Subject to Rule 23, the Administrator shall purchase the said annuity:-

- (a) in respect of any Member's pension, before the first payment thereof falls due, or if the payment thereof is guaranteed for 5 years and in accordance with the provisions of Rule 5 (ii) a cash sum is to be paid instead of the remaining guaranteed pension payments in the event of a Member's death before all the guaranteed payments have been made, before the expiry of the said period of 5 years, and
- (b) in respect of any pension payable as a result of a Member's death, at the same time as the Administrator exercises this power in respect of the Member's pension in accordance with (a) above (or at the same time as the Member's pension is wholly commuted as described in this sub Rule) or, if not so then exercised, at the date of the Member's death.

Provided always that the Administrator shall ensure that all benefits accruing in respect of Service on or after 6 April 1997 within the terms of Section 51 of the Pensions Act will increase at least at the relevant percentage as described in the said Section 51 but subject also to Section 52 of the Pensions Act.

#### **4. MEMBER'S CASH BENEFIT ON RETIREMENT**

##### **(i) Cash Benefit Payable**

On retirement, and on one occasion only, a Member will be entitled to surrender part (or all) of his pension entitlement (excluding the pension entitlement secured by any additional contributions as described in Rule 2(iv) in respect of any Member who agrees to pay additional contributions on or after 8 April 1987 who has not previously paid additional contributions to the Fund or to any other Acceptable Scheme of the Employer or the Employer's predecessor or associated employer) for a cash sum to be provided from the Pension Account in accordance with Rule 3(i) (subject to the Inland Revenue Maximum as stated in Rule 21 not being exceeded).

##### **(ii) Retirement on the Normal Retirement Date**

A Member who retires from Service on the Normal Retirement Date may take the cash sum at that time.

##### **(iii) Retirement after Leaving Service or Early Retirement**

A Member who retires in accordance with Rule 3(iii) may elect to take the cash sum either at the date of his retirement or at any time thereafter up to the Normal Retirement Date but not later than any pension commences to be payable.

##### **(iv) Deferred Retirement**

A Member who defers his retirement in accordance with Rule 3(iv) and who is governed by Rule 21(i) may elect to take the cash sum at any time on or after the Normal Retirement Date up to the date of actual retirement but not later than any pension commences to be paid in accordance with Rule 3(iv). A Member who defers his retirement and who is governed by

Rule 21(ii) shall take his cash sum at the date of actual retirement which shall not be later than his 75th birthday.

(v) **Cash Benefit on Retirement in Serious Ill-Health**

If the Administrator considers that the Member is in exceptional circumstances of serious ill-health, subject to the approval of the Board of Inland Revenue, the whole of his pension entitlement including the pension secured by any additional contributions as described in Rule 2(iv) may be taken as a cash sum at the date the pension, which would have been paid but for this sub-Rule, would have commenced. Such payment shall be subject to any deduction in accordance with Rule 15.

**5. CASH BENEFITS ON DEATH**

(i) **Death Before Retirement**

On the death of a Member in Service or after leaving Service in accordance with Rule 9(i), where in either event no cash sum or other benefits have been taken in accordance with Rule 3 or Rule 4, the aggregate of the Pension Account and Lump Sum Death Benefit (if any) shall be available to the Administrator to provide a cash benefit payable in accordance with this sub-Rule and/or a Dependant's or Child's Pension in accordance with Rule 6(i). Any cash benefit payable shall not exceed the limit laid down in Rule 21 and shall be paid to the Administrator to hold on the following trusts.

The monies shall be held by the Administrator on trust to pay or apply the same (or any part thereof) in such shares and such manner as at the absolute discretion of the Administrator may from time to time be deemed appropriate to or for the benefit of such one or more (to the exclusion of any other or others) of the following persons as may be determined at the absolute discretion of the Administrator:-

- (a) any of the Member's Dependants living at the time of his death,
- (b) any of the Member's Relatives living at the time of his death,
- (c) any person (including any charity, trust, institution, association of persons or body corporate) notified in writing to the Administrator by the Member during his lifetime (such nomination being in no way binding upon the Administrator),
- (d) any person (including any charity, trust, institution, association of persons or body corporate) entitled to benefit under any testamentary disposition made by the Member in respect of which a Grant of Representation has been obtained

Provided always that the exercise by the Administrator of such discretion in favour of persons within categories (a) (b) or (c) above shall not be invalidated by the fact that no Grant of Representation has been obtained (entailing that there are no persons who are potential objects of the Administrator's discretion within category (d) above).

Failing the exercise by the Administrator of such discretion within two years of the death of the Member the said monies shall be paid to the legal personal representatives of the Member Except that if the whole or any part of the said monies would as a result of such payment to the legal personal representatives vest in the Member's creditors or in persons other than natural persons or in the Crown, the Duchy of Lancaster or the Duke of Cornwall as bona vacantia then the Administrator shall hold the whole or such part of the said monies as would otherwise

vest in such person or persons upon the trusts of the Fund for the purposes thereof.

Provided that in the case of a Controlling Director who is governed by Rule 21(i), if he dies in Service on or after his 75th birthday any cash benefit shall be paid to the Administrator to pay or apply the same within two years of the Member's death to the Member's spouse, if she survives him, and if she does not, or if there is no spouse, to the Member's legal personal representatives.

**(ii) Death After Retirement**

- (a) On the death of a Member in receipt of a pension within the period for which payment of the pension is guaranteed provided that this period is not greater than five years and the Administrator so determines a cash benefit equal to the balance of the guaranteed instalments of pension at the rate payable at the date of death shall be available to be dealt with by the Administrator in the same manner as in sub-Rule (i) hereof.
- (b) On the death of a Member after the Normal Retirement Date whose benefits are governed by Rule 21(i) where a cash sum has been taken in accordance with Rule 4 but no pension has commenced, the guaranteed instalments of pension to which the Member would have been entitled had he commenced pension on the date of his death shall be paid or alternatively provided that this guaranteed period is not greater than five years and the Administrator so determines the guaranteed instalments shall be dealt with by the Administrator in the same manner as in sub-Rule (i) hereof and/or in accordance with Rule 6(i).

**6. DEPENDANT'S OR CHILD'S PENSION**

**(i) Death Before Retirement**

On the death of a Member in Service, or after leaving Service in accordance with Rule 9(i), where in either event no cash sum or other benefits have been taken in accordance with Rule 3 or Rule 4, to the extent that the aggregate of the Pension Account and Lump Sum Death Benefit (if any), are not applied as a cash benefit in accordance with Rule 5(i), they shall be applied to provide a Dependant's or Child's pension (subject to the Inland Revenue Maximum as stated in Rule 21 not being exceeded). The Administrator at his absolute discretion shall determine the Dependant and/or Child to receive any such pension or pensions and the proportion of the available benefit to be received by each Dependant or Child.

**(ii) Death After Retirement**

- (a) If appropriate part of the Pension Account in respect of a Member shall be available on retirement to provide a deferred pension or pensions for a Dependant or Child payable on the Member's death after his pension has commenced to be payable, and/or any cash sum has been taken in accordance with Rule 3 or Rule 4 (subject to the Inland Revenue Maximum as stated in Rule 21 not being exceeded). To the extent that part of the Pension Account is so applied, the Pension Account available to provide benefits in accordance with Rules 3 and 4 shall be reduced. The Administrator at his absolute discretion shall determine the Dependant and/or Child to receive any such pension or pensions and the proportion of the available benefit to be received by each Dependant or Child.

- (b) A Member who on retirement has elected to take his benefits in pension form in accordance with Rule 3 may at his discretion and on his retirement surrender part of his entitlement from the Pension Account for a deferred pension or pensions (which shall each not be less than £104 per annum) to commence on his death and to be payable to a Dependant or Child selected at the discretion of the Member.

