

Assembly Members'  
Pension Scheme  
(Northern Ireland) 2012



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## Schedule

### The Assembly Members' Pension Scheme (Northern Ireland) 2012

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# Part A

## Preliminary

### Citation

- A1. This Scheme may be cited as the Assembly Members' Pension Scheme (Northern Ireland) 2012.

### Interpretation - general

A2.

1. In this Scheme:-

**“the Taxes Act 1988”** means the Income and Corporation Taxes Act 1988;

**“actual period of reckonable service as a participating member”** has the meaning given in article E1;

**“added year”** means a period of reckonable service as a participating member purchased under article Q1 and Schedule 3, including a fraction

of an added year and any future added year;

**“aggregate period of reckonable service as a participating member”** and **“aggregate period of reckonable service as a participating office holder”** have the meanings given in article E1;

**“appropriate personal pension scheme”** means a personal pension scheme which is for the time being specified in an appropriate scheme certificate issued under regulations made under section 3 of the Pension Schemes Act;

**“the Assembly”** means the Northern Ireland Assembly established under the provisions of the Northern Ireland Act 1998;

**“the Attorney General”** means the Attorney General for Northern Ireland;

**“the AVC Scheme”** means that part of this Scheme providing for additional voluntary contributions as set out in Part R and Schedule 4;

**“basic or prospective pension or pensions”** has the meaning given in article K5;

**“contribution”** (except in the expression “contributions equivalent premium”) means any amount deducted from salary and paid into the Fund under article D1 and any reference to the payment of a contribution shall be construed accordingly;

**“contributions equivalent premium”** means a premium payable under section 51(2) of the Pension Schemes Act; **“deferred pensioner”** means a person who:

- (a) having been but having ceased to be a participant; and
- (b) having accrued rights to a pension from the Fund, is not, or was not at his death, yet entitled to receive a pension from the Fund;

**“dual mandate member”** means with effect from on and after 5 July 2010, a serving member of the Assembly (which includes office and non-office holders) who by virtue of the provisions of section 47(4) of the Northern Ireland Act 1998 is not entitled to receive a member's ordinary salary during any period in respect of which he is also in receipt of salary as a member of either House of Parliament or of the European Parliament. For the avoidance of doubt and in accordance with article C2.1A, any officer holder's salary payable to a dual mandate member shall be deemed pensionable, unless expressly stated to the contrary.

For all purposes, a dual mandate member shall cease to be a participating member of the Scheme on and after 5 July 2010 and shall be deemed to be a deferred pensioner (with the exception of his concurrent office holder service unless expressly stated otherwise); provided that his deferred benefits (subject always to the preservation requirements of the Pension Schemes Act) shall be revalued by reference to the member's ordinary salary applicable at the date he ceases to be a serving Assembly member, rather than that applicable at the date he ceased to be a participating member;

**"eligible child"** has the meaning given in article K2.4;

**"fraction of a year"** means part of a year of reckonable service expressed as the proportion borne by the number of days in that part to 365, and "fraction of an added year" shall be construed accordingly;

**"the Fund"** means the Northern Ireland Assembly Members' Pension Fund established under article B1;

**"GMP"** means the guaranteed minimum pension in accordance with the Pension Schemes Act;

**"HMRC"** means Her Majesty's Revenue & Customs;

**"interest"** (where the reference is to the payment of any sum with interest) means compound interest at the rate of four per cent per annum, calculated with annual rests;

**"the multiple"** means-

- (a) in respect of a pension under article F1, the relevant final salary of the pensioner under article F3.2;
- (b) in respect of a pension under article F2, the relevant final salary of the pensioner under article F4.5 multiplied by the average of all the contribution factors under article F4.2 calculated in relation to the pensioner for his aggregate period of reckonable service as a participating office holder;

**"normal retirement date"** means the date on which a participant reaches the age of 65;

**"office holder"** has the meaning given in article C2.3;

**"opted-out member"** has the meaning given in article C3.4;

**"opted-out office holder"** has the meaning given in article C4.4;

**"participant"** means a person making contributions to the Fund, and may be either a participating member or both a participating member and a participating office holder;

**"participating member"** means (and where appropriate includes those persons described in article C2.1A(a)), a person making contributions to the Fund deducted from his salary as a member (or who is excused from making such contributions because his aggregate period of reckonable service exceeds that which would give rise to the maximum pension allowed in respect of him under this Scheme);

**"participating office holder"** means a person making contributions to the Fund deducted from his office holder's salary and shall be deemed to include a person making contributions which are deducted from his salary as an Attorney General;

**"pension"** does not include an allowance or gratuity;

**"Pension Increase Legislation"** means the Pensions (Increase) Act (Northern Ireland) 1971 and/or Pensions (Increase) Act 1974 and the Social Security (Northern Ireland) Act 1975 or



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such other legislation which governs the rate and form of pension increases as applies to public sector schemes in Northern Ireland from time to time;

**“the Pension Schemes Act”** means the Pension Schemes (Northern Ireland) Act 1993;

**“pensioner”** means a person entitled to receive a pension from the Fund, and may be either a pensioner member or both a pensioner member and a pensioner office holder;

**“pensioner member”** means a person entitled to receive a pension from the Fund (including an early retirement pension or an ill-health pension) in respect of his service as a member of the Assembly;

**“pensioner office holder”** means a person entitled to receive a pension from the Fund (including an early retirement pension or an ill-health pension) in respect of his service as an office holder;

**“period of tenure of a qualifying office”** has the meaning given in article C2.2;

**“permitted maximum”** means (unless the context indicates otherwise):

- (a) in relation to any tax year before the tax year 2006-2007, the figure specified for that tax year in an order made under section 590C of the Taxes Act 1988;
- (b) in relation to any other tax year before the tax year 2010-2011, the notional figure derived for that year by virtue of the calculation method outlined in section 590C(5) and section 590C(5A) of the Taxes Act 1988 notwithstanding the repeal of those sections; and
- (c) in relation to any later tax year, means such amount as is determined and passed by a resolution of a majority of the Trustees present at a quorate meeting and subsequently formally adopted for the purposes of the Scheme. When making determinations in this regard, the Trustees shall be deemed to have set a non-increasing fixed cash amount as the permitted maximum, unless they specify otherwise. This amount shall remain in force until such time as the Trustees determine to review and revise the same. The Trustees may also at any time subsequently, choose to dis-apply the “permitted maximum” by reference to members’ future earnings provided that they have taken into account appropriate actuarial advice;

**“qualifying office”** has the meaning given in article C2.3;

**“relevant date”** means the relevant date for the determination under any provision of this Scheme of the pension of a person;

**“spouse”** includes a civil partner as defined in the Civil Partnership Act 2004 and references to ‘marriage’ or ‘married’ shall be construed accordingly;

**“tax year”** means a year beginning on the 6th April in any year and ending on the following 5th April.

- 2. Subsections (9) (9A) and (10) of section 47 of the Northern Ireland Act 1998 apply for the purposes of this Scheme as they apply for the purposes of that section.
- 3. For the purposes of this Scheme any break in the continuity of the term of office of a member of the Assembly attributable to section 47(9)(a) and (10)(b) of that Act shall be disregarded.
- 4. The Interpretation Act (Northern Ireland) 1954 applies to this Scheme as it applies to an Act of the Assembly.

### Interpretation - salary

A3.

1. In this Scheme –

**“a Councillor’s basic allowance”** means the annual basic allowance which is payable to a member of a district council under the Local Government (Payments to Councillors) (Northern Ireland) Regulations;

**“a Councillor’s reduced salary”** means for the period on and after 1 July 2012, the reduced annual salary payable to a participating member who is also in receipt of a Councillor’s basic allowance by virtue of the Northern Ireland Assembly (Members’ Salaries, Allowances and Pensions) Determination 2012;

**“a member’s ordinary salary”** means the annual salary payable by virtue of a determination under section 47 of the Northern Ireland Act 1998 to a member of the Assembly who is not:

- (a) an office holder; or
- (b) in receipt of a salary as a member of either House of Parliament or of the European Parliament; or
- (c) in receipt of a Councillor’s basic allowance;

**“a member’s reduced salary”** means for the period prior to 5 July 2010, the annual salary payable by virtue of a determination under the then section 47 of the Northern Ireland Act 1998 to a member of the Assembly who:-

- (a) is not an office holder; but
- (b) is in receipt of a salary as a member of either House of Parliament or of the European Parliament;

**“office holder’s salary”** means so much of the annual salary payable by virtue of a determination under section 47 of the Northern Ireland Act 1998 to a person holding a qualifying office as exceeds his salary as a member and in the case of the Attorney General shall be construed to mean the salary that is payable to such an appointee under the Justice (Northern Ireland) Act 2002;

**“salary as a member”**:(a) for the period on or after 5 July 2010:

- (i) in relation to a serving Assembly member who is an office holder and a dual mandate member, means “nil salary” is payable by virtue of section 47(4) of the Northern Ireland Act 1998, where otherwise a member’s ordinary salary would have been payable;
- (ii) in relation to a serving Assembly member who is an office holder but not a dual mandate member, means a member’s ordinary salary;
- (iii) in relation to a serving Assembly member who is not an office holder but who is a dual mandate member, means “nil salary” is payable by virtue of section 47(4) of the Northern Ireland Act 1998, where otherwise a member’s ordinary salary would have been payable; and
- (iv) in relation to a serving Assembly member who is not an office holder and also not a dual mandate member, means a member’s ordinary salary;
- (v) for the period on or after 1 July 2012, in relation to a serving Assembly member (who may or may not be an office holder) who is simultaneously in receipt of a Councillor’s basic allowance, means a Councillor’s reduced salary;

(b) for the period prior to 5 July 2010:

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- (i) in relation to a serving Assembly member who is an office holder and who would otherwise qualify as a dual mandate member, means a member's reduced salary;
  - (ii) in relation to a serving Assembly member who is an office holder and who would otherwise not qualify as a dual mandate member, means a member's ordinary salary;
  - (iii) in relation to a serving Assembly member who is not an office holder and who would otherwise qualify as a dual mandate member, means a member's reduced salary; and
  - (iv) in relation to a serving Assembly member who is not an office holder and who would otherwise not qualify as a dual mandate member, means a member's ordinary salary.
2. In relation to any time before 2nd December 1999 references in this Article to a determination under section 47 of the Northern Ireland Act 1998 shall be construed as references to the New Northern Ireland Assembly (Salaries and Allowances) Order 1999 [S. I. 1999/1995].

#### **Application of this Scheme**

A4.

1. This Scheme applies in relation to:
- (a) service as a member of the Assembly and tenure of a qualifying office at any time on or after the day on which this determination comes into operation; and
  - (b) subject to the following provisions of this article, service as a member of the Assembly and tenure of a qualifying office at any time on or after 25th June 1998 and before the day on which this determination comes into operation.
2. A participating member may exercise an option under this paragraph not to have this Scheme apply in relation to all his service and tenure of office in the period mentioned in paragraph 1(b).
3. A participating member may exercise an option under this paragraph not to have this Scheme apply in relation to so much of his service and tenure of office in the period mentioned in paragraph 1(b) as falls before a date specified by the member.
4. An option under paragraph 2 or 3:
- (a) must be exercised by notice in writing to the Trustees not later than three months after the day on which this determination comes into operation;
  - (b) may not be amended or revoked.
5. If a participating member:
- (a) does not exercise an option under paragraph 2 or 3 in relation to his service and tenure of office in the period mentioned in paragraph 1(b); and
  - (b) pays to the Trustees in accordance with paragraph 7 or 8 the sum certified by the Trustees as being the amount which would have been deducted from his salary in respect of that period under article D1 had this determination come into operation on 25th June 1998,

this Scheme shall apply in relation to that service and tenure of office and the sums paid under sub-paragraph (b) shall be treated for the purposes of this Scheme as contributions

deducted under article D1 at the time they would have been deducted had this determination come into operation on 25th June 1998.

6. If a participating member:

- (a) exercises the option under paragraph 3; and
- (b) pays to the Trustees in accordance with paragraph 7 or 8 the sum certified by the Trustees as being the amount which would have been deducted under article D1 from his salary in respect of the period beginning on the specified date and ending immediately before the coming into operation of this determination had this determination come into operation on the specified date,

this Scheme shall apply in relation to his service and tenure of office in that period and the sums paid under sub-paragraph (b) shall be treated for the purposes of this Scheme as contributions deducted under article D1 at the time they would have been deducted had this determination come into operation on the specified date.

7. A participating member may enter into arrangements with the Trustees for the sum certified under paragraph 5 or 6 to be paid to the Trustees:

- (a) in a lump sum at such time as may be agreed between the member and the Trustees; or
- (b) in instalments of such amounts and at such times as may be so agreed.

8. Where no arrangements are in force under paragraph 7 in respect of a participating member, the sum certified under paragraph 5 or 6 shall be paid to the Trustees by means of a deduction of 9% from each payment of salary made to the member; but any deductions made under this paragraph from the salary of a participating member who exercises the option under paragraph 2 shall be repaid to him as soon as is reasonably practicable after he exercises that option.

9. Where a participating member:

- (a) does not exercise the option under paragraph 2; but
- (b) ceases (whether by death or otherwise) to be a member of the Assembly before all of the sum certified under paragraph 5 or 6 is paid to the Trustees,

he shall, subject to paragraph 10, be treated as if he had paid the outstanding amount to the Trustees before he ceased to be a member.

10. Where a pension or gratuity is payable under this Scheme to or in respect of any participating member who has ceased to be a member as mentioned in paragraph 9(b), there shall be deducted from the amount of that pension or gratuity an amount equal to the outstanding amount.

