

**National Assembly for Wales**  
Members' Pension Scheme

Pension Scheme rules

2011



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# **The National Assembly for Wales Members' Pension Scheme**

## **ARRANGEMENT OF RULES**

### **PART A**

#### *Preliminary*

- A1 Title**
- A2 Interpretation and General Provisions**

### **PART B**

#### *Trustees and administration*

- B1 Establishment of the Fund**
- B2 Appointment of Trustees**
- B3 Investment of the Fund**
- B4 Indemnity for Trustees**

### **PART C**

#### *Membership*

- C1 Membership for Members of the National Assembly for Wales**
- C2 Membership for office holders**
- C3 Right to opt out for Members of the National Assembly for Wales**
- C4 Right to opt out for office holders**
- C5 Right to opt in for Members of the National Assembly for Wales**
- C6 Right to opt in for office holders**

## **PART D**

### *Contributions*

- D1 Contributions by participating Members**
- D2 Contributions by participating office holders**
- D3 Earnings cap**

## **PART E**

### *Reckonable Service*

- E1 Actual Reckonable service**
- E2 Aggregate reckonable service**

## **PART F**

### *Pension Entitlement*

- F1 Entitlement of Pensioner Members**
- F2 Amount payable to Pensioner Members**
- F3 Entitlement of Pensioner office holders**
- F4 Amount payable to Pensioner office holders**
- F5 Permitted maximum pensions**
- F6 Guaranteed Minimum Pensions**
- F7 Duration of pensions**

## **PART G**

### *Commutation*

- G1 Commutation into lump sum**

## **PART H**

### *Early retirement and Early Abated Pensions*

- H1 Early retirement for Members**
- H2 Early retirement for office holders who have been members**

## **PART J**

### *Ill-Health Pensions*

- J1** Ill health pensions based on service as a participating Member
- J2** Ill health pensions based on service as a participating office holder
- J3** Ill health pensions for former Members
- J4** Ill health pensions for former office holders
- J4A** Requirement for Incapacity for occupation
- J5** Medical evidence
- J6** Trustees' power to review ill-health pensions

## **PART K**

### *Widows, Widowers and Children*

- K1** Equal treatment
- K2** Pensions for widows and widowers
- K3** Pensions for children
- K4** Death in service of a participating Member
- K5** Enhancement of initial widows' and widowers' pension
- K6** Meaning of "basic or prospective pension or pensions"
- K7** Pensions for Partners
- K8** Dependants' Pensions
- K9** Dependants' Pensions on death of a member leaving both a surviving widow(er) and a Partner

## **PART L**

### *Death Gratuities*

- L1** Gratuity on death in service
- L2** Gratuity on death after retirement

## **PART M**

### *Five Year Guarantee*

- M1 Entitlement**
- M2 Guarantees for widows and widowers**
- M3 Guarantees where children but no spouse survive**
- M4 Guarantees where no survivors**
- M5 Early termination of child's period of full-time education**
- M6 Deceased pensioner office holders**

## **PART N**

### *Refunds*

- N1 Refund to contributor**
- N2 Refund after death**

## **PART P**

### *Transfers*

- P1 Transfers to other pension schemes**
- P2 Transfers to other pension schemes after opt-out**
- P3 Transfers to overseas pension schemes**
- P4 Effect of transfers out on reckonable service**
- P5 Certification by the Actuary**
- P6 Transfers from other pension schemes**

## **PART Q**

### *Added Years*

- Q1 Purchase of added years by participating Members**

## **PART R**

### *Contributions by the National Assembly for Wales*

- R1 National Assembly for Wales to contribute to the Fund**

## **PART S**

### *Actuarial valuations*

- S1 Appointment of an Actuary**
- S2 Actuarial valuations**
- S3 Content of each actuarial valuation**
- S4 Actuarial valuations to be laid before the National Assembly for Wales**

## **PART T**

### *Miscellaneous and Supplemental*

- T1 Application of pensions**

## **PART V**

### *Finance Act changes and deduction of tax*

- V1 Payment on behalf of participants of lifetime allowance charge**
- V2 Reduction of benefit and transfer values where lifetime allowance charge payable**
- V3 Deduction from payments of other tax due under the Finance Act**

# **ARRANGEMENT OF SCHEDULES**

## **Schedules**

- 1 General provisions as to Trustees etc.**
- 2 Percentage Abatement of Pension Entitlement under Rule H1**
- 3 Persons Qualifying for Children's Pension**
- 4 Purchase of Added Years**
- 5 Pension Sharing on Divorce**

# **PART A**

## **PRELIMINARY**

### **Title**

A1. These Rules may be cited as the National Assembly for Wales Members' Pension Scheme Rules 2011.