Provided that in respect of any pensions payable under sub-Rule (ii) (a) or (b) hereof:-

- (1) the amount of the aggregate of such pensions shall not exceed any pension remaining payable to the Member under the Fund before the exercise of any discretion to provide a cash sum in accordance with Rule 4(i) and shall not exceed the Inland Revenue Maximum as stated in Rule 21,
- (2) if the amount of the aggregate of such pensions would not exceed £260 per annum (or such greater amount as would not prejudice Approval) the benefits shall instead be payable as a cash sum in accordance with Rule 3(v) provided that the Member's pension is so treated.

(iii) **Payment of Pension**

A pension payable under this Rule shall be non-assignable and non-commutable (except as specifically provided for in these Rules) and shall be secured from the Pension Account and the Lump Sum Death Benefit (if any) by the purchase of an annuity policy or contract from an Insurance Company on the death of the Member or on the date that the Member's pension is so secured, subject to Rule 23.

The first instalment of the pension payable under sub-Rule (i) hereof shall be due on the date of the Member's death. The first instalment of the pension payable under sub-Rule (ii) hereof shall be due one month after the last instalment of the Member's own pension provided that the Dependant or Child is then alive. A Dependant's pension will be paid during the lifetime of the Dependant, the last instalment being that due immediately preceding the death of the Dependant (or for such shorter period as the Administrator shall decide at the date he determines which Dependant is to receive such pension).

A Child's pension will be paid until the Child dies or ceases to be a Child whichever is earlier, the last instalment being that due immediately preceding such event.

Instalments of any pension payable will normally be paid monthly except that where the pension is less than £240 per annum (or such other amount as shall from time to time be notified by the Administrator) it may be paid at such less frequent intervals as the Administrator may notify.

Provided always that the Administrator shall ensure that all benefits falling within the annual increase provisions of Section 51 of the Pensions Act will increase at least at the rate described in the said Section 51.

## **7. INCREASING PENSIONS**

If appropriate, pensions in course of payment may be increased by means of permanent additions at such rate as the Administrator acting on the advice of the Actuary may determine, provided that:-

- (i) the amount of any pension of a Class A Member which may be increased under this Rule may not notionally include any amount of pension which has been commuted for a lump sum, and
- (ii) the increased pension of any Member shall not exceed the limits laid down in Rule 21, increased in the same proportion as the increase (if any) in the Index since the date of retirement (or by 3% for each complete year if greater).

If the increased pension is such as would prejudice Approval then the value of any excess benefit shall be treated in the same way as any excess Pension Account or Lump Sum Death Benefit in accordance with Rule 8.

Any increase in pension provided in accordance with this Rule shall be secured from the Pension Account, or in accordance with Rule 3 by the purchase of an annuity policy or contract from an Insurance Company on the date that any pension is so secured under Rules 3 or 6 or on the date that any such increase is granted, if later.

## **8. EXCESS PENSION ACCOUNT OR LUMP SUM DEATH BENEFIT**

Any excess of the Pension Account and/or the Lump Sum Death Benefit remaining after the provision of the maximum approvable benefits which can be provided in accordance with Rule 21 shall (unless the option in Rule 2(iii) has been exercised) be applied at the discretion of the Administrator to or for the benefit within approvable limits of other Members in accordance with the Rules or returned to the Employer, provided always that Approval is not prejudiced. Any excess returned to the Employer will be subject to tax under Section 601 of the Act and subject to the prior agreement of the Board of Inland Revenue.

Any provisions in the Fund permitting the Member to make additional contributions to secure additional benefits for the Member and/or his Dependants shall (notwithstanding anything in them to the contrary) have effect as if the provisions of Part III Schedule 6 Finance Act 1989 concerning the return of surplus funds, applied to the Fund.

## **9. LEAVING PENSIONABLE SERVICE**

- (i) For the purposes of the Fund, Pensionable Service shall be deemed not to have terminated if a Member re-enters Pensionable Service at any time having completed two years Qualifying Service in respect of which his entitlement to benefit had not been cleared by a refund of his contributions or a transfer to another scheme or to a substitute policy, or if he re-enters Pensionable Service after an absence not exceeding one month or in respect of a female Member who returns to work, after an absence for pregnancy or confinement, in exercise of a right under law in relation to maternity leave insofar as this applies to Qualifying Service.

- (ii) **Deferred Benefits under the Fund**

If a Member leaves Pensionable Service before the Normal Retirement Date (otherwise than on retirement with immediate benefits under Rule 3 or Rule 4 or by death) the Pension Account shall be available to provide Short Service Benefit together with, if appropriate, a cash benefit and/or Dependant's or Child's pension on death before the Normal Retirement Date. Such benefits will be payable in accordance with the terms of these Rules and shall be subject in any event to the provisions of Section 51 of the Pensions Act.



**(iii) Transfer Value to Another Scheme or to a Substitute Policy**

As an alternative to the provision of benefit in accordance with sub-Rule (ii) hereof the Member may elect for the Pension Account to be applied in accordance with Rule 10 as a transfer value payable to the administrator of a scheme of his new employer or to purchase a policy in his name with an Insurance Company (the Substitute Policy) and upon the transfer or purchase, the Member's benefits under the Fund shall be extinguished.

**(iv) Refund of Contributions**

If a Member leaves Service having contributed to the Fund and without having completed two years' Qualifying Service, and provided that the Administrator has not accepted a transfer value in respect of the Member which derives from a personal pension scheme as defined in Part I of the Pension Schemes Act 1993, he may elect to receive a refund of his contributions as an alternative to any entitlement to benefit under sub-Rules (ii) or (iii) hereof. Such refund of contributions shall be determined by the Administrator acting on the advice of the Actuary as the proportion of the Pension Account in respect of the contributions paid by him prior to the date of his leaving Service (less any deductions made by the Administrator in accordance with Rule 15) and shall release the Administrator from any liability to pay benefits to, in respect of, or available to the Member under the Fund.

**(v) Leaving the Fund**

If a Member leaves the Fund without at that time leaving Service he shall be regarded for the purpose of determining the benefits due to him as if he had left Service in accordance with the terms of this Rule.

**10. TRANSFER VALUE TO ANOTHER SCHEME OR TO A SUBSTITUTE POLICY**

**(i) Transfer Value Payable**

Subject to the provisions of any undertaking given by the Administrator to the Board of Inland Revenue for the purposes of this Rule, a transfer value of such amount as is certified by the Administrator acting on the advice of the Actuary as the value of the Pension Account at the time of the transfer shall be available after a Member leaves Service or leaves the Fund (whichever is applicable) in accordance with Rule 9(iii) to be applied in accordance with the conditions of this Rule. Payment of such transfer value shall release the Administrator from any liability to pay benefits to, in respect of, or available to the Member under the Fund.

**(ii) Transfer to Scheme of New Employer**

If a Member, having left Service with entitlement to deferred benefit and not having received benefits from the Fund, enters the employment of another employer in respect of which he becomes a member of an Acceptable Scheme ("the other scheme") the Administrator shall at the request of the Member pay a transfer value to the administrator of the other scheme subject to the following conditions, namely that:-

- (a) the Administrator shall ascertain that the other scheme is an Acceptable Scheme;

- (b) the payment is accompanied by a certificate by the Administrator of what proportion (if any) of such payment represents contributions by the Member;
- (c) the Administrator receives an undertaking from the administrator of the other scheme that:
  - (1) no more than the proportion as certified shall be treated as Member's contributions in the other scheme;
  - (2) no more than the proportion as certified, if any, of the Member's contributions shall be refunded if the Member subsequently leaves the service of the other employer;
  - (3) any restriction will be applied at all times thereafter in the other scheme and will be maintained in any further transfer of the benefits of the Member out of the other scheme;
  - (4) in addition if a transfer value has been received into the Fund in respect of a previous employer under which the Member had been prevented from taking a refund of his contributions thereto by reason of a restriction, then a similar restriction will be applied at all times thereafter in the other scheme. This restriction will be maintained in any further transfer of the benefits of such Member out of the other scheme so long as such restriction remains a condition of Approval.
- (d) when on or after a transfer having been made to the other scheme the administrator of the other scheme requests a certificate as is referred to in Rule 11(i)(g) the Administrator shall calculate as at the date of transfer and supply the other scheme with a certificate of the maximum lump sum payable on retirement from the transfer value.
- (e) the Administrator shall supply a certificate to the effect that the transfer value or part thereof is not to be used to provide benefits in lump sum form whenever appropriate.