11. Where a member of the Assembly has died at any time in the period mentioned in paragraph 1(b), the Trustees may pay in respect of his service as a member or tenure of office such pensions under Part K and such gratuity under article L1 as in their opinion would have been payable in respect of that service or tenure of office if:

- (a) this determination had come into operation on 25th June 1998; and
- (b) contributions under article D1 had been deducted from each payment in respect of salary made to him.

12. Where a gratuity is payable under article L1 in respect of any member who has died as mentioned in paragraph 11, there shall be deducted from the amount of that gratuity calculated in accordance with article L1.6:

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- (a) an amount equal to the amount which, had this determination come into operation on 25th June 1998, would have been deducted from his salary under article D1; and
  - (b) the amount of any ex gratia payment made before the coming into operation of this determination by the Secretary of State or a Northern Ireland department for purposes corresponding to those of Part L.
13. Any deduction made under paragraph 12(b) shall be paid by the Trustees to the Department of Finance and Personnel which shall pay it into the Consolidated Fund.

## Part B

### The Fund and the Trustees

#### **Establishment of Fund**

- B1.
- 1. A fund, to be known as the Northern Ireland Assembly Members' Pension Fund, shall be established for the purposes of this Scheme and shall be vested in and administered by the Trustees.
  - 2. The Trustees shall hold the assets comprised in the Fund upon trust in accordance with the provisions of this Scheme.

#### **The Trustees**

- B2.
- 1. The Assembly shall by resolution appoint not more than five members of the Assembly to be the Trustees of this Scheme.
  - 2. A person appointed as a Trustee:
    - (a) may resign from office by notice in writing to the Presiding Officer;
    - (b) may be removed from office by a resolution of the Assembly;
    - (c) shall, without prejudice to sub-paragraph (b), cease to hold office on the expiry of six months from the date on which he ceases to be a member of the Assembly.
  - 3. Subject to paragraphs 4 and 5, the procedure of the Trustees shall be such as the Trustees may determine.
  - 4. The quorum for any meeting of the Trustees shall be three.
  - 5. The Trustees may act by a majority of those present at any meeting.
  - 6. The Trustees may:
    - (a) employ such staff; and
    - (b) obtain such professional advice and services, as they think necessary in connection with the performance of their functions under this Scheme.
  - 7. The expenses of the Trustees in the exercise of their functions shall be defrayed out of the Fund.

### **Administration of Fund**

B3.

1. The provisions of Schedule 1 shall have effect with respect to the administration of the Fund by the Trustees and the management and application of the assets of the Fund.
2. Subject to paragraph 3, all pensions and other sums payable under this Scheme by the Trustees, including contributions equivalent premiums payable in respect of former participants, shall be paid out of the Fund, and all sums received by the Trustees under this Scheme shall be paid into the Fund.
3. Paragraph 2 shall not apply in respect of benefits payable and contributions received under Part R (the AVC Scheme).

## **Part C**

### **Membership**

#### **Membership for members of the Assembly**

- C1. Any person serving as a member of the Assembly shall be a participating member in this Scheme unless he has exercised an option under article C3.

#### **Membership for office holders**

C2.

1. An office holder who:
  - (a) is a participating member (subject always to the specific inclusions described in article 1A below); and
  - (b) has not exercised an option under article C4, shall be a participating office holder in this Scheme in respect of any period of tenure of a qualifying office.
- 1A. The stipulation in article C2.1 above, that a participating office holder also be a participating member shall be disregarded in respect of:
  - (a) a participating member (who is also a participating office holder) who ceases to be a participating member by virtue of his becoming a dual mandate member while remaining in receipt of an office holder's salary, or alternatively, an individual who is firstly a dual mandate member (but not an office holder) and who subsequently becomes a participating officer holder; or
  - (b) an individual who is not a serving member of the Assembly who is appointed to the office of Attorney General for Northern Ireland in accordance with the provisions of the Justice (Northern Ireland) Act 2002.

In both instances (a) and (b) above, any period during which the individual is in receipt of an office holder's salary (which in the case of the Attorney General shall be construed to mean the salary that is payable to such an appointee under the Justice (Northern Ireland) Act 2002) shall be deemed pensionable for the purposes of all benefits payable under the Scheme, unless expressly indicated to the contrary.

2. In this Scheme "period of tenure of a qualifying office" means any continuous period for which a person is:
  - (a) the holder of one and the same qualifying office; or

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- (b) the holder successively of two or more qualifying offices in respect of which the same salary is payable.
3. In this Scheme “qualifying office” means any of the offices to which section 48(1A) of the Northern Ireland Act 1998 may apply from time to time and “office holder” means the holder of a qualifying office (which includes but is not limited to the following):
- (a) the Presiding Officer;
  - (b) the Deputy Presiding Officer;
  - (c) the First Minister and Deputy First Minister;
  - (d) the Ministers or junior Ministers;
  - (e) Chairs of Committees established under Standing Order;
  - (f) Chair of the Finance Committee established under Standing Order;
  - (g) Attorney General for Northern Ireland (whose salary is dealt with at article C2.1Ab above);
  - (h) those Chairs of Committees (other than those referred to in (e) and, (f) above), who are entitled, under any determination made under Standing Order, to an additional office-holder’s salary by virtue of that office; and
  - (i) those holding office as Members of the Assembly Commission (other than the Presiding Officer).

**Right to opt out for members of the Assembly**

C3.

1. A participating member may exercise an option in writing under this article not to be a participant in this Scheme.
2. Subject to paragraph 3, the effective opt-out date in respect of a member is whatever date the Trustees shall determine to be the earliest practicable date after that on which they receive from him written notice of the exercise of the option.
3. If the Trustees receive the written notice not more than three months after the date:
  - (a) on which this determination comes into operation where the person is a member of the Assembly on that date;
  - (b) of an election under section 31 or 32 of the Northern Ireland Act 1998 at which the person was elected for the first time to membership of the Assembly;
  - (c) on which the person first became a member of the Assembly under section 35 of that Act,

the effective opt-out date is the day on which he became a member of the Assembly and any contributions deducted from his salary as a member under article D1 since that date shall be repaid to him.

4. A member of the Assembly who has exercised an option under this article not to be a participant in this Scheme is referred to in this Scheme as “an opted-out member”.

**Right to opt out for office holders**

C4.

1. An office holder who is a participating member may exercise an option in writing under this article not to be a participating office holder in this Scheme.
2. Subject to paragraph 3, the effective opt-out date in respect of an office holder is whatever date the Trustees shall determine to be the earliest practicable date after that on which they receive from him written notice of the exercise of the option.
3. If the Trustees receive the written notice not more than 12 months after the date of commencement of a period of tenure of a qualifying office, the effective opt-out date is the date on which that period of tenure commenced and any contributions deducted under article D1 from his office holder's salary in respect of that period of tenure shall be repaid to him.
4. An office holder who has exercised an option under this Article not to be a participating office holder or who has exercised the option under article C3 is referred to in this Scheme as "an opted-out office holder".

**Members of the Assembly and office holders reaching 75 before 6 April 2006**

C4A.

1. This article applies to any person whose 75th birthday falls on or before 5 April 2006 and who immediately before that date:
  - (a) is a participating member or a participating office holder, and
  - (b) would be entitled to receive a pension under article F1 or F2 if he had ceased to be a participant, a member of the Assembly and an office holder.
2. The person may opt under this article not to remain a participant in the Scheme on and after 6th April 2006.
3. The option must be exercised by notice in writing given to the Trustees before 6th April 2006.
4. A person who exercises the option under this article:
  - (a) ceases to be a participant on 5th April 2006;
  - (b) is treated for the purposes of this Scheme (except for article F6) as if he ceased to be a member of the Assembly and an office holder on that date (and accordingly is entitled under articles F1 and F2 to receive the pension to which he would be entitled if he had so ceased, but subject to article F6); and
  - (c) is treated for the purposes of article G1 as having given notice under article G1.1 on that date of his desire to commute into a lump sum such part of the pension as is specified in the notice under this article.

**Right to opt in for members of the Assembly**

- C5. An opted-out member may apply to rejoin this Scheme as a participating member as from the date on which he became a member of the Assembly following a subsequent election to the Assembly ("the effective opt-in date") by giving notice in writing to the Trustees within a period of three months beginning with the effective opt-in date, provided that:
- (a) he pays to the Trustees within 28 days of their acceptance of his application, or within such longer period as the Trustees may determine, the sum certified by the Trustees as being the amount which would have been deducted from his salary as a member under article D1 between the effective opt-in date and the first date thereafter when a deduction from that salary under article D1 is made; and



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- (b) at the effective opt-in date, at least three months had elapsed since he was last elected to membership of the Assembly.

**Right to opt in for office holders**

- C6. An opted-out office holder who is a participating member may apply to rejoin this Scheme as a participating office holder as from the date of commencement of a new period of tenure of a qualifying office ("the effective opt-in date") by giving notice in writing to the Trustees within a period of 12 months beginning with the effective opt-in date, provided that he pays to the Trustees within 28 days of their acceptance of his application, or within such longer period as the Trustees may determine, the sum certified by the Trustees as being the amount which would have been deducted from his office holder's salary under article D1 between the effective opt-in date and the first date thereafter when a deduction from that salary under article D1 is made.

**Right to opt for lower accrual rate**

- C7.
1. Under articles E and F, the rate at which pensions accrue under this Scheme is increased from 1/50th of the relevant final salary (the "lower accrual rate") to 1/40th of the relevant terminal salary (the "higher accrual rate") for periods of reckonable service falling after 31 March 2009. However, any participant in the Scheme at 31 March 2009 has the right to opt for continuing participation in the Scheme at the lower accrual rate, by giving written notice to the Trustees no later than 11 May 2009.
  2. A participant first elected to the Assembly after 31 March 2009, may opt for participation in the Scheme at the lower accrual rate, by giving written notice to the Trustees no later than 3 months after the date of appointment as an Assembly Member.
  3. If a participant in the Scheme, whether first elected to the Assembly before or after 31 March 2009, is accruing pension at the higher accrual rate, that participant may, at any subsequent general Assembly election, opt to participate at the lower accrual rate in respect of service after the date of that election. Such an option must be exercised by giving written notice to the Trustees within 3 months of the date of the election.
  4. For the avoidance of doubt, a participant who is accruing pension at the higher accrual rate, may at any subsequent general election on or after 1 May 2011, opt to participate at the lower accrual rate in respect of service completed after the date of that election, provided that such option is exercised by giving written notice to the Trustees within 3 months of the date of the election.
  5. If a participant is both a participating member and a participating office holder, any option for the lower accrual rate must be exercised in respect of both member and office holder reckonable service.

## Part D

### Contributions

**Contributions by participants**

- D1.
1. Subject to paragraph 3 and article D2, there shall be deducted from each payment in respect of salary as a member made to a participating member by the sum specified below; and all sums so deducted shall be paid into the Fund:

- (a) 6% or 7% on and after 1 July 2012 of the salary payment, if the participant has opted for the lower accrual rate, or
  - (b) 11.5% or 12.5% on and after 1 July 2012 of the salary payment, if the higher accrual rate applies.
- 2. Subject to article D2, there shall be deducted from each payment in respect of office holder's salary made to a participating office holder by the sum specified below; and all sums so deducted shall be paid into the Fund:
  - (a) 6% or 7% on and after 1 July 2012 of the salary payment, if the participant has opted for the lower accrual rate, or
  - (b) 11.5% or 12.5% on and after 1 July 2012 of the salary payment, if the higher accrual rate applies.
- 3. Where a person's aggregate period of reckonable service as a participating member exceeds that which would give rise to the maximum pension allowed in respect of that person as a participating member under article F5, no deduction shall be made under this article from payments in respect of his salary as a member.
- 4. If any salary from which a deduction is required to be made under this article is not drawn, there shall be set aside, out of moneys available for the payment, a sum equal to the relevant deduction; and any sum so set aside shall be paid into the Fund.

#### **Earnings cap**

- D2. Where the annual salary of a participating member as:

- (a) a member of the Assembly; or
- (b) both a member of the Assembly and an office holder

exceeds the permitted maximum, the contributions deducted from that annual salary shall be limited to the applicable contribution rate percentage payable by the individual under article D1 of that permitted maximum and where sub-paragraph (b) applies his contributions under article D1 in respect of his office holder's salary shall be reduced before his contributions under that article in respect of his salary as a member.

#### **Contributions from Consolidated Fund**

- D3.
- 1. In respect of each financial year a Consolidated Fund contribution shall be paid into the Fund out of money appropriated by Act of the Assembly for that purpose.
  - 2. The amount of the Consolidated Fund contribution to be paid in respect of any financial year shall be calculated in accordance with the recommendations for that year contained in a report under article S2 by the Actuary appointed under article S1.

## **Part E**

### **Reckonable Service**

#### **Reckonable service**

- E1.
- 1. Subject to articles N1 (refunds) and P4 (effect of transfers out) in relation to any person any period during which he was a member of the Assembly and has made contributions to the

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Fund is a period of reckonable service as a participating member; and in this Scheme “actual period of reckonable service as a participating member”, in relation to a person, means the period referred to in this paragraph or (if more than one) the aggregate of such periods where the member has chosen to aggregate.