### **Interpretation and General Provisions**

These Rules are intended to be administered in accordance with the provisions of the Finance Act 2004 and any regulations made under that Act and to comply with such other statutory requirements as may apply. If there is any inconsistency between the provisions of these Rules and the Finance Act 2004 (or any regulations made thereunder), that Act and or regulations shall apply.

A2. (1) In these Rules

**“the Act”** means the Government of Wales Act 2006;

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

**“actual period of reckonable service as a participating Member”** and **“actual period of reckonable service as a participating office holder”** have the meanings assigned to them by Rule E1;

**“added year”** means a period of reckonable service as a participating Member purchased under Rule Q1 and Schedule 4 including a part of a year expressed in days 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 assigned to them by Rule E2;

**“basic or prospective pension or pensions”** has the meaning assigned to it by Rule K6;

**“civil partner”** means a person registered as a civil partner in accordance with the procedures set out in the Civil Partnership Act 2004, and any statutory amendment, re-enactment or modification thereof;

**“contracted-out scheme”** means an occupational pension scheme which is for the time being specified in a contracting-out certificate issued under section 7 of the Pension Schemes Act 1993;

**“contribution”** (except in the expression “contributions equivalent premium”) means any amount deducted from salary or deemed to have been paid under Rule D1 or Rule D2 and any reference to the payment of a contribution shall be construed accordingly;

**“contributions equivalent premium”** has the same meaning as in section 55(2) and 58(4) of the Pension Schemes Act 1993;

**“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 Scheme, is not, or was not at the time of his or her death, yet entitled to receive a pension from the Scheme;

**“Finance Act”** means the Finance Act 2004 and any statutory amendment, re-enactment or modification thereof;

**“financial year of the Scheme”** means a year starting on 1 April and ending on the following 31 March;

**“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 three hundred and sixty-five; and “fraction of an added year” shall be construed accordingly;

**“Fund”** means the fund established under Rule B1;

**“guaranteed minimum pension”** has the same meaning as in section 8 of the Pension Schemes Act 1993;

**“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 three per cent per annum, the interest shall be calculated with annual rests;

**“a Member’s ordinary salary”** means the amount of salary that is from time to time payable to a member of the National Assembly for Wales under section 16 of the Government of Wales Act 1998 or section 20 of the Act excluding any office holder’s salary that may be payable to the member in his or her capacity as an office holder;

**“the multiple”** means

- (a) in respect of a pension under Rule F1 of a person who is or has been a participating Member, the relevant terminal salary under Rule F2(2), and
- (b) in respect of a pension under Rule F3 of a person who is or has been a participating office holder, the relevant terminal salary under Rule F4(4) multiplied by the average of all the contribution factors under Rule F4(2) calculated in relation to them for their aggregate period of reckonable service as a participating office holder;

**“the National Assembly for Wales”** means the Assembly first established by section 1 of the Government of Wales Act 1998 and continued under section 1 of the Act;

**“normal retirement date”** means the date on which a participant reaches the age of sixty-five;

**“office holder”** has the meaning assigned to it by Rule C2(3);

**“office holder’s salary”** means the amount of salary that is from time to time payable to an office holder under section 53 of the Act;

**“opted-out Member”** has the meaning assigned to it by Rule C3(4);

**“opted-out office holder”** has the meaning assigned to it by Rule C4(4);

**“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;

**“participant”** means a person making contributions to the Scheme and may be either a participating Member or a participating office holder or both a participating Member and a participating office holder;

**“participating Member”** means a person making contributions to the Scheme deducted from his or her salary as a Member of the National Assembly for Wales (or who is excused from making such contributions because his or her aggregate period of reckonable service exceeds that which would give rise to the maximum pension allowed in respect of them under the Scheme);

**“participating office holder”** means a person making contributions to the Scheme deducted from his or her salary as an office holder;