**(iii) Transfer to Another Scheme of the Existing Employer**

If a Member while remaining in Service, ceases to be eligible for membership of the Fund and becomes a member of another Acceptable Scheme of the Employer, the Administrator may pay a transfer value to the administrator of that scheme subject to the terms and conditions, mutatis mutandis, as if sub-Rule (ii) hereof applied to him.

**(iv) Transfer Value to a Personal Pension Scheme**

If a Member becomes a member of a Personal Pension Scheme approved or seeking approval under Chapter IV of Part XIV of the Act the Administrator will at the Member's request pay a transfer value to the Provider of the Personal Pension Scheme. The Administrator will comply with all Inland Revenue requirements concerning the payment of a transfer value from the Fund to a Personal Pension Scheme, in particular the Administrator shall provide a certificate of the lump sum payable on retirement from the transfer value of the transferring Member:-

- (a) was aged 45 or more at the time the transfer payment was made, or
- (b) has at any time within the 10 years preceding the date on which the right to the cash equivalent being transferred arose, been, in

respect of any employment to which the transfer payment or any part of it relates, either:-

- (1) controlling Director, or
- (2) receipt of annual remuneration in excess of £60,000, or, if greater, the allowable maximum (i.e. the equivalent for personal pension schemes of the permitted maximum) for the year of assessment in which the date of transfer falls, or
- (c) is entitled to benefits included in the transfer payment which arise from an occupational pension scheme under which the normal retirement date is 45 or less.

**(v) Transfer Value to a Substitute Policy**

If a Member has left Service or left the Fund with entitlement to a deferred benefit and not having received benefits from the Fund the Administrator will at the Member's request purchase an annuity or life assurance policy in the name of the Member.

Such policy (referred to in this Rule as "the Substitute Policy") shall be purchased from an Insurance Company provided that:-

- (a) the Member's consent in writing shall first be obtained by the Administrator if any benefit to be secured differs in any way from that otherwise payable under the Rules provided that such benefits are Relevant Benefits as defined in Section 612(1) of the Act and that they are at least equal in value to the benefits which would have been secured in respect of the Member under the Fund on the date when he first became entitled to the deferred pension or when he first requested the Administrator to purchase the Substitute Policy, whichever is later, and that they are within any maximum limit set by the Board of the Inland Revenue in respect of the Member,
- (b) the Substitute Policy may provide for benefits to be taken therein at the Member's option:-
  - (1) before the Normal Retirement Date on or after the Member's 50th birthday or earlier if he is suffering from incapacity arising from injury or ill-health;
  - (2) after the Normal Retirement Date or his 70th birthday, or his 75th birthday if he is a Member whose benefits are governed by Rule 21(i), or the date on which he ceases to be in Service, if earlier,
- (c) the Substitute Policy will show in monetary terms the Maximum Permitted Pension and Maximum Permitted Cash Benefit at the Member's Normal Retirement Date and also show that the benefits shall be non-assignable and non-commutable except to any extent shown in the Substitute Policy.
- (d) the Substitute Policy will only provide for annuities to be commuted for a cash sum on the grounds of being trivial as described in Rule 3(v) or subject to the agreement of the Inland Revenue if the Member is in exceptional circumstances of serious ill-health in either case if satisfactory arrangements have been made with the Insurance Company concerned for the payment of any tax due in consequence.

- (e) the Substitute Policy may provide for its surrender at a subsequent date so that in the event of the Member joining an Acceptable Scheme the surrender value may be transferred to such Acceptable Scheme,
- (f) the Substitute Policy may provide for an Open Market Option for the securing of benefits in respect of a Member at the time the benefits become payable from an Insurance Company,
- (g) the Substitute Policy may provide for the benefits payable thereunder to be placed under the control of trustees appointed for that purpose.

## 11. TRANSFER VALUE FROM ANOTHER SCHEME

Subject to the provisions of any undertaking given by the Administrator to the Board of Inland Revenue for the purpose of this Rule, if a Member has been a member of another Acceptable Scheme prior to becoming a Member of the Fund, the Administrator may at his discretion receive the sum which is available upon transfer under the rules of that other scheme and apply it to purchase such additional benefits in accordance with the Rules as he may determine to be appropriate acting on the advice of the Actuary.

Provided that:-

- (i) In relation to a transfer from a retirement benefits scheme:-
  - (a) the Administrator shall receive a certificate from the administrator of the transferring scheme stating the proportion (if any) of the transfer value representing contributions made by the Member to the transferring scheme (including any in respect of a transfer value received into the transferring scheme), and the period of employment which gave rise to the entitlement to the benefits transferred,
  - (b) only such part of the transfer value shall be treated as Member's contributions as was so certified when the said transfer value was received,
  - (c) in the event of the Member leaving Service in accordance with Rule 9(iv) and taking a refund of his contributions to the Fund then he shall receive in addition an amount in respect of the contributions so certified.
  - (d) the Administrator shall pass on in any subsequent transfer any restrictions notified to him by the person or persons having management of the transferring scheme or schemes so long as such restriction remains a condition of Approval of the Fund.
  - (e) the Administrator shall ascertain in respect of any Member who leaves without having completed two years' service details of his service with the former employer or employers.
  - (f) the benefits arising on retirement from the transfer or part thereof shall not be capable of commutation nor shall they be paid in a lump sum form if the transfer is accompanied by a certificate from the administrator of the transferring scheme to the effect that the transfer value or part thereof is not to be used to provide benefits in lump sum form.

- (g) for Class B or Class C Members pension benefits on retirement arising from the transfer value (other than from another scheme of the Employer or an associated employer) may be commuted only if and to the extent that a certificate has been obtained from the administrator of the transferring scheme showing the maximum lump sum payable from the transfer payment. The amount so certified may be increased in proportion to any increase in the Index since the date the transfer payment was received.
- (ii) In relation to a transfer from a personal pension scheme the Administrator must comply with all Inland Revenue requirements concerning accepting such a transfer value and providing benefits from the transfer payment.

## 12. AUGMENTATION

The Administrator may, at the request or with the consent of the Principal Employer and subject to the payment to the Fund of such additional contributions (if any) as the Administrator may determine upon the Actuary's advice,

- (i) augment any pension or other benefit payable to or in respect of a Member or any other beneficiary under the Rules; or
- (ii) provide pension or other benefits payable to or in respect of a Member or any other beneficiary additional to those specified in the Rules

provided that Approval of the Fund would not thereby be prejudice.

## 13. TEMPORARY ABSENCE FROM WORK

- (i) If a Member is temporarily absent from his employment through Incapacity or other cause approved by the Employer and not regarded as termination of employment contributions may at the Employer's discretion either:-
  - (a) continue to be paid, or
  - (b) cease to be paid, with the option of paying up arrears of contributions when the Member returns to work (subject to (ii) below).
- (ii) If absence is due to any reason other than Incapacity or secondment to a United Kingdom Government Department the right to continue paying contributions, or to pay up arrears of contributions, shall cease after three years or such longer period as may be agreed by the Board of Inland Revenue, except in respect of a Member who remains resident in the United Kingdom the three year period is extended to ten years. If all contributions do cease under (i) above the Member shall be considered to have retired from or left Service as the Employer shall decide and Rule 3(iii), 4(iii) or 9 as the case may be shall apply.
- (iii) If during a period of temporary absence a Member becomes a member of another scheme the right to continue paying contributions, or to pay up arrears of contributions, shall cease unless prior confirmation has been received from the Board of Inland Revenue that Approval is not prejudiced.