2. Subject to articles N1 (refunds) and P4 (effect of transfers out), any period during which a person is a participating office holder is a period of reckonable service as a participating office holder; and in this Scheme “aggregate period of reckonable service as a participating office holder”, in respect of a person, means his period (or, if more than one, the aggregate of his periods) of reckonable service as a participating office holder.
3. In respect of a person, his aggregate period of reckonable service as a participating member is his actual period of reckonable service as a participating member together with any increases in reckonable service attributable to sums received by way of transfer value or to the purchase of added years.
  - (i) Aggregate period of reckonable service at the higher accrual rate (whether as a participating member or as a participating office holder) refers to the period of reckonable service as such a participant after 31 March 2009 in respect of which pension benefits for the member were accruing at the higher accrual rate of 1/40th of relevant final salary;
  - (ii) Aggregate period of reckonable service at the lower accrual rate refers to reckonable service prior to 1 April 2009, and to any reckonable service after that date where the participant had opted for pension benefits to accrue at the lower accrual rate of 1/50th of relevant final salary (whether as a participating member or as a participating office holder).
4. For the purposes of this Scheme, a period of reckonable service is measured in years and fractions of a year.

## Part F

### Pension Entitlement

#### **Entitlement of pensioner members**

- F1. Subject to the provisions of this Scheme, a person who ceases to be a participating member and who has reckonable service as a participating member under Part E shall be entitled to receive a pension under this article as from the time when the following conditions are fulfilled in respect of him:
- (a) he is not a member of the Assembly; and
  - (b) he has attained the age of 65; or
  - (c) he is within 3 calendar months of his 75th birthday.

#### **Entitlement of pensioner office holders**

- F2.
1. Subject to the provisions of this Scheme, a person who:
    - (a) ceases to be a participating office holder; and
    - (b) has reckonable service as a participating office holder under Part E,

shall be entitled to receive a pension under this article as from the time when the conditions specified in paragraphs (a) and (b) of article F1 are fulfilled in respect of him.

2. A person may be entitled to a pension under both articles F1 and this article; and the amounts of the two pensions shall be cumulative.

#### **Amount payable to pensioner members**

F3.

1. Subject to articles F5 (permitted maximum pensions), G1 (commutation), H1 (early retirement) and J1 (ill health pensions), the annual amount of the pension payable to a person under article F1 shall be:
  - (a) 1/50th of the relevant final salary x his aggregate period of reckonable service at the lower accrual rate, plus
  - (b) 1/40th of the relevant final salary x his aggregate period of reckonable service at the higher accrual rate.
2. In paragraph 1 "the relevant final salary" means:
  - (a) in relation to a person whose actual period of reckonable service as a participating member was 12 months or more, the amount of a member's ordinary salary for the last 12 months (whether continuous or not) comprised in that actual period of reckonable service; and
  - (b) in relation to a person whose actual period of reckonable service as a participating member was less than 12 months, the amount of a member's ordinary salary for the period (whether continuous or not) which constituted that actual period of reckonable service multiplied by 365 and divided by the number of days in that period,and in either case excludes any amount in excess of the permitted maximum.
3. Subject to paragraphs 5 and 7 below and to article C7, in paragraph 1 "aggregate period of reckonable service" refers to the person's aggregate period of reckonable service as a participating member.
4. Paragraph 5 applies to a pensioner who, for all or part of his actual period of reckonable service as a participating member would have qualified as a dual mandate member and received a member's reduced salary for the period prior to 5 July 2010; and who for the period on and from 5 July 2010, ceases to be a participating member and is therefore dealt with as a dual mandate member. For the avoidance of doubt, paragraph 5 also applies to the benefits of any individuals who have otherwise qualified as dual mandate members during the period prior to 5 July 2010 but who had ceased to be such by 5 July 2010.
5. For the purpose of calculating under this article the annual amount of a pension payable to a pensioner to whom this paragraph applies:
  - (a) for the period prior to 5 July 2010, so much of his actual period of reckonable service as a participating member during any period when he was also in receipt of salary as a member of either House of Parliament or of the European Parliament for which he received a reduced member's salary (as stipulated by the then provisions of the Northern Ireland Act 1998) shall be reduced by two thirds; and
  - (b) for the period on or from 5 July 2010, any part of his actual period of reckonable service for which he would have received a member's ordinary salary but for his status as a dual mandate member, shall result in a nil salary award. Accordingly, no participating member pension benefits shall accrue in the Scheme for a dual mandate member.

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6. Paragraph 7 applies to a pensioner who, for all or part of his actual period of reckonable service as a participating member received a Councillor's reduced salary for the period beginning on and after 1 July 2012.
7. For the purpose of calculating under this article the annual amount of a pension payable to a pensioner to whom this paragraph applies:
- (a) for the period from 1 July 2012 to 31 March 2013 (inclusive), so much of his actual period of reckonable service as a participating member during which he was also in receipt of a Councillor's basic allowance shall be reduced by:-
- 50% of the Councillor's basic allowance
- 100% of a member's ordinary salary; and
- (b) for the period on or after 1 April 2013, so much of his actual period of reckonable service as a participating member during which he was also in receipt of a Councillor's basic allowance shall be reduced by:-
- 100% of the Councillor's basic allowance
- 100% of a member's ordinary salary.

**Amount payable to pensioner office holders**

F4.

1. Subject to articles F5 (permitted maximum pensions), G1 (commutation), H1 (early retirement) and J1 (ill health pensions), the annual amount of the pension payable to a person under article F2 shall be calculated in accordance with this article.
2. For each year of which the whole or any part was comprised in the person's aggregate period of reckonable service as a participating office holder the following amounts shall be calculated:
- (a) an amount equal to the sums deducted under article D1.2 in respect of that year from the person's office holder's salary calculated separately for the periods of reckonable service at the lower accrual rate and reckonable service at the higher accrual rate.
- (b) an amount equal to the aggregate amount which fell to be deducted under article D1.1 from a participating member's ordinary salary; and for each such year there shall be calculated the amount ("the contribution factor") which is equal to the amount calculated under sub-paragraph (a) divided by the amount calculated under sub-paragraph (b).
3. For each such year, a contribution credit shall be calculated separately for pensions accruing at the lower accrual rate and pensions accruing at the higher accrual rate. The contribution credit applicable to the lower accrual rate shall be determined by multiplying 1/50th of relevant final salary by the amount of the contribution factor for that year, and the contribution credit for the higher accrual rate shall be obtained by multiplying 1/40th of the relevant final salary by the amount of the contribution factor for that year.
4. The annual amount of the pension shall be an amount equal to the sum of the contribution credits for the lower accrual rate and the higher accrual rate, as calculated under paragraph 3 above.
5. In paragraph 3 "the relevant final salary" means:
- (a) in relation to a person whose aggregate period of reckonable service as a participating office holder was 12 months or more, the amount of a member's ordinary salary for

the last 12 months (whether continuous or not) comprised in that period of reckonable service; and

- (b) in relation to a person whose aggregate period of reckonable service as a participating office holder was less than 12 months, the amount of a member's ordinary salary for the period (whether continuous or not) which constituted that period of reckonable service multiplied by 365 and divided by the number of days in that period,

and in either case excludes any amount in excess of the permitted maximum.

#### **Permitted maximum pensions**

F5.

1. The annual amount of the pension payable under article F1 or F2 shall not exceed whichever is the least of:
  - (a) the amount equal to two-thirds of the multiple; or
  - (b) the amount equal to two-thirds of the permitted maximum.
2. In the case of a person who is entitled to a pension under both articles F1 and F2, the amount of the two pensions together shall not exceed two-thirds of the permitted maximum and, if they do, the pension payable under article F2 shall be reduced before the pension payable under article F1.

#### **Duration of pensions**

F6.

1. Subject to the following provisions of this article and article J4, a pension under article F1 or F2 (including an early retirement pension or an ill-health pension by virtue of Part H or J) shall continue for the life of the person to whom it is payable.
2. Subject to paragraph 3, no such pension shall be payable to a person in respect of any period during which he is a member of the Assembly or a candidate for election to the Assembly.
3. For the purposes of this article a person who ceases to be a member in consequence of the dissolution of the Assembly shall be treated as a candidate for election unless and until he gives notice in writing to the Trustees that he is not seeking re-election.
4. This article shall not apply for the purposes of calculating the amounts mentioned in article M2.3 or 4(b) or the amounts payable under M3.2, M4.2 or M7 (five year guarantee).

#### **Pension Increases**

F7.

1. The Trustees shall increase:
  - (a) any part of a pension in excess of the GMP by the rate and percentage increase prescribed by the Pension Increase Legislation; and
  - (b) that part of the GMP which is attributable to earnings for the tax years from 1988-89 to 1996-97, in accordance with the requirements of section 109 of the Pension Schemes Act.

A pension which has been in payment for less than 1 year may be increased by less than the full increase, but shall always be increased by at least 1/12th of the full increase for each complete month since the pension commenced.

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F8 Deferred Revaluation prior to normal retirement date

1. The pension (in excess of the GMP) for a participating member who leaves reckonable service before normal retirement date shall be increased before payment, by the rate and percentage increase prescribed by the Pension Increase Legislation. Revaluation of the GMP element of the pension shall accord with the requirements of the Pension Schemes Act.

## Part G

### Commutation

#### **Commutation into lump sum**

G1.

1. Any person aged less than 75, who is entitled to receive a pension under Part F (including an ill-health pension payable by virtue of Part J) or who applies to receive a pension under Part H may, before the first installment of the pension is paid, give notice to the Trustees that he desires to commute into a lump sum such part of the pension as is specified in the notice.

2. Where a person has given notice under paragraph 1, the Trustees shall determine:

- (a) what lump sum would be actuarially equivalent to the part of the pension specified in the notice; and
- (b) what reduction of the annual amount of his pension would be appropriate in consideration of the payment of that lump sum,

and, subject to the following provisions of this article, a lump sum of the amount so determined shall be paid to that person and the annual amount of his pension shall be reduced accordingly.

3. Any lump sum or reduction to be determined under paragraph 2 shall be a sum or reduction either certified by the Actuary appointed under article S1, or calculated in accordance with tables to be prepared from time to time by that Actuary, as fulfilling the conditions specified in paragraph 2(a) or (b), as the case may be.

4. If, in the case of a person who has given notice under paragraph 1, the amount of the lump sum determined in accordance with paragraphs 2 and 3 would exceed the maximum commutable sum:

- (a) the amount of the lump sum so determined shall be diminished by such proportion as is necessary to make it equal to the maximum commutable sum; and
- (b) the reduction of the annual amount of his pension under this article shall be diminished by the like proportion.

5. For the purpose of paragraph 4, the maximum commutable sum shall be either:-

- (a) for a person whose pension commences before 7 March 2007, an amount calculated in accordance with the relevant provisions as applied under the then Rules of the Scheme, subject to an overall maximum of one and a half times the permitted maximum; or
- (b) for a person whose pension commences on or after 7 March 2007, an amount determined by the Trustees, but not exceeding the maximum allowed as the “pension commencement lump sum” defined in Schedule 29 to the Finance Act 2004 (or amendment thereof).



### **Trivial commutation**

- G2. Where the benefit entitlement under this Scheme for a member (or in respect of any member) falls within the limits permitted by HM Revenue and Customs for commuting pension benefits on the grounds of triviality, in accordance with the Finance Act 2004 (or amendment thereof) or in the case of de minimus benefits in accordance with The Registered Pension Schemes (Authorised Payments) Regulations 2009, the Trustees may, at their discretion, pay the value of the benefit entitlement of the member (or in respect of the member) as a single lump sum payment. The lump sum applicable is to be paid to the member or, in the event of his death, to a beneficiary of the member or to the member's estate or personal representatives. The amount of the lump sum payable shall be determined by the Trustees, having taken actuarial advice on the equivalence of the lump sum benefit to the benefits otherwise payable under the Scheme. The Trustees may deduct income tax from the lump sum payable, if required to do so by HM Revenue and Customs. Payment of the lump sum benefit under this article will extinguish all rights of the member and his or her beneficiaries to any other benefits under this Scheme.

## **Part H**

### **Early Retirement and Early Abated Pensions**

#### **Early retirement for members**

H1.

1. (a) Any person who was first appointed to the Assembly prior to 1 April 2009 and has ceased to be a member of the Assembly may apply in writing to the Trustees for an immediate pension to commence under this article prior to the attainment of age 65, provided that the person has attained the age of 50, and has an actual period of reckonable service as a participating member which, excluding service on or after 1 April 2012, amounts to not less than 15 years (here-in-after referred to in respect of a person as his "qualifying period"). Where the individual has less service than the qualifying period as at 1 April 2012, his or her pension benefits if paid early will be dealt with under article H.1.1(b).  
  
For the avoidance of doubt, a person who meets the (15 years plus) qualifying period criteria under article H.1.1(a) in respect of service completed prior to 1 April 2012, shall have that part of his or her pension entitlement attributable to service completed prior to 1 April 2012 calculated in accordance with article H.1.4 and abated under Schedule 2 and any pension that is payable in respect of that individual's post 31 March 2012 service, shall be dealt with under article H.1.1(b) below.
- (b) Any person who has ceased to be a member of the Assembly and has attained the age of 55, and who is not eligible for early retirement under article H.1.1(a) above or chooses not to apply under that provision, may apply in writing to the Trustees for an immediate pension to commence under this article prior to the attainment of age 65, provided that the person applies on or after 7 March 2007 and has attained the age of 55. Any pension benefits brought into payment prior to age 65 by virtue of this article H.1.1(b) shall be reduced for early payment in accordance with article H.1.5.
2. If the Trustees are satisfied that the person does not intend to stand for re-election to the Assembly at any future date, that person shall be entitled to receive a pension under article F1 as if he had attained the age of 65 on the date of his application or such other date as may be specified. The annual amount of the pension to which he is entitled, both before and after he attains the age of 65, shall be the amount calculated in accordance with article F3, but abated in accordance with the provisions of H1.4 or H1.5 below, as applicable. The person shall be entitled to opt for commutation as part of his pension under Part G.



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3. For the purpose of article H1(a), any service of a person as a member of the European Parliament or as a member of the House of Commons may count towards his qualifying period to the extent that it is not concurrent with service as a member of the Assembly.
  4. Where a person applies for an early retirement pension under the provisions of H1.1(a) above, the annual amount of the pension determined under article F3 shall be abated in accordance with the provisions of Schedule 2. For the avoidance of doubt and with effect from 1 April 2012, the abatement provisions set out in Schedule 2 shall apply in calculating the pension entitlement of persons described under article H.1.1(a) who as at 1 April 2012 had met the relevant 'qualifying period' criteria, by reference only to that part of their pension which is attributable to pre 1 April 2012 service.
  5. Where a person applies for an early retirement pension under the provisions of H1.1(b) above, the annual amount of the pension under article F3 shall be reduced by a factor determined by the Trustees, having taken actuarial advice from the Actuary appointed under article S1, to reflect the longer period for which the pension is expected to be paid.

#### **Early retirement for office holders**

- H2. A person who is entitled to receive a pension under article H1 who is or has been a participating office holder shall (subject to Part G (commutation)) be entitled also to receive a pension under article F2, payable from the same date as the pension payable under H1. The annual amount of the pension under this article shall be calculated in accordance with article F4 and then abated in accordance with Schedule 2 for persons subject to H1.1(a) above, or reduced in accordance with article H1.5 above for persons applying under article H1.1(b).

## **Part J**

### **III-Health Pensions**

#### **III-health pensions based on service as a participant**

- J1.
    1. A participant who because of ill-health ceases to be a participating member before attaining the age of 65 may apply to the Trustees for an early pension under article F1 if at the time when he so ceases ("the material time") he would have become entitled to receive a pension under that article but for his not having attained the age of 65.
    2. A participant who because of ill-health ceases to be a participating member before attaining the age of 65 may apply to the Trustees for an early pension under article F2 if at the time when he so ceases ("the material time") he would have become entitled to receive a pension under that article but for his not having attained the age of 65.
    3. If on an application under paragraph 1 or 2 the Trustees are satisfied:
      - (a) that the applicant does not intend to seek re-election to the Assembly;
      - (b) that his ceasing to be a participating member was a direct consequence of his ill-health;
      - (c) that his ill-health is such as would prevent him from performing adequately the duties of a member of the Assembly; andthat he will continue to be incapable of carrying out the occupation, the applicant shall be entitled to receive a pension under article F1 or F2, as the case may be, as from the material time.
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4. A person who, if he were to cease to be a participating member at a particular time in the future because of ill-health, would become entitled to make an application under paragraph 1 or 2, may make such an application before that time, specifying in it the time when he proposes so to cease, and where on such an application the Trustees are satisfied that, if the applicant so ceases at the time specified therein, he will be entitled under paragraph 3 to receive a pension under article F1 or F2, as appropriate, as from that time, the Trustees shall give him notice in writing to that effect.
5. The annual amount of a pension payable under article F1 to a person by virtue of this article shall (subject to Part G (commutation)) be calculated in accordance with article F3; but for the purposes of that calculation his actual period of reckonable service as a participating member shall be increased by a period equal to the period between his ceasing to be a participating member and the time when he would attain the age of 65.
6. The annual amount of a pension payable under article F2 to a person by virtue of this article shall (subject to Part G (commutation)) be calculated in accordance with article F4.
7. For the purposes of this article a person who has ceased to be a participating member in consequence of the dissolution of the Assembly shall be treated as having so ceased because of ill-health if, but only if, he satisfies the Trustees that as a direct consequence of his ill-health he did not seek re-election to the Assembly after the dissolution.
8. For the avoidance of doubt, and with effect from 5 July 2010, the annual amount of an ill-health pension payable under article F1 to an individual who is serving as a dual mandate member at the time he retires by virtue of this article J1, shall be calculated in accordance with article F3, and at the time when he so retires it shall be assumed that he had attained age 65, but only for the purposes of enabling him to receive his accrued pension benefits immediately without reduction for early retirement. For the purposes of calculating the member's deferred benefits, the salary linkage and revaluation basis outlined in the definition of "dual mandate member" shall be applied.

### **Ill-health pensions for former members or office holders**

J2.

1. A person who because of ill-health has, while neither a member of the Assembly nor a candidate for election to it, retired from gainful work before attaining the age of 65 may apply to the Trustees for an early pension under article F1 or F2, if at the time when he so retired he would have become entitled to receive a pension under article F1 or F2, as the case may be, but for his not having attained the age of 65.
2. If on an application under this article the Trustees are satisfied:
  - (a) that the applicant does not intend to seek election to the Assembly;
  - (b) that his retirement from gainful work was a direct consequence of his ill-health; and
  - (c) that his ill-health is such as would prevent him from performing adequately the duties of a member of the Assembly, the applicant shall, as from the date on which the Trustees are so satisfied, be entitled to receive a pension under the relevant article.
3. Where an application is made under this article, the Trustees shall by notice in writing inform the applicant whether they are so satisfied as mentioned in paragraph 2 and, if they are so satisfied, shall state the date as from which the pension payable to him by virtue of this article is payable in accordance with that paragraph.
4. In this article "gainful work" means work under a contract of employment, or as the holder of an office, or as a self-employed person engaged in a business or profession, being in any case work from which the person concerned gains the whole or a substantial part of his income.

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### **Medical evidence**

J3.

1. Every application under this Part must be accompanied by evidence from a medical practitioner of the applicant's state of health.
2. In the case of any such application the Trustees may require the applicant to undergo a medical examination by a medical practitioner nominated by them for the purpose; and the fees for any such examination shall be borne by the Trustees or the applicant, as the Trustees may determine.
3. When considering an application under this Part as to whether the individual is incapable of carrying on his duties, the Trustees may take account of the views of any registered medical practitioner nominated by them as to the potential impact of any medical treatment that the individual could undergo.

### **Trustees' power to review ill-health pensions**

J4.

1. The Trustees may at any time review the award of an ill-health pension made under this Part if:
    - (a) the recipient of the pension is under the age of 65; and
    - (b) the Trustees have reason to believe that the recipient of the pension has recovered to such an extent that, were a fresh application for an ill-health pension to be made at that time, the ill-health pension would not be granted.
  2. As part of any review under this article the Trustees may require the recipient of a pension to undergo a medical examination by a medical practitioner nominated by them for the purpose; the cost of any such examination shall be borne by the Trustees.
  3. If on a review under this article the Trustees conclude that a person receiving an ill-health pension has recovered to such an extent that, were a fresh application for an ill-health pension to be made at the date of the review, the ill-health pension would not be granted, the pension shall cease to be payable as from such date as the Trustees may by notice in writing to the recipient specify (not being less than one month from the date on which the notice is given).
  4. When conducting a review as to whether the individual remains incapable of carrying on his duties, the Trustees may take account of the views of any registered medical practitioner nominated by them as to the potential impact of any medical treatment that the individual could undergo.
  5. Where the Trustees have terminated an ill-health pension under this article J4, the Trustees shall (subject to compliance with the preservation requirements of the Pension Schemes Act) determine the level of pension that shall be payable to the individual from the date when he or she fulfils the retirement conditions in article F1. The Trustees may reduce the amount of pension payable under article F2, in such manner as the Actuary recommends, to take into account any lump sum received by the individual under Part G at the time he or she originally retired on ill-health under this Part J.
  6. The Trustees may determine that an individual who refuses to be examined in accordance with article J2, or who otherwise unreasonably fails to co-operate with a review, is no longer to be entitled to an ill-health pension from the Scheme under this Part J.
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## Part K

### Surviving Spouses and Children

#### **Pensions for surviving spouses**

K1.

1. Subject to the following provisions of this article, the surviving spouse of a person who was at the time of his death a participant, a pensioner or a deferred pensioner shall be entitled to receive a pension under this article.
2. The annual amount of a pension payable under this article shall be five-eighths of the basic or prospective pension or pensions of the deceased.
3. Subject to paragraphs 4 and 5, a pension payable under this article shall continue for the surviving spouse's life or until his or her remarriage; but in the case of remarriage the Trustees may, if they think fit, at any time direct that the pension shall be restored if satisfied that the subsequent marriage has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding the subsistence of that marriage.
4. Subject to paragraph 5, no pension shall be payable under this article to a surviving spouse who, at the deceased's death, was cohabiting with another person and if a surviving spouse entitled to such a pension cohabits with another person, the pension shall cease to be payable; but the Trustees may, if they think fit, direct that the pension shall be paid or restored, as the case may be, if satisfied that the cohabitation has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding that the cohabitation continues.
5. For any period as specified in section 13(5) of the Pension Schemes Act (period for which Category B retirement pension etc is or would be payable) the surviving spouse of a person shall, notwithstanding paragraphs 3 and 4, be entitled to a pension under this article.
6. Where a person dies in circumstances in which, apart from this paragraph, a surviving spouse's pension calculated in accordance with paragraph 2 would be payable to someone married to him within the period of six months ending with his death and it appears to the Trustees that his death within six months was to be foreseen by him at the date of the marriage, then if:
  - (a) there are no children of that marriage; and
  - (b) the couple were married after the termination of the person's service as a member of the Assembly,

the Trustees may direct that all or any part of the surviving spouse's pension, as they think fit, shall not be payable.

#### **Pensions for children**

K2.

1. Subject to the provisions of this article, if a participant, pensioner or deferred pensioner dies leaving one or more eligible children, a children's pension shall be payable for their benefit.
2. The annual amount of a children's pension shall be:
  - (a) a sum equal to one quarter of the basic or prospective pension or pensions of the deceased if there is one eligible child or, if there is more than one, a sum equal to three-eighths of the basic or prospective pension or pensions of the deceased; or

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- (b) where the deceased left no surviving spouse or left a surviving spouse who has since died, a sum equal to five-sixteenths of the basic or prospective pension or pensions of the deceased for each eligible child not exceeding two.
3. A children's pension shall be paid to or distributed between such person or persons as the Trustees may from time to time direct, and shall be applied by that person or those persons, without distinction, for the benefit of the eligible child or children of the deceased or such of them as the Trustees may from time to time direct.
4. For the purposes of this article, the eligible child of a deceased person is:
- (a) a child of the deceased's marriage;
- (b) his adopted child; or
- (c) a child who was wholly or mainly dependent on the deceased at the time of his death.
5. For the purposes of this article, a person counts as a child only if:
- (a) he is aged under 17;
- (b) he is aged under 22 and since he became 17 he has been engaged continuously in full-time education or in training for a trade, profession or vocation; or
- (c) has reached the age in sub-paragraph (a) or (b) and, in the opinion of the scheme administrator, was at the date of the member's death dependent on the member because of physical or mental impairment.
6. If the Trustees wish, they may treat education or training as continuous despite a break.

#### **Death in service of participating member or a dual mandate member**

- K3.
1. Where a participating member has died, paragraph 2 and article K4 (so far as applicable) shall apply if his surviving spouse is entitled to receive a pension under article K1 or if a children's pension is payable under article K2 for the benefit of any eligible child or children of his.
2. If the deceased died before attaining the age of 65, the annual amount of any pension payable to his surviving spouse under article K1, or for the benefit of any eligible child or children of his under article K2, shall be calculated as if he had immediately before his death ceased because of ill-health to be a member of the Assembly and had by virtue of article J1 been entitled to receive a pension under article F1 as from the time when he so ceased.
3. For the avoidance of doubt, a serving member of the Assembly who dies whilst a dual mandate member on or after 5 July 2010 before attaining age 65, shall have that pension payable to his surviving spouse under article K1, or payable for the benefit of his eligible child or children under article K2, calculated without the benefit of the service enhancement applied under article K3.2 above. Such a member's deferred benefits shall be calculated by applying the revaluation basis outlined in the definition of "dual mandate member".

#### **Enhancement of initial surviving spouses' pensions**

- K4.
1. In this article "the three month period", in relation to a person who has died, means the period of three months beginning with the day following the date of his death.
2. Where the surviving spouse of a person who:
- (a) has been a participating member; and

(b) was at the time of his death a pensioner member,

is entitled to receive a pension under article K1, paragraphs 3 and 4 shall apply.

3. If, for any part of the three month period, the aggregate of the following amounts, namely:

- (a) the amount payable to the surviving spouse by way of pension under article K1 apart from this paragraph; and
- (b) any amount which (by direction of the Trustees under article K2.3) is payable to the surviving spouse by way of pension under article K2 for the benefit of any eligible child or children of the deceased,

is less than the amount mentioned in paragraph 4, then for that part of that period the amount payable to the surviving spouse by way of pension under article K1 shall be increased by the difference.

4. The said amount is the amount which, if the deceased had lived, would have been payable to him for the part of the three month period in question by way of pension under one or both of articles F1 and F2.

5. Where a participating member has died, paragraphs 6 and 7 (so far as applicable) shall apply if his surviving spouse is entitled to receive a pension under article K1 or if a children's pension under article K2 is payable for the benefit of any eligible child or children of his.

6. If, for any part of the three month period, the aggregate of the following amounts, namely:

- (a) the amount payable to the deceased's surviving spouse by way of pension under article K1 apart from this paragraph; and
- (b) any amount which (by direction of the Trustees under article K2.3) is payable to the surviving spouse by way of pension under article K2 for the benefit of any eligible child or children of the deceased,

is less than the amount mentioned in paragraph 7, then for that part of that period the amount payable to the surviving spouse by way of pension under article K1 shall be increased by the difference.

7. The said amount is the amount which would have been payable to the deceased for the part of the three month period in question if:

- (a) the deceased had lived and had at the material time become entitled to a pension under article F1; and
- (b) the annual amount of that pension had been a sum equal to his salary as a member at the rate in force at the date of his death.

8. The preceding provisions of this article are without prejudice to paragraphs 3, 4 and 6 of article K1 (duration of surviving spouse's pension and restrictions on payment).