#### **14. PRODUCTION OF EVIDENCE AND INFORMATION**

Payment of benefits under the Fund to any person shall be conditional upon production by that person of any evidence or information that the Administrator may reasonably require. In the event of such evidence disclosing that the Member's age or sex is not as stated in any application to join the Fund, the Administrator shall pay either such benefits appropriate to the Member's true age and sex or at his sole discretion such other benefits as he considers are equitable.

#### **15. TAX LIABILITY**

Where the Administrator is liable to tax on any refund of the Member's contributions or on any cash sum paid under the terms of Rule 3(v), Rule 4(v) or Rule 9(iv) the Administrator shall be entitled to deduct such tax liability from such refund or cash sum.

#### **16. BANKRUPTCY OR ANTICIPATION OF BENEFITS**

In accordance with Section 91 of the Pensions Act a Member or other beneficiary may not assign or charge in any way his beneficial interest in the Fund.

If a Member or other beneficiary is adjudged bankrupt, or does or suffers any act or thing (otherwise than in pursuance of the exercise of any option or right allowed by the Rules) whereby whether by operation of law or otherwise a benefit if belonging to the Member or other beneficiary absolutely would be wholly or in part payable to another person, then such benefit shall be forfeited but the Trustees may, in the case of hardship, apply it or any part of it for the support or maintenance of the Member or other beneficiary, or may pay or apply it or part of it for the support or maintenance of the spouse or children or dependants of the Member or other beneficiary or any of them.

#### **17. EMPLOYER'S RIGHT OF LIEN**

The benefit to which a Member is otherwise entitled under these Rules shall be subject to the Employer's right of a charge, lien or set-off against such benefit in respect of any monetary obligation due to the Employer arising from a criminal or fraudulent act or omission by the Member.

Provided that:-

- (i) this Rule shall have no effect in respect of any benefits transferred into the Fund under the terms of Rule 11,
- (ii) the amount which can be recovered by the Employer shall be limited to the actuarial value, to be determined by the Actuary, of the Member's actual or prospective benefit at the time of determination or the amount of the Member's obligation to the Employer should that be less,
- (iii) the Member shall be given a certificate showing the amount of his benefit retained by the Employer and the amount remaining to him,
- (iv) if there is any dispute as to the amount to be retained or recovered by the Employer, then the charge, lien or set-off cannot be enforced except after the obligation has become enforceable under an order of a Court or the award of an arbitrator appointed in accordance with the Arbitration Act 1950 and any statutory modification and any re-enactment thereof for the time being in force.

Provided always that the provisions of this Rule will be subject in any event to the provisions of Sections 91 to 95 of the Pensions Act. To the extent that any provision applicable to the Fund shall be inconsistent with the said Sections then the latter shall prevail.

## **18. EMPLOYER'S RIGHT TO TERMINATE EMPLOYMENT**

Nothing in these Rules shall restrict the right of the Employer to terminate the employment of any Member at any time.

## **19. WINDING UP THE FUND**

- (i) The Principal Employer reserves the right at any time to wind up the Fund in respect of all or some of the Members on giving each Member affected written notice of its intention. An Employer, other than the Principal Employer, has the right at any time to wind up its part of the Fund in respect of all Members employed by that Employer at that time or formerly, on giving each Member affected written notice of its intention. In addition, if an Employer ceases to be controlled by or associated with the Principal Employer to the extent necessary for Approval or continued Approval, that part of the Fund shall likewise be wound up.
- (ii) The assets of the Fund or the said part thereof held by the Administrator to meet the liabilities thereunder in accordance with the Rules, after payment of all costs, charges and expenses which may then be owing, will be applied by the Administrator after consultation with the Actuary for the benefit of persons then in receipt of pensions from the Fund and for the benefit of other Members in the following manner:-

FIRST the Administrator shall purchase from an Insurance Company annuities subject to the restrictions set out in Rules 3 and 4 as if these Rules had continued to have effect after the date of termination of the Fund, for the benefit of:-

- (a) each Member affected who is either then in receipt of a pension from the Fund or at the date of termination has attained or passed the Normal Retirement Date and is entitled to retire on pension, or is entitled to receive a deferred pension under the terms of Rule 9(ii),
- (b) any other person who is then in receipt of a pension from the Fund or will receive a pension under the terms of Rule 6(ii) on the death of a Member. Such annuities shall provide a pension of the same amount and with the same rights (if any) to payment of a lump sum on the pensioner's death as that payable or due under the Fund at the date of termination. Any such annuity purchased for a Member or other person who is in receipt of a pension from the Fund shall be non-commutable.

SECOND The Administrator shall provide for each Member affected for whom provision has not already been made benefits in accordance with Rule 9(ii) as if Pensionable Service had terminated. Such benefits shall provide a pension of the same amount and with the same rights (if any) to payment of a cash sum on the Member's death or retirement as those payable or prospectively due under the Fund at the date of termination.

Any balance remaining thereafter shall if the Administrator so decides be applied in whole or in part to increase the benefits payable under this Rule in such manner as the Administrator shall decide (provided that no benefit so increased shall be such as will prejudice Approval) and subject to the exercise of such discretion such balance remaining

thereafter shall be paid to the Employers in such proportions as the Administrator shall decide are equitable. Any excess returned to the Employers will be subject to tax under Section 601 of the Act and subject to the prior agreement of the Board of Inland Revenue.

Such benefits as shall be provided under this sub-Rule shall be payable in accordance with and subject to such restrictions set out in Rules 3, 4, 5, 6, 7 and 21 as the case may be shall apply.

- (iii) Notwithstanding sub-Rule (ii) above the Administrator may at his sole discretion make such arrangements as he thinks fit to secure payment of the benefits to be provided for Members in accordance with this Rule by the payment of transfer values and/or the purchase of Substitute Policies in accordance with Rule 10.
- (iv) If the Fund, or any part is terminated the consent of the Special Trustee shall first be obtained.
- (v) Where Section 38 of the Pensions Act applies the Fund, if the Administrator so determines, shall not be wound up immediately but instead the winding up shall be deferred in accordance with the said Section 38.

## **20. LIQUIDATION OR DISSOLUTION OF THE EMPLOYER**

- (i) If the Principal Employer is liquidated or dissolved for the purpose of reconstruction or amalgamation with any other employer the Principal Employer may make such arrangements as it thinks fit for the continuance of the Fund with such reconstructed or amalgamated employer as if such employer were the Principal Employer.

Provided that:-

- (a) no Member, or any person receiving benefit by virtue of the membership of any deceased Member, shall benefit to an extent which is in the opinion of the Administrator acting on the advice of the Actuary less than if the Fund had been wound up on the date of liquidation or dissolution,
  - (b) Approval is not withdrawn.
- (ii) If the Principal Employer goes into liquidation or is dissolved in circumstances other than those set out in sub-Rule (i) hereof, the provisions of Rule 19 shall apply. Except the wind-up of the Fund can be deferred with the agreement of the Trustees and subject to the agreement and any requirements of the Board of Inland Revenue.
- (iii) If an Employer, other than the Principal Employer, is liquidated or dissolved then unless the obligations of the Employer under the Fund are assumed by a new or other Employer the appropriate part of the Fund which is in respect of the Members so affected and who are not transferred to another Employer shall be wound up under the terms of Rule 19. Except the wind-up of the appropriate part of the Fund can be deferred with the agreement of the Trustees and subject to the agreement and any requirements of the Board of Inland Revenue.



- (i) The following Inland Revenue Maxima apply to the benefits of all Class B Members and Class C Members, provided that the Member concerned has not elected or opted to become subject to the Inland Revenue Maxima described in Rule 21(ii).