**Meaning of "basic or prospective pension or pensions"**

K5. In this Scheme "basic or prospective pension or pensions" means:

- (a) in relation to a participant who has died, the annual amount of the pension or pensions specified in whichever of the following sub-paragraphs apply to him:
  - (i) where the deceased was or had been a participating member, the annual amount of the pension calculated in respect of him in accordance with article F3 or, if he died while a participating member before attaining the age of 65, the annual amount of the pension calculated in respect of him by virtue of article K3;

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- (ii) where the deceased was or had been a participating office holder, the annual amount of the pension, calculated in accordance with article F4, which he would have been entitled to receive under article F2, if immediately before his death he had fulfilled the conditions specified in paragraphs (a) and (b) of article F1;
  - (b) in relation to a pensioner who has died, the annual amount of the pension or pensions which he received or was entitled to receive calculated in accordance with Part F, including an ill-health pension calculated in accordance with Part J; but where the annual amount of which he was in receipt resulted from one or more reductions or abatements made under article G1 (commutation) or H1 or H2 (early retirement), no such reduction or abatement shall be made in calculating the annual amount of that pension or pensions for the purposes of this article;
  - (c) in relation to a deferred pensioner who has died, the annual amount of the pension or pensions specified in whichever of the following sub-paragraphs apply to him:-
    - (i) where the deceased was a former participating member, the annual amount of the pension, calculated in accordance with article F3, which he would have been entitled to receive under article F1 if he had ceased to be a member of the Assembly immediately before his death and he had then fulfilled the conditions specified in paragraphs (a) and (b) of article F1;
    - (ii) where the deceased was a participating office holder, the annual amount of the pension, calculated in accordance with article F4, which he would have been entitled to receive under article F2 if immediately before his death he had fulfilled the conditions specified in paragraphs (a) and (b) of article F1.

## Part L

### Death Gratuities

#### **Gratuity on death in service**

##### **L1.**

1. Where a participant has died the Trustees may, if they think fit, grant a gratuity under this article in respect of him:
  - (a) But no gratuity may be granted under paragraph 1 if the deceased person has reached 75.
2. A gratuity granted under this article in respect of a participant may be granted:
  - (a) to the person or persons nominated in any nomination made by him for the purposes of this article which was in force at the time of his death or to such other persons as the Trustees in their absolute discretion determine; or
  - (b) if no such nomination was in force at that time or, pursuant to paragraph 4, to the extent that a nomination is treated as not being in force, to such other beneficiaries (including his personal representatives) as the Trustees' in their discretion deem appropriate and which complies with the requirements of the Finance Act 2004 for uncrystallised funds lump sum death benefits.
3. Where a participant nominates more than one person for the purposes of this article, he may also specify the proportion of the gratuity to be granted to each such person.
4. The Trustees shall treat a nomination made for the purposes of this article by any participant as not being in force at the time of the participant's death to the extent that:



- (a) any person nominated was the participant's spouse at the time the nomination was made but has subsequently ceased to be the participant's spouse; or
  - (b) the Trustees are of the opinion that the payment of the gratuity to any person nominated is not reasonably practicable in all the circumstances.
- 5. A nomination for the purposes of this article shall be made, and may be revoked, by a notice in writing given to the Trustees; and such a notice shall be in such form as the Trustees may require.
- 6. The amount of a gratuity granted under this article in respect of a participant shall be the greater of:
  - (a) the amount equal to three times his salary at the time of his death; and
  - (b) the aggregate of the contributions paid by that participant, and not refunded to him, together with interest on each such contribution from the date on which it was paid,but shall be subject to an overall maximum of three times the permitted maximum.
- 7. In paragraph 6 "salary" means:
  - (a) in the case of a participating member who is not a participating office holder, his salary as a member;
  - (b) in the case of a participant who is both a participating member and a participating office-holder, his salary as a member and his office-holder's salary.
- 8. Where at the time of his death on or after 5 July 2010, a serving Assembly member is also a dual mandate member, there shall be no death in service gratuity (including a gratuity based on his office holder's salary) payable in respect of him under this article L1. He shall for these purposes be treated as any other deferred pensioner.

#### **Gratuity on death after retirement**

##### **L2.**

- 1. Where a pensioner dies and no pension in respect of him is payable under article K1 or K2, the Trustees may, if they think fit, but subject to paragraph 2, grant to his personal representatives a gratuity under this article.
- 2. The Trustees shall not grant a gratuity under this article if the amount of any such gratuity would be less than the amount of any lump sum or the aggregate of any lump sums payable by virtue of article M4.2 or M7.
- 3. For the purpose of determining the amount of a gratuity which may be granted in respect of a pensioner under this article, there shall be calculated:
  - (a) the amount of the gratuity which the Trustees could have granted to his personal representatives under article L1 if he had died at a time when he was a participant (but disregarding any office holder's salary to which he was then entitled); and
  - (b) the aggregate amount of the payments made to him by way of pension under Part F, H or J together with any lump sum paid to him under article G1,and the amount of the gratuity shall be the amount (if any) by which the amount calculated under sub-paragraph (a) exceeds the amount calculated under sub-paragraph (b).



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## Part M

### Five Year Guarantee

#### Entitlement

M1.

1. Articles M2 to M6 shall apply in respect of a deceased pensioner member whose actual period of reckonable service is only as a participating member.
2. Article M7 shall apply in respect of a deceased pensioner whose actual period of reckonable service includes service as a participating office holder.

#### Guarantees for surviving spouses

M2.

1. Where a pensioner member dies during the pensioner member's five year period and is survived by his spouse, paragraphs 2 to 5 shall apply.
2. If for any part of the pensioner member's five year period, the aggregate of the following amounts namely:
  - (a) the amount payable to the surviving spouse by way of pension under article K1 apart from this paragraph (including any enhancement payable under article K4); and
  - (b) any amount which (by direction of the Trustees under article K2.3) is payable by way of pension under article K2 for the benefit of any eligible child or children of the deceased pensioner member,

is less than the amount mentioned in paragraph 3, then for that part of that period the difference shall be payable to the surviving spouse.

3. The said amount is the amount which, if the deceased pensioner member had lived, would have been payable to him for the part of the pensioner member's five year period in question by way of pension under article F1 (including an early retirement pension or an ill-health pension payable by virtue of article H1, J1 or J2).
4. If the surviving spouse of the deceased pensioner member dies during the pensioner member's five year period, there shall be paid to her personal representatives a lump sum which shall be calculated by deducting the amount mentioned in sub-paragraph (a) below from the amount mentioned in sub-paragraph (b) below:
  - (a) the total of any pensions which (by direction of the Trustees under article K2.3) would have been payable under article K2 for the benefit of any eligible child or children of the deceased pensioner member if the annual sum payable under article K2.2 (after the death of the surviving spouse of the deceased pensioner member) in respect of each eligible child had continued during the period ending on the pensioner member's children's prospective pension end date for that child;
  - (b) the amount which would have been payable to the deceased pensioner member if the annual amount of the pension to which he was entitled under article F1 (including an early retirement pension or an ill-health pension payable by virtue of article H1, J1 or J2) were to have been paid to him during the remainder of the pensioner member's five year period;

if the pensioner member dies after reaching age 75, the Trustees may grant the pensioner member's personal representatives a pension under this paragraph of an amount totalling in

aggregate not less than the guarantee shortfall, payable for the remainder of the pensioner member's five year period.

5. In this Part:

"the pensioner member's five year period" means the period of five years beginning with the day on which he became entitled to receive a pension or pensions under article F1 (including an early retirement pension or an ill-health pension payable by virtue of regulation H1, J1 or J2).

"the pensioner member's children's prospective pension end date" means, in respect of any eligible child of a deceased pensioner member the earlier of:

- (a) the date before that on which that child reaches the age of 17 or, in the case of a child falling within article K2.5(b), such later date as the Trustees may determine, being no later than the date before that on which the child reaches the age of 22; and
- (b) the end of the pensioner member's five year period.

**Guarantees where children but no spouse survive**

M3.

- 1. Where a pensioner member dies during the pensioner member's five year period and is survived by an eligible child or children, but no spouse, paragraph 2 shall apply.
- 2. There shall be paid to the personal representatives of the deceased pensioner member a lump sum which shall be calculated by deducting the amount mentioned in sub-paragraph (a) below from the amount mentioned in sub-paragraph (b) below:
  - (a) the total of any pensions payable under article K2 (by direction of the Trustees under article K2.3) for the benefit of any eligible child or children of the deceased pensioner member, if the annual sum payable under article K2.2 (after the death of the pensioner member) in respect of each eligible child were to continue during the period ending on the pensioner member's children's prospective pension end date for that child;
  - (b) the amount which would have been payable to the deceased pensioner member if the annual amount of the pension to which he was entitled under article F1 (including an early retirement pension or an ill-health pension payable by virtue of article H1, J1 or J2) were to have been paid to him during the remainder of the pensioner member's five year period after his death.

**Guarantees where no survivors**

M4.

- 1. Where a pensioner member dies within the pensioner member's five year period and is not survived by his spouse nor by any eligible child or children, paragraph 2 shall apply.
- 2. There shall be paid to the personal representatives of the deceased pensioner member a lump sum calculated as if the annual amount of the pension to which he was entitled under article F1 (including an early retirement pension or an ill-health pension payable by virtue of article H1, J1 or J2) were to be paid to him during the remainder of the pensioner member's five year period after his death.
- 3. This article shall not apply if a gratuity is granted under article L2.

**Remarriage or cohabitation of surviving spouse**

M5.

- 1. If during a deceased pensioner member's five year period:

- 
- (a) the surviving spouse of that deceased pensioner member remarries or cohabits with another person; and
  - (b) the Trustees direct that the surviving spouse's pension be paid or restored under article K1.3 or 4,

the Trustees may direct that payments under article M2.2 shall continue until the end of the pensioner member's five year period or until such earlier date as the Trustees thinks fit.

- 2. If during a deceased pensioner member's five year period his surviving spouse remarries or cohabits with another person, the Trustees may direct that there be paid to the personal representatives of the deceased a lump sum calculated in accordance with article M4.2.

#### **Early termination of child's period of full-time education or training**

M6.

- 1. If:
  - (a) a sum has been paid to the personal representatives of the surviving spouse of a deceased pensioner member under article M2.4 or to the personal representatives of a deceased pensioner member under article M3.2; and
  - (b) the period of full-time education or training of any eligible child of the deceased pensioner member has come to end on a date earlier than the pensioner member's children's prospective pension end date for that child used in the calculation of that sum,

the Trustees may pay a further sum to the said personal representatives calculated by deducting the amount mentioned in sub-paragraph (ii) below from the amount mentioned in sub-paragraph (i) below:

  - (i) the total of any pensions which would have been payable for the benefit of that child if the payments had continued until his pensioner member's children's prospective pension end date;
  - (ii) the total of the pensions which have been paid for his benefit.
- 2. In paragraph 1, "the period of full-time education or training" in respect of an eligible child means the period during which he is continuously engaged in full-time education or in training for any trade, profession or vocation.

#### **Deceased pensioner office holders**

M7.

- 1. Articles M2 to M6 shall apply in relation to a deceased pensioner office holder and his surviving spouse and any eligible child or children as they apply in relation to a deceased pensioner member and his surviving spouse and eligible child or children but where those articles apply in relation to a deceased pensioner office holder:
  - (a) any reference to "pensioner member" shall be construed as a reference to "pensioner officer holder";
  - (b) any reference to "the pensioner member's children's prospective pension end date" shall be construed as a reference to "the pensioner officer holder's children's prospective pension end date";
  - (c) any reference to "the pensioner member's five year period" shall be construed as a reference to "the pensioner office holder's five year period"; and

- (d) any reference to article F1 or H1 shall be construed respectively as a reference to article F3 or H2.

2. In this Part:

“the pensioner office holder’s children’s prospective pension end date” means, in respect of any eligible child of a deceased pensioner office holder, the earlier of:

- (a) the date before that on which the child reaches the age of 17 or, in the case of a child falling within article K2.5(b), such later date as the Trustees may determine, being no later than the date before that on which the child reaches the age of 22; and
- (b) the end of the pensioner office holder’s five year period;

“the pensioner office holder’s five year period” means the period of five years beginning with the day on which he became entitled to receive a pension under article F2 (including an early retirement pension or an ill-health pension payable by virtue of article H2, J1 or J2).

## Part N

### Refunds

Part N is to be administered in accordance with the requirements of the Finance Act 2004 by reference to participants who become entitled to short service refund lump sums on or after 6 April 2006. Deduction of tax on these refund lump sums shall be made in accordance with the requirements of the Finance Act 2004.

#### **Refund to contributor**

N1.

1. Subject to paragraphs 3 and 5, contributions paid by a person and not previously refunded to him shall be refunded to him by the Trustees, with interest from the dates on which the contributions were paid respectively, if he requests the Trustees to refund the contributions to him and, on the date of the request, the conditions specified in paragraph 2 are fulfilled in relation to him.
2. The conditions referred to in paragraph 1 are that:
  - (a) the person has ceased to be a participant;
  - (b) his aggregate period of reckonable service as a participating member is less than two years; and
  - (c) he has not become entitled to a pension under this Scheme.
3. If, after the refund of contributions to him under this article, the person becomes entitled to pay and pays contributions under article D1, he may:
  - (a) before the end of the period of three months beginning with the date on which he becomes so entitled; or
  - (b) after the end of that period, if the Trustees so allow, repay to the Trustees the sum so paid to him, with interest from the date on which it was paid to him; but in any tax year the amount of the repayment together with:
    - (i) the contributions made by him under article D1; and
    - (ii) any contributions made by him under article Q1 or R1; and
    - (iii) any other additional voluntary contributions,

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shall not exceed the smaller of 15% of his salary as a member (or, as the case may be, his office holder's salary and his salary as a member) and 15% of the permitted maximum; and any sum to be paid to the Trustees under this paragraph may, if the Trustees so allow, be paid by instalments over such period, not exceeding three years, as the Trustees think fit.