(a) **Maximum Member's Pension on Retirement**

(1) **Normal Retirement**

The total pension (including the pension equivalent of any part of the Pension Account taken as cash) to which a Member shall be entitled under the Fund on surviving in Service to the Normal Retirement Date shall not exceed the Maximum Pension being the amount which when aggregated with the total pension (including the pension equivalent of any non-pension benefits) to which a Member may be entitled at the Normal Retirement Date from all Associated Schemes is equal to the lesser of:-

(A) two-thirds of the Member's Final Remuneration, and

(B) one-sixtieth of the Member's Final Remuneration for each year of Service to the Normal Retirement Date (not exceeding 40 years),

or such greater amount as would not prejudice Approval.

Provided that if the Member is or has been at any time during his membership of the Fund a Controlling Director the pension shall, where necessary, be restricted to such lesser amount as would not prejudice Approval.

(2) **Early Retirement**

The total pension (including the pension equivalent of any part of the Pension Account taken as cash) to which a Member shall be entitled under the Fund should he retire from Service before the Normal Retirement Date in accordance with the terms of Rule 3(iii) shall not exceed a pension calculated in the manner of the Maximum Pension described in (1) above hereof reduced as appropriate to the Member's Service completed and his Final Remuneration as at the actual date of retirement, or such greater amount as would not prejudice Approval.

Provided that should a Member retire before the Normal Retirement Date due to Incapacity (subject always to the agreement of the Board of Inland Revenue in respect of a Member who is a Controlling Director) his total pension shall not exceed a pension calculated in the manner of the Maximum Pension described in (1) above based on the Service he would have completed had he retired on the Normal Retirement Date and his Final Remuneration as at the actual date of retirement.

(3) **Deferred Retirement**

The total pension (including the pension equivalent of any part of the Pension Account taken as cash) to which a Member shall be entitled under Rule 3(iv) shall not exceed the Maximum Pension described in (1) above actuarially increased

where appropriate by an amount determined by the Actuary having regard to the period that has elapsed between the Normal Retirement Date and the date of actual retirement (except that in the case of a Controlling Director Rule 22(i) shall apply), or such greater amount as would not prejudice Approval.

**(4) Retirement after Leaving Service or Leaving the Fund**

The total pension (including the pension equivalent of any part of the Pension Account taken as cash) to which a Member shall be entitled under the Fund on surviving to Normal Retirement Date having left Service or having left the Fund with entitlement to Pension under Rule 9(ii) shall be the appropriate fraction of maximum pension to which the Member would have been entitled had he continued in Service or in the Fund until Normal Retirement Date but with Final Remuneration calculated as at the date of leaving Service, or such greater amounts as would not prejudice Approval.

**(b) Maximum Cash Benefit on Retirement**

**(1) Normal Retirement**

The total cash sum to which a Member shall be entitled under the Fund on surviving in Service to the Normal Retirement Date shall not exceed the Maximum Cash on Retirement being the amount which when aggregated with the total cash sums to which a Member may be entitled from all Associated Schemes is equal to the lesser of:-

- (A) one and one half times the Member's Final Remuneration, and
- (B)  $\frac{3}{80}$ ths of the Member's Final Remuneration for each year of Service (not exceeding 40 years) prior to the date of retiring or leaving Service or such greater amount as would not prejudice Approval.

Provided that if the Member is or has been at any time during his membership of the Fund a Controlling Director the cash sum shall, where necessary, be restricted to such lesser amount as would not prejudice Approval.

**(2) Retirement after Leaving Service Leaving the Fund or Early**

**Retirement**

The total cash sum to which a Member shall be entitled under the terms of Rule 4(iii) shall not exceed an amount calculated in the manner of the Maximum Cash on Retirement described in (1) above reduced as appropriate to account for earlier payment but with Final Remuneration calculated as at the date of retirement or leaving Service or leaving the Fund, or such greater amount as would not prejudice Approval. The amount computed as aforesaid may be increased in proportion to any increase in the Index which has occurred between the date of retirement or leaving Service or leaving the Fund and the earlier of Pension Date or the date on which the pension commences to be paid. Increases after Pension Date and before the date on which the pension commences to be paid may be made in accordance with (3) below. Provided that should a Member retire before the Normal Retirement Date due

to Incapacity (subject always to the agreement of the Board of Inland Revenue in respect of a Member who is a Controlling Director) the said cash sum shall be an amount calculated in the manner of the Maximum Cash on Retirement described in (1) above based on the Service he would have completed had he retired on the Normal Retirement Date and his Final Remuneration at the actual date of retirement.

(3) **Deferred Retirement**

The total cash sum to which a Member shall be entitled under the terms of Rule 4(iv) shall not exceed the Maximum Cash on Retirement described in (1) above increased where appropriate by interest at such rate as determined by the Administrator on the advice of the Actuary having regard to the period that has elapsed between the Normal Retirement Date and the date of actual retirement (except that in the case of a Controlling Director Rule 22(i) shall apply), or such greater amount as would not prejudice Approval.

(c) **Maximum Cash Benefit on Death**

The total cash benefit payable on the death of a Member under Rule 5 (apart from any return in respect of any contributions made by him to the Fund and any interest thereon) shall not exceed the cash sum which when aggregated with the sums payable under all Associated Schemes is equal to the greater of:-

- (1) four times the Member's Maximum Emoluments, and
- (2) £5000

less any cash sum (other than refunds of the Member's contributions and any interest thereon) payable on the death of the Member from all retirement benefits schemes providing benefits in respect of service with his previous employers and any lump sum life assurance benefit payable on the death of the Member under any contract approved under Section 621 of the Act or a Personal Pension approved under Chapter IV Part XIV of the Act provided that for this purpose no account need be taken of such sums if they do not exceed £2500 in aggregate.

Provided that when a benefit is payable on the death of a Member after leaving Service under Rule 9(i) Maximum Emoluments shall be construed as comprising emoluments calculated at the date of leaving Service instead of at the date of death.

(d) **Maximum Dependant's or Child's Pension**

(1) **Death Before Retirement**

The maximum pensions payable under Rule 6(i) shall not exceed an amount which when aggregated with the pensions, other than those provided by the surrender of the Member's own pension, payable to that Dependant or Child under all Associated Schemes

- (A) for any one Dependant or Child does not exceed 2/3rds of, and
- (B) for all Dependents or Children does not exceed

the total pension, prospectively receivable by the Member under the Fund and under all Associated Schemes had contributions continued to be payable to the Fund up to the Normal Retirement Date at the rate payable at the Member's death assuming that he remained in Service up to Normal Retirement Date and based on his remuneration immediately before the date of his death, or such greater amount as would not prejudice Approval.

(2) **Death after Retirement**

The maximum pensions payable under Rule 6(ii) shall not exceed an amount which when aggregated with the pensions, other than those provided by the surrender of the Member's own pension, payable to that Dependant or Child under all Associated Schemes

(A) for any one Dependant or Child does not exceed 2/3rds of, and

(B) for all Dependents or Children does not exceed

the total pension actually receivable by the Member (before the exercise of any option under Rule 4) immediately before his death under the Fund and under all Associated Schemes subject always to the pensions aggregated as aforesaid payable to all Dependents or Children not exceeding such aggregate pension or such greater amount as would not prejudice Approval.

(e) **Augmentation of Benefits**

Where the Member is also a member of an approved scheme (the voluntary scheme) which provides additional benefits to supplement those provided by the Fund and to which no contributions are made by any employer of his, the provisions of the paragraph that follows shall apply in relation to any augmentation of the benefits provided for him by the Fund after he has ceased to participate in it.

Any provision in the Fund imposing a limit on the amount of benefit provided for the Member shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the Member by the voluntary scheme.

(ii) The following Inland Revenue Maxima apply to the benefits of all Class A Member.