4. Any amount (whether of principal or interest) paid by the participant to the Trustees under paragraph 3, shall be treated for the purposes of this article as if it were a contribution paid by him at the time when he makes that payment.
5. The Trustees shall deduct from the amount of any contributions which may be repaid to a person in accordance with this article the amount certified under section 59(1)(d) of the Pension Schemes Act in respect of that person.
6. For the purpose of calculating a person's actual period of reckonable service as a participating member or office-holder, no account shall be taken of any period in respect of which contributions paid by that person have been:
  - (a) refunded to him under this article; and
  - (b) not subsequently repaid by him to the Trustees.

#### **Refund after death**

- N2. Where a person has died:
- (a) without leaving a spouse or eligible child who is, or may become, entitled in respect of that person to receive a pension under article K1 or K2; and
  - (b) in circumstances where the conditions specified in article N1.2(a) and (c) were fulfilled in relation to him, but where no gratuity under Part L is payable in respect of him,

the Trustees shall refund to his personal representatives the contributions paid by the participant and not previously refunded to him, with interest from the dates on which the contributions were paid respectively.

#### **Deduction of tax from refunds of contributions**

- N3. On making any repayment of contributions (including interest on contributions) under article N1, the Trustees shall be entitled to deduct from the repayment any tax to which they may become chargeable under section 598(2) of the Taxes Act 1988 (charge to tax: repayment of employee's contributions) as amended by the Finance Act 2004.

## **Part P**

### **Transfers**

Part P shall be administered in accordance with the requirements of the Finance Act 2004 with effect from 6 April 2006; such that the Trustees' may only make or accept recognised transfers in accordance with the relevant provisions below where the other scheme is a registered pension scheme or qualifying recognised overseas pension scheme as complies with the requirements of section 169 of the Finance Act 2004.

#### **Transfers to other pension schemes**

- P1.
1. At the request of any person who:
    - (a) has been a participant but has ceased to be a member of the Assembly; and

- (b) has not become entitled to a pension under this Scheme,
- the Trustees may pay into or for the purposes of any one, or more than one, scheme or annuity to which this article applies, a sum or sums representing the transfer value of that person's accrued pension rights in the Fund (referred to in this article as a "transfer payment").
2. This article applies to any scheme or annuity which satisfies the requirements prescribed by regulations made under section 91(2) of the Pension Schemes Act.
3. There shall be deducted from any transfer payment made under paragraph 1 in pursuance of a request from any person:
- (a) the amount of any contributions equivalent premium; or
- (b) an amount sufficient to meet the liability in respect of the person's contracted-out rights.
4. The amount mentioned in paragraph 3(b) may not be deducted where:
- (a) the transfer payment is made to a registered occupational pension scheme which is contracted-out or an appropriate personal pension scheme; and
- (b) that scheme's trustees or managers undertake to accept liability for his contracted-out rights.
5. Where the amount mentioned in paragraph 3(a) is deducted, if the Trustees think fit, that amount may be used in preserving the liability mentioned in paragraph 4(b) in the Fund, otherwise it may be used in paying the contributions equivalent premium.
6. A person may request the Trustees to make a transfer payment in respect of him at any time before a date:
- (a) not more than one year before the date on which he attains the age of 65; or
- (b) not more than six months after the date on which he ceases to be a participant, whichever is the later.
7. In this article "contracted-out rights", in relation to a participant, mean his section 5(2B) rights, as defined in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 [SR 1996 No. 493].

#### **Transfers to other pension schemes after opt-out**

P2.

1. At the request of any person who:
- (a) is an opted-out member; and
- (b) has not become entitled to a pension under this Scheme,
- the Trustees shall pay into or for the purpose of any one or more than one scheme or annuity specified in article P1.2 a sum or sums representing the transfer value of that person's accrued pension rights in the Fund.
2. Where a transfer value has been paid under this article in respect of a person who is an opted-out member and that person subsequently ceases to be a member of the Assembly, a transfer value may be paid under article P1 in respect of any pension rights accrued to or in respect of him which are preserved in this Scheme.
3. Article P1.3 to 5 shall apply for the purposes of this article.

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### **Transfer to overseas pension schemes**

P3.

1. At the request of any person who:

- (a) has been a participant but who has ceased to be a member of the Assembly; and
- (b) has not become entitled to a pension under this Scheme,

the Trustees shall pay into or for the purposes of any one, or more than one, fund or scheme to which this article applies a sum or sums representing the transfer value of that person's accrued pension rights in the Fund.

2. This article applies to any overseas fund or scheme which is approved by the Trustees, provided that the Trustees shall before giving such approval consult and have regard to the views of the HMRC and the Pensions Regulator as to the suitability of the fund or scheme for the purposes of this article.

3. At the request of any person:

- (a) in respect of whom any sum has been paid under this article into or for the purposes of an overseas fund or scheme; and
- (b) who is not at the time the request is made a member of the Assembly,

the Trustees may receive a sum out of, or out of monies held for the purposes of, that fund or scheme, equal to the sum paid under this article together with interest thereon from the date of that payment at such a rate as may be agreed by the Trustees.

4. In this article "overseas fund or scheme" means a fund or scheme which is established outside the United Kingdom and wholly or primarily administered outside the United Kingdom.

### **Effect of transfers out on reckonable service**

P4. Where any sums are paid by the Trustees under article P1, P2 or P3 in respect of any person, then:

- (a) for the purpose of calculating that person's aggregate period of reckonable service as a participating member or his aggregate period of reckonable service as a participating office holder, no account shall be taken of any period before the date of that payment; and
- (b) for the purposes of articles N1 and N2 any contributions paid by him before that date shall be treated as not having been paid.

### **Certification by the Actuary**

P5. For the purposes of articles P1, P2 and P3, any transfer value of the whole or part of a person's accrued pension rights under this Scheme shall be such sum as shall satisfy the requirements prescribed under section 91(2) of the Pension Schemes Act and shall be certified by, or calculated in accordance with tables prepared by, the Actuary appointed under article S1.

### **Transfers from other pension schemes**

P6.

1. At the request of any person who:

- (a) is a participating member; or
- (b) is an opted-out member who applies to rejoin this Scheme under article C5,

the Trustees may receive any sums payable by way of transfer value in respect of him out of, or out of moneys held for the purposes of, any scheme or annuity to which article P1 applies, or under any statutory provision for the time being in force which authorises the transfer of pension rights.

2. Where any sums are received by the Trustees under paragraph 1 at the request of any person:
  - (a) he shall be credited with such period or, as the case may be, such additional period, of reckonable service as a participating member as may be determined by the Trustees; and
  - (b) for the purposes of articles N1 and N2, the sums so received by the Trustees, so far as in their opinion they represent his own contributory payments, shall be treated as if they were contributions paid by him, at the same times as those contributory payments were made, by deduction from his salary under article D1.
3. Any period determined by the Trustees under paragraph 2(a) shall be a period or number of years either certified by the Actuary appointed under article S1 as being appropriate in relation to the sums received by the Trustees at the request of the person in question or a period or number of years calculated, in accordance with tables prepared by that Actuary, as being appropriate in relation to those sums.
4. A request under paragraph 1(a) may be made to the Trustees by a person at any time before a date:
  - (a) not more than one year after he becomes a participating member; or
  - (b) not more than one year after the coming into operation of this determination,whichever is the later.

## Part Q

### Added Years

#### **Purchase of added years by participating members**

- Q1. Schedule 3 shall have effect up until 31 March 2011 only, with respect to the purchase of added years by a participating member, and subject to the provisions of that Schedule, his aggregate period of reckonable service as a participating member shall be treated as increased by the period of added years so purchased. With effect from 1 April 2011, the added years facility currently available to participating members shall be withdrawn and shall cease to apply.

#### **Purchase of added years by dual mandate members**

- Q2. With effect from 5 July 2010, dual mandate members shall not have the facility to purchase added years of reckonable service in the Scheme as presently provided for by Schedule 3.

## Part R

### Additional Voluntary Contributions

#### **Additional voluntary contributions by participants**

- R1. Schedule 4 shall have effect for the purposes of the AVC Scheme.



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**Additional voluntary contributions by dual mandate members**

- R2. With effect from 5 July 2010, dual mandate members shall not have the facility to make contributions (including any contributions from their participating office holder's salary) to the AVC Scheme as presently provided for by Schedule 4.

## Part S

### Actuarial Valuations

**Appointment of an Actuary**

- S1.
1. The Trustees shall appoint a person to be the Actuary to the Scheme and may remove any person so appointed.
  2. A person shall not be appointed under this article unless he is:
    - (a) the Government Actuary;
    - (b) a Fellow of the Institute of Actuaries who holds a current Scheme Actuary certificate issued by the Institute of Actuaries; or
    - (c) a Fellow of the Faculty of Actuaries who holds a current Scheme Actuary certificate issued by the Faculty of Actuaries.

**Actuarial valuations**

- S2.
1. As soon as practicable after the date on which this determination comes into operation, the Actuary shall prepare a report to the Trustees on the general financial position of the Scheme as at that date or such other date, not later than three months after that date, as is agreed with the Trustees.
  2. The Actuary shall prepare a report to the Trustees on the general financial position of the Scheme as at each subsequent reporting date.
  3. In paragraph 2 "reporting date" means a date agreed with the Trustees, not being a date more than three years after the date last agreed or fixed under this Article.
  4. Each report under this article shall:
    - (a) advise on the value of the liabilities of this Scheme compared to its assets; and
    - (b) make a recommendation as to the Consolidated Fund contributions to be paid into the Fund under article D3.
  5. Each report under this article shall be laid before the Assembly within three months of its receipt by the Trustees.

## Part T

### Miscellaneous and Supplemental

**Non-assignability of benefits**

- T1. Any benefit under this Scheme shall not be assignable or chargeable with debts or other liabilities.

### **Payments due to deceased persons**

T2.

1. Where on the death of any person there is due to the deceased or his personal representatives from the Trustees a sum which (if any part of it due by way of interest is disregarded) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967, probate or other proof of the title of the deceased's personal representatives may be dispensed with, and the Trustees may pay the whole or any part of that sum to those personal representatives or to the person, or to or among any one or more of any persons, appearing to the Trustees to be beneficially entitled to the personal or movable estate of the deceased.
2. Any person to whom a payment is made under paragraph 1, and not the Trustees, shall thereafter be liable to account for the amount paid to him under that paragraph.
3. If the Trustees receive notice in writing of any claim against the estate of the deceased at any time before they have made a full payment under paragraph 1, then, except where the sum to be paid appears to them to be **bona vacantia**, the Trustees shall not make any, or (as the case may be) any further, payment under that paragraph to any person other than the personal representatives of the deceased until the claim is satisfied or withdrawn.

### **Payments due to persons suffering from mental disorder**

- T3. Article 30 of the Mental Health (Northern Ireland) Order 1986 [1986 NI4] (which enables the pension of a person who is incapacitated by mental disorder from managing his own affairs to be applied for the benefit of himself or his dependants instead of being paid to him) shall apply in relation to a pension payable under this Scheme as it applies to a pension payable directly out of money appropriated by Act of the Assembly.

## **Part U**

### **Recovery of Tax Charges**

- U1. This article shall apply to permit the Scheme's administrators to deduct from a member's benefits before payment such sums as will meet the tax due and payable by the Scheme administrator (including where liability is on a joint and several basis) in all the circumstances envisaged by the Finance Act 2004; including but not limited, to the lifetime allowance charge and the scheme sanction charge as respectively defined under sections 214 and 239 of the said Act and also to the annual allowance charge where the conditions in sections 237B-237E of the Finance Act 2004 have been met.

## Schedule 1

### Northern Ireland Assembly Members' Pension Fund

#### **Management of Fund**

1. The Trustees may appoint such person as they think fit to acquire assets for and dispose of assets of the Fund on their behalf and in accordance only with such instructions as to investment policy as the Trustees shall from time to time determine and lay down.
2. The Trustees shall review any acquisition or disposal of the assets of the Fund by such person as may be appointed under paragraph 1 and shall do so within six months of the date of any such acquisition or disposal.
3. Upon a review pursuant to paragraph 2, the Trustees may ratify the acquisition or disposal, or may take such other action in respect of it as they think fit.
4. The Trustees may invest the assets of the Fund in any investment whatsoever and wheresoever and may from time to time vary any such investment.

#### **Accounts**

5. The Trustees shall keep proper accounts and shall prepare in respect of each financial year of the Fund statements of account in such form and in such manner as the Comptroller and Auditor General for Northern Ireland may direct.
6. The Comptroller and Auditor General for Northern Ireland shall examine and certify every statement of account prepared under paragraph 5 and shall lay a copy of every such statement, together with his report on it, before the Assembly.

#### **Indemnity for Trustees**

7. Each Trustee shall be indemnified out of the Fund against all liabilities incurred in the performance or purported performance of his functions, except where the Trustee has acted dishonestly, in bad faith or recklessly.
8. There shall not be purchased out of the Fund any indemnity insurance covering any of the liabilities mentioned in paragraph 7 (including those where the exception applies).