(a) **Maximum Member's Pension on Retirement**

(1) **Normal and Late Retirement**

The total pension (including the pension equivalent of any part of the Pension Account taken as cash) to which a Member shall be entitled under the Fund at any time between attaining age 50 and attaining age 75 shall not exceed the Maximum Pension being the amount which when aggregated with the total pension (including the pension equivalent of any non-pension benefits calculated on the basis that £12 of non-pension benefits equates to £1 of pension) to which a Member may be entitled from all Associated Schemes is equal to one-sixtieth of the Member's Final Remuneration for each year of

Service (not exceeding 40 years), or such greater amount as would not prejudice Approval save that in the case of a Controlling Director Rule 22(ii) shall also apply.

(2) Early Retirement

The total pension (including the pension equivalent of any part of the Pension Account taken as cash) to which a Member shall be entitled under the Fund having left Service or having left the Fund before attaining age 75 in accordance with the terms of Rule 3(iii) shall not exceed a pension calculated in the manner of the Maximum Pension described in (1) above or such greater amount as would not prejudice Approval. The amount computed as aforesaid may be increased either by 5% for each complete year, or in proportion to any increase in the Index which has occurred, between the date of leaving Service or leaving the Fund and the date on which the pension commences to be paid.

Provided that should a Member retire before Normal Retirement Date due to Incapacity (subject always to the agreement of the Board of Inland Revenue in respect of a Member who is a Controlling Director) his total pension shall not exceed a pension calculated in the manner of the Maximum Pension described in (1) above based on the Service he would have completed had he retired on the Normal Retirement Date and his Final Remuneration as at the actual date of retirement.

(b) **Maximum Cash Benefit on Retirement**

(1) **Normal and Late Retirement**

The total cash sum to which a Member shall be entitled under the Fund on retirement at any time between attaining age 50 and attaining age 75 shall not exceed the Maximum Cash on Retirement being the amount which when aggregated with the total cash sums to which a Member may be entitled from all Associated Schemes is equal to 3/80ths of the Member's Final Remuneration for each year of Service (not exceeding 40 years) or such greater amount as would not prejudice Approval save that in the case of a Controlling Director Rule 22(ii) shall also apply.

(2) **Retirement after Leaving Service, the Fund or Early Retirement**

The total cash sum to which a Member shall be entitled under the terms of Rule 4(iii) shall not exceed an amount calculated in the manner of the Maximum Cash on Retirement described in (1) above or such greater amount as would not prejudice Approval. The amount computed as aforesaid on a 3/80ths basis may be increased in proportion to any increase in the Index which has occurred between the date of leaving Service or leaving the Fund and the date on which the pension commences to be paid.

Provided that should a Member retire before the Normal Retirement Date due to Incapacity (subject always to the agreement of the Board of Inland Revenue in respect of a Member who is a Controlling Director) the said cash sum shall be an amount calculated in the manner of the Maximum Cash on Retirement described in (1) above based on the Service he would have completed had he retired on the Normal Retirement

Date and his Final Remuneration at the actual date of retirement.

(c) **Maximum Cash Benefit on Death**

The total cash benefit payable on the death of a Member under Rule 5 (apart from any return in respect of any contributions made by him to the Fund and any interest thereon) shall not exceed the cash sum which when aggregated with the sums payable under all Associated Schemes is equal to the greater of:-

- (1) four times the Member's Maximum Emoluments, and
- (2) £5000

less any cash (other than refunds of the Member's contributions and any interest thereon) payable on the death of the Member under all retirement benefits schemes providing benefits in respect of service with his previous employers and any lump sum life assurance benefit payable on the death of the Member under any contract approved under Section 621 of the Act or a Personal Pension approved under Chapter IV Part XIV of the Act provided that for this purpose no account need be taken of such sums if they do not exceed £2500 in aggregate.

Provided that when a benefit is payable on the death of a Member after leaving Service under Rule 9(i) Maximum Emoluments shall be construed as comprising emoluments calculated at the date of leaving Service instead of at the date of death.

(d) **Maximum Dependant's or Child's Pension**

(1) **Death Before Retirement**

The maximum pensions payable under Rule 6(i) shall not exceed an amount which when aggregated with the pensions, other than those provided by surrender of the Member's own pension, payable to that Dependant or Child under all Associated Schemes

- (A) for any one Dependant or Child does not exceed 2/3rds of, and
- (B) for all Dependents or Children does not exceed

the total pension, prospectively receivable by the Member under the Fund and under all Associated Schemes had contributions continued to be payable to the Fund up to the Normal Retirement Date at the rate payable at the Member's death assuming that he remained in Service up to Normal Retirement Date and based on his remuneration immediately before the date of his death, or such greater amount as would not prejudice Approval.

(2) **Death after Retirement**

The maximum pensions payable under Rule 6(ii) shall not exceed an amount which when aggregated with the pension, other than those provided by surrender of the Member's own pension, payable to that Dependant or Child under all Associated Schemes

(A) for any one Dependant or Child does not exceed 2/3rds of, and

(B) for all Dependents or Children does not exceed

the total pension actually receivable by the Member (before the exercise of any option under Rule 4) immediately before his death under the Fund and under all Associated Schemes subject always to the pensions aggregated as aforesaid payable to all Dependents or Children not exceeding such aggregate pension, or such greater amount as would not prejudice Approval.

(e) **Augmentation of Benefits**

Where the Member is also a member of an approved scheme (the voluntary scheme) which provides additional benefits to supplement those provided by the Fund and to which no contributions are made by any employer of his, the provisions of the paragraph that follows shall apply in relation to any augmentation of the benefits provided for him by the Fund after he has ceased to participate in it.

Any provision in the Fund imposing a limit on the amount of benefit provided for the Member shall have effect (notwithstanding anything in them to the contrary) as if they provided for the limit to be reduced by the amount of any like benefit provided for the Member by the voluntary scheme.

## 22. DIRECTORS

- (i) The following rules apply in respect of Controlling Directors whose benefits are subject to Rule 21(i):-

(a) **Maximum Benefits**

In calculating the Maximum Pension (as defined in Rule 21(i)(a) and the Maximum Cash on Retirement (as defined in Rule 21(i)(b) for Controlling Directors account must be taken of any pension benefits or any cash sum benefits payable under a retirement annuity contract or trust scheme that does not relate to a concurrent occupation approved under Section 619 or Section 621 of the Act or a Personal Pension approved under Chapter IV Part XIV of the Act for any non-pensionable service, except where these related to a concurrent occupation.

(b) **Controlling Directors Benefits on Retirement**

- (1) For Service to Normal Retirement Date or early retirement in accordance with Rule 3(iii) Final Remuneration shall be calculated on the yearly average of total emoluments (including Directors Fees) for any three or more consecutive years ending within the last ten years before Normal Retirement Date (or date of actual retirement if earlier).

If a Member's remuneration is significantly reduced by reason of his incapacity for a period exceeding ten years before the Normal Retirement Date his Final Remuneration may be based on his remuneration at or up to the date when he last ceased to receive his normal pay

- (2) Where Service continues after Normal Retirement Date the Controlling Director may either:-

- (A) defer the payment of all his benefits until the date of actual retirement; or
- (B) take at any time before actually retiring the pension and/or cash sum benefit which would have been due if he had retired and defer any remaining pension until his actual retirement.

Where option (A) is chosen:-

- i. Final Remuneration shall be calculated as the yearly average of total actual emoluments (including Director's Fees) for any three or more consecutive years ending within the last ten years before the actual date of retirement or age 70 if earlier.
- ii. The Pension Account may be increased by such amount as the Administrator on the advice of the Actuary shall certify as appropriate having regard to the period that has elapsed between the Normal Retirement Date and the date of actual retirement provided that such increases shall be restricted, save for service over 70 years of age, to ensure that the amounts of pension and cash sum benefit taken on retirement do not



exceed the Maximum Pension and Maximum Cash on Retirement calculated in accordance with Rules 21(i)(a)(1) and 21(i)(b)(1) on the basis that his actual date of retirement (or age 70 if earlier) was the Normal Retirement Date.