## Schedule 2

### Percentage Abatement of Pension Entitlement

1. The pension to which a person is entitled by virtue of article H1 shall be abated, having regard to the person's age and the length of his qualifying period at the date of his application or, if later, such other date as may be there specified, from the date from which that pension is payable by the percentage specified in the table below.
2. With effect from 1 April 2012, the abatement provisions set out in this Schedule 2 shall only apply in calculating the pension entitlement of persons described under article H.1.1(a) who as at 1 April 2012 had met the qualifying period criteria in respect of that part of their pension accrued prior to 1 April 2012. All other pension entitlements under article H1 and H2 shall be calculated in accordance with the requirements of article H.1.5.

Age pension brought into payment	Qualifying period (years)					
	20 or more	19	18	17	16	15 or less
65	0.0	0.0	0.0	0.0	0.0	0.0
64	0.0	0.0	0.0	0.0	0.0	6.0
63	0.0	0.0	0.0	0.0	6.0	11.5
62	0.0	0.0	0.0	6.0	11.5	16.4
61	0.0	0.0	6.0	11.5	16.4	21.0
60	0.0	6.0	11.5	16.4	21.0	25.2
59	6.0	11.5	16.4	21.0	25.2	29.1
58	11.5	16.4	21.0	25.2	29.1	32.7
57	16.4	21.0	25.2	29.1	32.7	36.1
56	21.0	25.2	29.1	32.7	36.1	39.2
55	25.2	29.1	32.7	36.1	39.2	42.1
54	29.1	32.7	36.1	39.2	42.1	44.8
53	32.7	36.1	39.2	42.1	44.8	47.2
52	36.1	39.2	42.1	44.8	47.2	49.4
51	39.2	42.1	44.8	47.2	49.4	51.4
50	42.1	44.8	47.2	49.4	51.4	53.3

Note: Where the member is not retiring on a birthday, the factor shall be determined by linear interpolation between the factors applicable at the member's last and next birthdays

## Schedule 3

### Purchase of Added Years

1. In this Schedule:

“payment for the purchase of added years” means such a payment whether payable periodically or by way of a single lump sum;

“periodical contributions” means the sums payable by a participating member whose application to purchase added years other than by a single payment has been accepted by the Trustees;

“final salary” means a member’s final salary as defined in article F3.2;

“single mandate member” means a participating member who is not in receipt of a salary payable pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House or under section 1 of the European Parliament (Pay and Pensions) Act 1979.

#### **Purchase of added years by periodical contributions**

2. 1 A participating member may apply in writing to the Trustees prior to the 1 April 2011 to purchase added years by periodical contributions payable until he attains the age of 65 and the Trustees shall accept his application if all the following conditions in respect of that application are satisfied:
- (a) the participating member will not at his next birthday after the date of the application have attained the age of 65;
  - (b) the participating member has satisfied the Trustees, in whatever manner the Trustees shall require, that he is in good health;
  - (c) the number of added years which the participating member has applied to purchase does not exceed the maximum permitted by paragraph 8;
  - (d) the participating member has supplied to the Trustees such information and evidence as they may require and has indicated whether his application is made under this sub-paragraph or sub-paragraph 2; and
  - (e) the participating member is, at the date the Trustees receive the application, a single mandate member.
- 2 A participating member may, prior to the 1 April 2011 and within the period of 12 months immediately following the date when he commenced a period of service as a single mandate member, or within such longer period as the Trustees may in special circumstances allow, apply in writing to the Trustees to purchase added years by the payment of periodical contributions for a period of three or four years and the Trustees shall accept his application if, at the date when the Trustees receive the application, the participating member has not reached the age of 65 and if the conditions mentioned in sub-paragraph 1(b), (c) and (d) are satisfied in respect of that application.
- 3 In the case of a person who is a single mandate member on the date on which this determination comes into operation, sub-paragraph 2 shall have effect as if for the words “when he commenced a period of service as a single mandate member” there were substituted “on which this determination comes into operation”.

3. An application by a participating member to purchase added years shall be irrevocable on and from the date when the Trustees accept it.
4. Where an application by a participating member to purchase added years by periodical contributions is accepted by the Trustees:
  - (a) those periodical contributions shall, subject to the provisions of paragraph 5, be payable:
    - (i) in the case of an application under paragraph 2.1, from the date of the participating member's birthday next following the receipt by the Trustees of his application and until the participating member attains the age of 65; and
    - (ii) in the case of an application under paragraph 2.2, for whichever of the periods of three or four years the participating member has chosen for the payment of periodical contributions beginning on such date not later than two months from the date of acceptance of the application as the Trustees shall specify by notice in writing to the participating member;
  - (b) periodical contributions by a participating member for the added years shall be payable by deductions from his salary or, in the case of arrears, in such manner as the Trustees may require; and
  - (c) the periodical contributions payable by a participating member for the added years shall be calculated in accordance with tables prepared from time to time by the Actuary appointed under article S1.

#### **Interrupted service**

5. 1 If a participating member dies or ceases to be a member of the Assembly because of ill-health in circumstances to which article J1 applies and he:
  - (a) has applied to purchase added years by periodical contributions; and
  - (b) has been notified in writing by the Trustees that his application has been accepted,

no further periodical contributions will be payable from the day following the date of his death or from the day following the date he ceases to be a member of the Assembly, as the case may be, and any added years that he has applied to purchase by periodical contributions shall be credited in full as reckonable service as a participating member.
- 2 If a participating member who has applied to purchase added years by periodical contributions and whose application has been accepted by the Trustees ceases to be a member of the Assembly in circumstances to which article J1 does not apply, or if a participating member ceases to be a single mandate member, no such periodical contributions shall be payable by him from the day following the date when he so ceases but his reckonable service as a single mandate member shall in respect of each application be increased by:

$$\frac{A \times B}{C}$$

where:

- A is the number of added years he applied to purchase by periodical contributions;
- B is the period (expressed to the nearest day) during which periodical contributions have been paid;
- C is the total period during which periodical contributions would have been payable in accordance with paragraph 4(a).

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- 3 If a member to whom sub-paragraph 2 has applied subsequently commences a further period of service as a single mandate member before he has attained the age of 65, in circumstances in which the periods together constitute an aggregate period of reckonable service as a single mandate member, then subject to sub-paragraphs 4 and 6, he may give notice to the Trustees in writing within the period of three months beginning with the date upon which he commenced the further period of service that he intends to resume payment of his periodical contributions in respect of the added years for which he was making periodical contributions in his immediately preceding period of service and such periodical contributions shall then be payable from the date when he commenced the further period of service as a participating member and shall continue until he attains the age of 65 at the rate or rates applicable during that immediately preceding period.
- 4 Where a participating member who ceased to pay periodical contributions by reason only of his ceasing to serve as a member of the Assembly or as a single mandate member, but subsequently became a single mandate member again and resumed the purchase of added years by periodical contributions in accordance with sub-paragraph 3 thereafter becomes entitled to a pension under article F1, his reckonable service as a single mandate member shall be increased in accordance with sub-paragraph 2 except that C shall be read as the total period during which he would have paid periodical contributions for those added years if his service as a single mandate member had been continuous.
- 5 If a participating member to whom sub-paragraph 2 has applied subsequently commences a further period of service as a single mandate member before he has attained the age of 65, in circumstances in which the periods together constitute an aggregate period of reckonable service, then subject to sub-paragraphs 4 and 6, he may, if, in consequence of his break in service as a single mandate member, there has been a reduction in the number of added years which he is able to purchase in full, with the agreement of the Trustees and, subject to the provisions of paragraphs 2.1(b) and 8.1, apply to purchase by periodical contributions payable until he attains the age of 65 some or all of the number of added years comprised in that reduction at the rate applicable to the participating member's birthday next following the receipt by the Trustees of his application.
- 6 Sub-paragraphs 3, 4 and 5 shall not apply where the application to purchase added years before the participating member ceased to be a member of the Assembly or a single mandate member was made under paragraph 2.2.

**Purchase of added years by lump sum**

6. 1 Subject to sub-paragraph 2, a participating member may apply in writing to the Trustees to purchase added years by a lump sum payment.
- 2 The Trustees shall accept an application to purchase added years under this paragraph if all the following conditions in respect of that application are satisfied:
- (a) the participating member has not reached the age of 65;
  - (b) the participating member applies to the Trustees prior to 1 April 2011 and within the period of 12 months immediately following the date when he commenced a period of service as a single mandate member or within such longer period as the Trustees may in special circumstances allow;
  - (c) the participating member has not applied to the Trustees under article J1 for an early pension because of ill-health;
  - (d) the number of added years which the member applies to purchase does not exceed the maximum permitted by paragraph 8;
  - (e) the participating member has supplied to the Trustees such information and evidence as it may require; and
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- (f) the participating member is, at the date the Trustees receives the application, a single mandate member.

- 3 In the case of a person who is a single mandate member on the date on which this determination comes into operation, sub-paragraph 2(b) shall have effect as if for the words "when he commenced a period of service as a single mandate member" there were substituted "on which this determination comes into operation".
- 4 A participating member who has applied to purchase added years under paragraph 2.2 and to whom paragraph 5.2 applies may, in respect of any such application if:
- (a) in consequence of his ceasing to be a member of the Assembly or a single mandate member, there has been a reduction in the number of added years which he is able to purchase in full;
  - (b) the conditions of sub-paragraph 2(c), (d) and (e) are satisfied in respect of the application made under this sub-paragraph; and
  - (c) the application under this sub-paragraph is made within three months of his ceasing to be a participating member of the Assembly or a single mandate member,

apply in writing to the Trustees to purchase by a lump sum payment some or all of the number of added years comprised in that reduction at the rate applicable at the member's birthday next following the receipt by the Trustees of the application.

#### **Lump sum payments**

7. 1 Any participating member who has applied to the Trustees to purchase added years by a lump sum payment shall, within the period of six months commencing on the date when his application is accepted by the Trustees, make the lump sum payment which shall be calculated by reference to a member's ordinary salary at the time when his application was received by the Trustees and in accordance with tables to be prepared from time to time by the Actuary appointed under article S1 and the amount of his reckonable service as a single mandate member shall be increased accordingly with effect from the date on which the lump sum payment is received by the Trustees.
- 2 If, after an application to purchase added years by lump sum payment has been made by a participating member and accepted by the Trustees, the payment is not received by the Trustees within the period of six months mentioned in sub-paragraph 1, the application to purchase shall cease to be valid.

#### **Limits on purchase of added years**

8. 1 Subject to sub-paragraph 2, the amount of a participating member's periodical contributions for the purchase of added years, when aggregated with his contributions as a participating member under article D1 and any other additional voluntary contributions, shall not in any tax year exceed 15% of a member's ordinary salary or, if that salary exceeds the permitted maximum, 15% of the permitted maximum, for that period.
- 2 Sub-paragraph 1 shall not apply to the purchase of added years by periodical contributions payable for a period of three years in accordance with paragraph 4(a)(ii), and for the purpose of the calculation referred to in sub-paragraph 1 such periodical contributions shall be disregarded.
- 3 If a participating member applies to the Trustees to purchase added years by periodical contributions, the annual amount of periodical contributions payable by him in accordance with paragraph 4(a)(i), or for a period of four years in accordance with paragraphs 2.2 and 4(a)(ii), shall not be such as to exceed, at any time during the



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period such periodical contributions would be so payable, the amount (if any) by which for the time being:

- (i) the annual amount of his periodical contributions referred to in sub-paragraph 2 (if any), aggregated with the annual amount of his contributions as a participating member under article D1 and any other additional voluntary contributions,

is less than:

- (ii) the limit under sub-paragraph 1.

- 4 Subject to sub-paragraph 1, the maximum added years that a participating member may purchase both by lump sum payment and by periodical contributions shall be calculated so that his pension under one or both of articles F1 and F2, when aggregated with the pension equivalent of any lump sum under article G1 and any pension under the AVC Scheme or any additional voluntary contributions scheme, shall not exceed the maximum pension limit imposed under article F5.

**Further applications to purchase added years**

9. Subject to the provisions of this Schedule, the Trustees may accept more than one application from a participating member to purchase added years by the payment of periodical contributions or lump sum payments.

**General**

10. The provisions of this Schedule are without prejudice to any maximum pension imposed in relation to a participating member by article F5(maximum pensions payable).

## Schedule 4

### Additional Voluntary Contributions

#### Interpretation

1. 1 In this Schedule:

“registered scheme” means a retirement benefits scheme registered under the provisions of the Finance Act 2004 or such other legislation as may be in force from time to time in respect of such registration;

“contributor” means a participant who is admitted to the AVC Scheme in accordance with paragraph 3.1;

“dependant” of a contributor means the contributor's spouse and any eligible child of the contributor;

“free-standing additional voluntary contribution scheme” means an additional voluntary contribution scheme which is an registered pension to which an employer does not contribute;

“index” for the purposes of this Schedule, means the index of retail prices published by the Office for National Statistics of the Chancellor of the Exchequer, or any successor agreed as appropriate by the HMRC, for the calendar month three months prior to that time;

“maximum pension” shall be construed in accordance with article F5;

“pensionable service” means actual service as a participant;

“personal pension scheme” means a registered personal pension scheme under the provisions of the Finance Act 2004 or those previously approved under Chapter IV of Part XIV of the Taxes Act 1988;

“retirement benefits scheme” means a scheme within the meaning of section 611 of the Taxes Act 1988;

“service” means service as a member of the Assembly or as an office holder and includes, where appropriate, any increase in reckonable service attributable to sums received by way of transfer value or to the purchase of added years.

2 In this Schedule:

“final remuneration” means the greater of:

- (a) the highest emoluments of a person as a member of the Assembly or as a member of the Assembly and an office holder which are assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined for any period of 12 months in the 5 years preceding the relevant date, and
- (b) the yearly average of the total emoluments of a person as a member of the Assembly or as member of the Assembly and an office holder 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 the relevant date;

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provided that:

- (i) where final remuneration is computed by reference to any year other than the last complete year ending on the relevant date, the contributor's remuneration (as calculated in (a) above) or total emoluments (for the purposes of (b) 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;
- (ii) an early retirement pension in payment by virtue of Part H of this Scheme may not be included in final remuneration;
- (iii) a contributor in receipt of a much reduced remuneration by reason of incapacity for more than 10 years up to the relevant date may calculate final remuneration under (a) or (b) above with the final remuneration calculated at the cessation of normal pay and increased in accordance with the index;
- (iv) final remuneration shall not exceed the permitted maximum in respect of any period.

For the purposes of providing immediate benefits at the relevant date it is permitted to calculate final remuneration on the appropriate basis above using remuneration assessable to tax under Case I or II of Schedule E and upon which tax liability has not been determined. On determination of this liability final remuneration shall be recalculated. If this results in a lower final remuneration then benefits in payment shall be reduced as necessary.

Where final remuneration is greater it is possible to augment the benefits in payment. Such augmentation, however, must take the form of an annuity.

Where immediate benefits are not being provided or where a transfer payment is to be made in respect of accrued pension benefits 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.

#### **Administration**

- 2.
  - 1 Paragraphs 5 and 6 of Schedule 1 shall have effect for the purposes of the AVC Scheme.
  - 2 The Trustees shall be responsible for the discharge of all duties imposed on the administrator of an AVC Scheme under the Finance Act 2004 (or amendment thereof).
  - 3 Any sums received by the Trustees by virtue of the AVC Scheme shall be paid into a suspense account or accounts used for the purpose of the AVC Scheme.

#### **AVC contributors**

- 3.
  - 1 Subject to sub-paragraphs 2 and 3, any participant may become a contributor to the AVC Scheme by making written application in such form as the Trustees shall require and by having such application accepted.
  - 2 A contributor may not make any contributions to the AVC Scheme after he has ceased to be a participant, but may make a further application under sub-paragraph 1 if he again becomes a participant.
  - 3 The Trustees may, with effect from such date as they may determine, close the AVC Scheme to participants who are not contributors to the AVC Scheme at that date.

#### **Contributions**

- 4.
  - 1 A contributor may make contributions to the AVC Scheme of such amount within limits imposed by the HMRC, at such times and in such manner as may be specified by the

Trustees, with the approval of the institution with which the contributions are to be invested.

- 2 A contributor's contributions to the AVC Scheme in any tax year must not exceed whichever is the smaller of:
  - (a) for contributions made in any period prior to the 1 July 2008, either:
    - (i) such amount determined by the Trustees on a basis acceptable to the HMRC as is likely to provide benefits equal to the limits set out in paragraph 10; or
    - (ii) that percentage of the contributor's total salary which, together with any other contributions made by the contributor to any scheme (including this Scheme) providing benefits in respect of service, will bring the total of contributions to 15% of that salary, or where his annual salary exceeds the permitted maximum, to 15% of that permitted maximum.
  - (b) for contributions made in respect of any period after the 1 July 2008, an amount not exceeding 15% of the contributor's total salary, or where his salary exceeds the permitted maximum in any period, 15% of that permitted maximum for that period.
- 3 In sub-paragraph 2(b), a contributor's total salary means:
  - (a) in respect of a contributor who is a participating member and not a participating office holder, his salary as a member;
  - (b) in respect of a contributor who is both a participating member and a participating office holder, his salary as a member and his office holder's salary.
- 4 A transfer value to the AVC Scheme shall only be accepted by the Trustees if it is from either:
  - (a) a free-standing additional voluntary contributions scheme, which is not an appropriate personal pension scheme which satisfies the requirements prescribed under sections 5(3) and (5), 22 and 27(2) of the Pension Schemes Act; or
  - (b) an additional voluntary scheme which is an registered pension, and, in either case:
    - (i) it is certified by the administrator of that scheme to represent only the realisable value of the contributor's own contributions to that scheme; and
    - (ii) acceptance will not cause the contributor's benefits to exceed the limits set out in paragraph 10.

#### **Investment of contributions**

5.
  - 1 Each contributor's contributions shall be invested in such investments as the Trustees may from time to time determine, save that such contributions may not be used for the purpose of making any loan whatsoever.
  - 2 Without prejudice to the generality of sub-paragraph 1, the Trustees, in accordance with a contributor's instructions, may invest the contributor's contributions:
    - (a) in an insurance policy or policies taken out with an insurance company, being a United Kingdom office or branch of an insurance company which is authorised under section 141 of the Financial Services and Markets Act 2000 to carry on insurance business, subject to Section 19(1) of the Financial Services and Markets Act 2000; or

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- (b) in a deposit account or accounts with a building society authorised by virtue of Part II of the Building Societies Act 1986.
- 3 The Trustees shall, as soon as practicable, invest the contributions, with the institution and in the manner chosen by the contributor, in order to provide benefits which fall within the scope of paragraph 6.
  - 4 The investments made in respect of a contributor with an institution may be realised and reinvested at the request of the contributor with that or any other institution determined by the Trustees, in such amounts, at such times and in such manner as may be specified by the Trustees, with the approval of the institutions concerned.

**Benefits which may be provided**

- 6.
  - 1 Subject to the limits set out in paragraph 10 in respect of any member whose benefits of this AVC Scheme commence before the 1 July 2008, and subject to the requirements of the Finance Act 2004 as amended (or amendment thereof), a contributor shall be entitled to whatever benefits are secured by the contributions paid by him, and by any transfer value accepted under paragraph 4.4.
  - 2 The benefits normally permitted are:
    - (a) a lump sum payable on the death of the contributor;
    - (b) a return of the contributor's contributions in respect of retirement benefits to the extent of the total realisable value of the investments made by the Trustees with the contributions made by the contributor, payable either on the death of the contributor before retirement or in the circumstances referred to in paragraph 9;
    - (c) on the death of the contributor before retirement, a pension payable to the contributor's spouse throughout the remainder of his or her lifetime;
    - (d) on the death of the contributor after retirement, a pension payable to one or more dependants throughout the remainder of their lifetime (save that, in the case of a child not falling within article K2.5(c), the pension shall only be payable until the child reaches the age of 17 or, if later, until the child ceases to be within his period of full-time education or training as defined in article M6.2; and
    - (e) a pension payable to the contributor from the contributor's retirement throughout the remainder of his or her lifetime, under which:
      - (i) payments may be guaranteed to be payable for up to 10 years after retirement in any event; or
      - (ii) payments may be guaranteed to be payable for up to 5 years after retirement with any balance in respect of any period between death and the expiry of the period of 5 years being paid in one lump sum on death.
    - (f) a lump sum payment to the member at the date on which his benefits first begin to be paid in accordance with paragraph 8 of this Schedule, provided that that date is after the 1 July 2008, and subject to the limitation that the lump sum payment must not exceed 25% of the value of the additional voluntary contributions applicable to the member at the time benefit commences to be paid.
  - 3 Pensions may be level in payment, increase at a fixed rate, vary in line with the index or with the value of units in a unit trust, managed fund or insurance company fund or be provided on a with-profits basis.

- 4 In the case of benefits payable at or after a contributor's retirement, the choice of which of the above types of benefit shall be payable shall be made by the contributor at retirement.

#### **Payment of lump sums on death**

7.
  - 1 Any lump sum payable on a contributor's death shall be paid or applied (by way of settlement or otherwise) within 2 years of the contributor's death (or such other period as may be prescribed by the Finance Act 2004) by the Trustees to or for the benefit of any one or more of:
    - (a) any individual nominated by the contributor in writing;
    - (b) the contributor's dependants, children, parents, grandparents and descendants of such persons; and
    - (c) the contributor's personal representatives.
  - 2 The decision as to which individual or individuals should receive part or all of the lump sum and how much each shall receive shall be at the discretion of the Trustees.
  - 3 Any part of the lump sum which has not been so paid or applied within 2 years of the contributor's death (or such other period as may be prescribed by the Finance Act 2004) shall be paid to the contributor's personal representatives.
  - 4 For the purposes of this paragraph, a lump sum includes a refund of contributions.

#### **Purchase of pensions**

8.
  - 1 On or before the date of his retirement, the contributor shall specify in writing to the Trustees the pension or pensions which are to be purchased on his behalf or on behalf of his dependants, and the amount of any lump sum benefit which is to be payable to him at the time of his retirement (not exceeding 25% of the value of his accumulated contributions under this Schedule).
  - 2 The Trustees shall purchase the pension or pensions specified under sub-paragraph 1 from such insurer or friendly society as the Trustees may determine from time to time or as the contributor may in writing specify, being either:
    - (a) a company which is a United Kingdom branch or office of an insurance company to which Part II of the Insurance Companies Act 1982 applies and which is authorised under section 3 or 4 of that Act to carry on ordinary long-term insurance business; or
    - (b) a friendly society authorised to carry on business under Schedule 5 of the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001, and subject to Section 19(1) of the Financial Services and Markets Act 2000.
  - 3 The purchase by the Trustees of any pension under sub-paragraph 2 on behalf of a contributor or his dependants shall have the effect of discharging any liability of the Trustees to pay that pension to or in respect of that contributor.

#### **Leaving the AVC Scheme**

25.
  - 1 A contributor may cease to participate in the AVC Scheme at any time before benefits provided under paragraph 6 are taken by requiring the Trustees (in such manner as may, subject to sections 91 and 92 of the Pension Schemes Act, be specified by the Trustees) to do one or more of the following as appropriate:
    - (a) to transfer the value of the contributor's accrued benefits to an registered pension of a subsequent employer, or to a registered personal pension scheme subject, in each case, to that scheme being willing to accept the transfer

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value and meeting the prescribed requirements referred to in section 91(2) of the Pension Schemes Act (and in each case the Trustees shall certify to the receiving scheme that the whole of the transfer value represents the realisable value of the contributor's contributions and that all of it must be used to secure a non-commutable pension) and after they have made such a transfer the Trustees will be discharged from any obligation to provide any benefits to which the transfer value relates;

- (b) to use the value of the contributor's accrued benefits to purchase one or more insurance policies of the type described in section 91(2)(c) of the Pension Schemes Act;
  - (c) if the contributor's aggregate period of reckonable service as a member, including any service whilst a member of a previous employer's pension scheme from which a transfer value has been paid to this Scheme (including a transfer value to the AVC Scheme), totals less than 2 years, to pay the contributor the value of his accrued benefits after deduction of any tax payable by the Trustees.
- 2 For the purposes of this paragraph, the value of a contributor's accrued benefits shall be the total realisable value of the investments made by the Trustees with the contributions paid by the contributor.

#### **Maximum benefits**

10. 1 The lump sum benefit (exclusive of any refund of the contributor's own contributions and any transfer value received by the AVC Scheme in respect of the contributor plus interest if any) payable under the AVC Scheme on the death of a contributor while in service or (having left service with a deferred pension) before the commencement of the contributor's pension shall not, when aggregated with all other like benefits under this Scheme, registered personal pension schemes and free-standing additional voluntary contribution schemes, exceed whichever is appropriate of:
- (a) 4 times final remuneration at the date of death; or
  - (b) 4 times final remuneration at the date of leaving service,
- and any remuneration in excess of the permitted maximum shall be disregarded.
- 2 A contributor's pension payable under the AVC Scheme, when aggregated with any other pensions and the pension equivalent of any lump sums under the rest of this Scheme and any pension under a free-standing additional voluntary contributions scheme in respect of service, shall not exceed such maximum pension as set out in article F5.
- 3 Any pensions for dependants payable under the AVC Scheme, when aggregated with any pension payable to dependants under Part K or under a free-standing additional voluntary contributions scheme, shall not exceed an amount equal to two-thirds of the maximum pension:
- (a) payable to the contributor at the date of the contributor's death (including any pension increases given under sub-paragraph 4), or
  - (b) being a deferred benefit, payable to the contributor at normal retirement date, or
  - (c) prospectively payable to the contributor who dies in service had the contributor remained in service up to normal retirement date at the rate of pay in force immediately before the contributor's death, or
  - (d) prospectively payable to the contributor who dies in service after normal retirement date before taking any benefit under the rest of this Scheme on the basis that the contributor had retired on the day before he died.
-

- 4 Where a contributor chooses as a benefit an index-linked pension, the maximum amount of the pension ascertained in accordance with sub-paragraph 2 or 3 may be increased by up to 3% for each complete year, or, if greater, in proportion to any increase in the index which has occurred since payment of the pension commenced.

#### **Surplus monies**

11. The Trustees had until such provisions lapsed on 6th April 2006, complied with the requirements of regulation 5 (restriction on discretion to approve - other schemes) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993 [SI 1993/3016] and, where the AVC Scheme is the leading scheme in relation to a contributor, with the requirements of regulation 6 (calculation of surplus funds) of those Regulations so far as they concern main schemes.

#### **Surrender at the request of the Trustees**

12.
  - 1 The Trustees may require an institution with which contributions have been invested under the AVC Scheme to surrender the whole or part of the value of such contributions.
  - 2 If, pursuant to sub-paragraph 1, the Trustees require a surrender of the whole or part of the value of contributions, they shall reinvest such contributions in accordance with paragraph 5.
  - 3 If, on or before the date when the Trustees exercise their right under sub-paragraph 1, a request has been received from a contributor under paragraph 5.4, the Trustees may give effect to such request.

#### **Taxation**

13. Whenever the Trustees as administrators of the AVC Scheme are liable for any tax in respect of any payment made to any person under this Schedule, they may deduct sums equal in total to such tax from any payments made to such person in such manner as they consider proper.

#### **Expenses**

14. The expenses of establishing and administering the AVC Scheme shall be borne by the Fund.







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