Where option (B) is chosen:

- i. Final Remuneration shall be calculated as the yearly average of total actual emoluments (including Director's Fees) for any three or more consecutive years ending within the last ten years before the date the pension and/or cash sum benefit is taken.
- ii. The deferred pension, if any, may be actuarially increased by such amount as the Administrator acting on the advice of the Actuary shall certify as appropriate having regard to any period of Service between the Normal Retirement Date and the date of actual retirement provided that such increase shall be restricted if necessary, except in the case of Service after age 70, to ensure that the amounts of pension and cash sum benefit taken on actual retirement do not exceed the Maximum Permitted Pension and Maximum Permitted Cash Benefit calculated in accordance with Rules 21(i)(a)(1) and 21(i)(b)(1) on the basis that the date on which he received his cash sum and/or pension benefit, or age 70 if earlier, was the Normal Retirement Date.

Where a cash sum alone is taken prior to retirement the actuarial increase on the balance of the pension shall not exceed the proportion of any increase in the Index during the period of postponement to age 70.

- (ii) The following rule applies in respect of Controlling Directors whose benefits are subject to Rule 21(ii):-

(a) **Maximum Benefits**

For a Controlling Director who is a Class A Member the calculations of Maximum Pension (as defined in Rule 21(ii)(a)) and the Maximum Cash on Retirement (as defined in Rule 21(ii)(b)) are to be extended to include any benefits of either a retirement annuity contract or trust scheme approved under Section 619 or Section 621 of the Act or a Personal Pension approved under Chapter IV Part XIV of the Act insofar as those benefits are secured in respect of service with the Employer.

## **23. ANNUITY PURCHASE REQUIREMENTS**

In the case of

- (i) a Member who retires for whatever reason on or after 4 February 1994, or
- (ii) a Member who retired on or after 4 February 1989 but whose pension has not been secured within 5 years of that retirement under Rule 3(v),

the Administrator may purchase an annuity for such Member in accordance with that Rule. Where a prospective widow's/widower's reversionary pension is payable, the Administrator shall purchase such a contingent annuity at the same time the Member's own pension is so secured. If, however, the widow's/widower's pension is payable to whichever person is the Member's spouse when the Member dies, its purchase may be deferred until the death of the Member.

The Administrator shall, however, have the power to defer the purchase of an annuity for such Member or for any Dependant (subject always to the above conditions for purchasing a widow's/widower's pension) of a Member who dies while in Service or after retirement until in the case of the Member's pension no later than the date on which such Member attains age 75, or in the case of a Dependant's pension until the earlier of the attaining by the Dependant of age 75 or the date on which the deceased Member would have attained age 75, so long as the following conditions are and remain satisfied.

- (i) Where all Members of the Fund/all Dependents are in receipt of pensions (contingent Widow's/widower's of Pensioners whose pensions must be secured at the same time as the Pensioners in accordance with the above being regarded as in receipt of pension), the Administrator shall not, directly or indirectly, make any new loans to, or purchase shares in, the Employer or a Company associated with the Employer or make any new investments in any stock or shares of any Private Company following the later of the first payment of pension to the last Member of the Fund to retire and the first payment of pension to the last Dependant. The Administrator shall ensure the repayment of any existing loan made to the Employer or to any Company associated with the Employer and shall realise the value of any stock or shares held in any Private Company within five years of the commencement of pension in respect of the last Member or Dependant or on attainment by that Member or Dependant of age 70 if earlier. Where the Member or Dependant has already attained age 70 when payment of pension commences, the repayment of any existing loan or realisation of any stock or shares held in any Private Company shall take place immediately.
- (ii) Where the Fund has both Members/prospective Dependents whose pensions are not yet in payment and Pensioners/Dependents with pensions in payment whose annuity purchase has been deferred (prospective widow's/widower's of Pensioners whose pension must be secured at the same time as the Pensioners in accordance with the above being regarded as in receipt of pension) the Actuary shall exclude each such Pensioner's or Dependant's actuarial interest in the Fund when determining the proportion and the amount which may be lent to, or used to buy shares in, the Employer or any Company associated with the Employer or used to buy stock or shares in any Private Company.

Within 5 years of the commencement of pension to new Pensioners or Dependents or on attainment by the Pensioner or Dependant of age 70 if earlier, the Administrator shall ensure that an appropriate proportion of any loan to or shares in the Employer or a Company associated with the Employer is repaid or sold and shall ensure an appropriate proportion of the value of any stock or shares held in any Private Company is realised. Where the Member or Dependant has already attained age 70 when payment of pension commences, the repayment of any existing loan or realisation of any stock or shares held in any Private Company shall take place immediately.

- (iii) Where, during the period of deferral, investments held for the purposes of the Fund include real or heritable property, the Administrator shall ensure that there are sufficient other readily realisable assets so as to be in a position to purchase a Member's or Dependant's annuity at any time after the Member or Dependant has attained age 70.

- (iv) The amount of any new borrowing by the Administrator during any period of deferral shall be restricted so that the Pensioners' and Dependants' actuarial interest in the Fund are excluded from the calculation in Clause 9(vi) of the Deed. The Administrator shall ensure the reduction of any borrowing in existence when a member retires or when a Dependant's benefits come into payment so as to comply with the levels set out in Clause 9(vi) within 5 years of those events or on attainment by the retired Member or Dependant of age 70 if earlier. Where the Member or Dependant has already attained age 70 when payment of pension commences, any reduction in borrowing to comply with the levels set out in Clause 9(vi) shall take place immediately.
- (v) During the period of deferral, and whilst the pension is being paid by the Administrator, the Actuary shall certify the amount of pension which can be maintained by the Administrator taking account of:
  - a. in the case of a Member's pension, any contingent Dependant's pension payable;
  - b. the income and assets of the Fund, and in particular those liquid assets representing the Pensioner's or Dependant's actuarial interest in the Fund.

In the case of a Member's pension, the certificate shall compare the pension with the amount of an annuity which could, at that time and on the same terms, be secured with the Member's actuarial interest in the Fund. In the case of a Dependant's pension, the initial certificate shall compare the Dependant's pension with the amount of an annuity which could, at that time and on the same terms, be secured with the Dependant's actuarial interest in the Fund. Where the pension and annuity differ by 10% or more, the certificate shall include a full explanation.

- (vi) A copy of the initial actuarial certificate shall be provided to the Pensions Schemes Office of the Board of Inland Revenue with the next actuarial valuation report of the Fund or earlier on request by the Pensions Schemes Office of the Board of Inland Revenue.
- (vii) A formal review of the amount of pension payable shall thereafter form part of the Fund's triennial actuarial reviews; and the renewal certificate shall be supplied to the Pension Schemes Office of the Board of Inland Revenue with the actuarial valuation report.

Terms used in this Rule that do not appear in Rule 1. Definitions shall have the meanings ascribed to them as set out in Clause 6 of the Deed of Amendment.

## 24. PENSION SHARING ON DIVORCE

### (i) Definitions

In this Rule the following definitions shall apply:

**"Aggregate Retirement Benefit"** means the aggregate of

- (a) the Member's pension under this Fund and any Associated Scheme and
- (b) the pension equivalent of the Member's Lump Sum Retirement Benefit.

**"Ex-Spouse"** means an individual to whom Pension Credit Rights have been or are to be allocated following a Pension Sharing Order, agreement or equivalent provision.

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

**"Negative Deferred Pension"** means the amount by which the Member's pension or deferred pension under the Fund which arose/arises from Service with the Employer, is reduced at the Relevant Date by Section 31 Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation, following a Pension Sharing Order, agreement or equivalent provision. For this purpose, Service with the Employer includes all periods of service with other employers which have been treated as if they were Service with the Employer where a transfer payment has been made to the Fund in respect of that other service.

**"Pension Debit"** means a debit under Section 29(1) (a) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation.

**"Pension Debit Member"** means a Member whose benefits have been permanently reduced by a Pension Debit. Such a Member will either be;

- (a) a Member who is a controlling director of a company which is his/her employer if he/she is a director of the company to whom paragraph (b) of section 417(5) of the 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,
- (b) a Member whose earnings at the date at which his/her marriage was dissolved or annulled exceeded 1/4 of the Permitted Maximum for the year of assessment in which the dissolution or annulment occurred. Earnings for these purposes shall be taken to be the total emoluments -
  - (1) which were paid to the Member in consequence of Pensionable Service to which the Fund relates during the year of assessment before the year of assessment in which the marriage was dissolved or annulled, and
  - (2) from which tax was deducted in accordance with the Income Tax (Employments) Regulations 1993.

**"Pension Sharing Order"** means any order or provision as is mentioned in Section 28(1) of the Welfare Reform and Pensions Act 1999 or Article 25 (1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

**"Permitted Maximum"** is to be construed as defined in Section 590C(2) of the Act.

(ii) **Assignment**

Rule 16 is amended to permit the assignment of part or all of the Member's retirement benefits or rights to benefits under the Fund to his/her Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision.

(iii) **Benefit Limits: Pension Debit Members**

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

- (a) The pension shall not exceed the Aggregate Retirement Benefit in Rule 21 less the Negative Deferred Pension in this Fund and the

Negative Deferred Pension in any Associated Scheme and, furthermore in the case of a Class A Member the Negative Deferred Pension in any Connected Scheme.

- (b) The lump sum from this and any Associated Scheme shall not exceed;
- 1 for Pension Debit Members who are Class A Members or Class B Members, an amount determined by  $2.25 \times$  the initial annual pension payable;
  - 2 for Pension Debit Members who are Class C Members, an amount of the greater of:
    - A.  $2.25 \times$  the initial annual pension payable or,
    - B. an amount determined in accordance with Rule 21 as if there had been no Pension Debit, less  $2.25 \times$  the Negative Deferred Pension.

For the purposes of this Rule, the initial annual pension should be calculated on the following bases;

- i. if the pension payable for the year changes, the initial pension payable should be taken;
  - ii. it should be assumed that the Pension Debit Member will survive for a year;
  - iii. the effect of commutation should be ignored.
- (c) On the death of the Pension Debit Member, any pension for a Dependant shall not exceed  $\frac{2}{3} \times$  an amount determined in accordance with Rule 21 as if there had been no Pension Debit, less the Negative Deferred Pension and the Negative Deferred Pension in any Associated Scheme and, furthermore in the case of a Class A 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 Rule 21 as if there had been no Pension Debit, less the Negative Deferred Pension and the Negative Deferred Pension in any Associated Scheme and, furthermore in the case of Class A Member the Negative Deferred Pension in any Connected Scheme.

(iv) **Transfers out: Pension Debit Members**

The Administrator must give full details of the Pension Debit and a lump sum certificate specifying the maximum permissible lump sum, to the receiving scheme/arrangement where the fund underlying the benefits for a Pension Debit Member is transferred to another scheme approved under Chapter I Part XIV of the Act or a scheme approved under Chapter IV Part XIV of the Act.

(v) **Transfers in: Pension Debit Members**

Where the Administrator accepts a transfer payment and is informed by the transferor of the details of a Pension Debit relating to the transfer payment, the Administrator must take account of the Pension Debit, if appropriate, in the calculation of any limit on benefits for the Member. If a transfer of the fund underlying the benefits for the Member is made to a scheme approved under Chapter I Part XIV of the Act or a scheme approved under Chapter IV Part XIV of the Act, the Administrator must give full details of the Pension Debit to the receiving scheme/arrangement.

(vi) **Death of Ex-Spouse**

If the Ex-Spouse dies after a Pension Sharing Order, agreement or equivalent provision is made but before it is acted upon by the Administrator, the following benefits may be paid.

A lump sum death benefit may be paid to any person at the discretion of the Administrator, in accordance with Rule 5 except that the Ex-Spouse shall be substituted for Member where appropriate. The lump sum is limited to 25% of what would have been the cash equivalent of the fund which would have provided the Pension Credit Rights for the Ex-Spouse. The balance of the fund may be used to provide a non-commutable pension to a Dependant of the Ex-Spouse.

The amount of pension payable to a Dependant is limited to a maximum of 2/3rds 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.

Such pensions may increase in payment in accordance with the provisions of Rule 7 and must be payable for life, except that pensions paid to children must cease when the Child ceases to be a Child.

Such pensions may be fully commuted, however, for a lump sum on the grounds of triviality at the time such a pension becomes payable.

## 25. EMPLOYMENT WITH AN OVERSEAS EMPLOYER WHICH PARTICIPATES IN THE FUND

- (i) This Rule shall apply solely to employees of an Employer which is not resident in the United Kingdom.
- (ii) Membership of the Fund shall be open to employees of an Employer that is not resident in the United Kingdom who are chargeable to United Kingdom income tax under Case I or II of Schedule E of the Act on their emoluments from the Employer: But employees:-
  - (a) cannot be members in respect of a period of service when they qualified for a deduction of 100% under Section 193(1) of the Act, and
  - (b) must be restricted to receiving death in service benefits if they are in receipt of foreign emoluments as defined in Section 192(1) of the Act and are members of a scheme in respect of which they are obtaining relief under the "corresponding" provisions of Section 192(3) or 596 (2)(b) of the Act. (Where any employee in receipt of foreign emoluments has become a member of a scheme in respect of which he/she is obtaining relief under the "corresponding" provisions of Section 192(3) or 596(2)(b) of the Act, his/her benefits relating to subsequent service shall be confined to death in service benefits or he/she shall be withdrawn from membership of the Fund immediately).
- (iii) Membership of the Fund shall also be open to employees of an Employer that is not resident in the United Kingdom if:
  - (a) the Pension Schemes Office of the Board of Inland Revenue has explicitly approved the terms of their membership, or
  - (b) membership commences or continues because the following circumstances and conditions are satisfied.

The circumstances are that:

1. there is a definite expectation that the employee will come to the United Kingdom either to take up employment with an employer participating in the Fund (such an expectation should be evidenced in writing), or to retire, or
2. the employee's earnings remain effectively chargeable because he or she only works overseas for periods which total less than 365 days in any year.

The conditions are that:

- (A) the United Kingdom employer or the United Kingdom branch of the overseas employer should continue to pay to the Fund any employer contributions due, but must be reimbursed by the overseas employer for the costs, unless the Pension Schemes Office of the Board of Inland Revenue have specifically agreed otherwise;
- (B) the prospective pension in respect of the service abroad should be calculated and funded by reference to the rate of remuneration appropriate for similar employment in the United Kingdom; and

- (C) the period of service abroad should not exceed 10 years. If there has been a previous period or periods of service abroad continuation of Fund membership is limited to an aggregate of 10 years.

For the purposes of the aggregation calculation

- i. any period or periods of service abroad separated from a subsequent period of service abroad by at least one year's employment in the United Kingdom can be ignored and
  - ii. any period of service that arises from employees performing their duties abroad for a United Kingdom resident employer who are provided with benefits under an approved scheme (regardless of whether they are effectively chargeable) can be ignored.
- (iv) Benefits for any employees of the Employer shall be provided in relation only to their periods of service with and remuneration from the Employer whilst they satisfy the eligibility conditions in sub-Rule (ii) or (iii) hereof
- (v) In the event of an employee of one of the Employers ceasing to satisfy the eligibility conditions in sub-Rule (ii) or (iii) hereof his/her benefits will be held subject to the Rules until he/she leaves service or retires or his/her benefits are transferred out of the Fund.