**“Partner”** shall have the meaning set out in Rule K7(2) and shall where the context allows also include a civil partner;

**“pension”** does not include an allowance or gratuity;

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

**“pensioner Member”** means a person entitled to receive a pension from the Scheme (including an early retirement pension or an ill health pension) in respect of his or her service as a Member of the National Assembly for Wales;

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

**“period of tenure of a qualifying office”** has the meaning assigned to it by Rule C2(2);

**“permitted maximum”** means (with the exception of the reference to Rule G1(5) and where the context indicates otherwise):-

(a) in relation to any tax year before the tax year 2007-2008, the figure specified for that tax year in an order made under section 590C of the Taxes Act 1988; and

(b) in relation to any later tax year commencing with 2007-2008 means such amount as is determined by the Trustees of the Scheme from time to time and passed by a resolution of the majority of the Trustees present at a quorate meeting. When making determinations in this regard, the Trustees shall be deemed to have set a non-increasing fixed cash amount, unless they specify otherwise. The amount selected from time to time by the Trustees shall remain in force until such time as the Trustees’ determine to review and revise the same. The Trustees may at any time subsequently, choose to dis-apply the permitted maximum by reference to members’ future pensionable earnings provided that they have taken into account appropriate actuarial advice;

**“qualifying office”** has the meaning assigned to it by Rule C2(3);

**“registered pension scheme”** shall have the same meaning as in section 150 of the Finance Act;

**“relevant child”** has the meaning assigned to it by Rule K3(4);

**“the Scheme”** means the scheme from time to time in force;

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

**“Scheme Administrator”** shall mean the person or persons who has completed a section 270 declaration under the Finance Act and who is liable to HMRC for any tax liability arising in connection with the Scheme in accordance with the requirements of that Act;

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

(2) In these Rules, unless the contrary intention appears

- (a) a reference to a numbered Rule or Schedule is a reference to the Rule of, or the Schedule to these Rules so numbered; and
- (b) a reference in a Rule or Schedule to a numbered paragraph is a reference to the paragraph of that Rule or Schedule so numbered.

(3) In these Rules

- (a) references to

“candidate for election” includes a person on the list of candidates of a registered political party

“elected” includes a person returned for an Assembly electoral region; and associated expressions (including those relating to re-election) shall be construed accordingly.

- (b) expressions shall, unless the contrary intention appears, have the meaning which they bear in the Act.

(4) For the purposes of establishing any person’s entitlement to be a participating member or participating office-holder in the Scheme and for the purposes of calculating the value of any benefits payable to such a participant any break in the continuity of his or her term of office as a Member of the National Assembly for Wales attributable to section 2(5) of the Government of Wales Act 1998 or to section 14 of the Act shall be disregarded.

## **PART B**

### **TRUSTEES AND ADMINISTRATION**

#### **Establishment of the Fund**

B1. (1) A Fund to be known as the National Assembly for Wales Members’ Pension Fund shall be established for the purposes of this Scheme and shall be vested in and administered by the Trustees from time to time.

(2) All pensions and other sums payable under these Rules 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 these Rules shall be paid into the Fund.

(3) The Trustees shall hold the assets and the money from time to time comprised in the Fund upon trust in accordance with the other provisions of the Scheme.

### **Appointment of Trustees**

B2 The provisions of Schedule 1 to these Rules shall have effect with respect to the number, qualification and proceedings of Trustees of the Scheme, the administration of the Scheme and the management and application of the assets of the Fund. The Trustees shall be responsible for the good management and administration of the Scheme in accordance with these Rules.

### **Investment of the Fund**

B3. (1) The Trustees of the Fund may invest the assets of the Fund in any investment whether tangible or intangible moveable or immovable and whether or not it produces income or is authorised by law for the investment of trust money. The Trustees may vary the investments of the Fund from time to time and may insure any asset owned by the Fund.

(2) The Trustees may participate in a common investment scheme with the Trustees of other retirement benefit schemes providing that the registered tax status of the Scheme is not prejudiced.

(3) The Trustees may take advice from an investment manager or other suitably qualified professional person in relation to the investment of the Fund. The Trustees may also appoint an investment manager or managers and delegate to the manager or managers the day to day investment and management of the Fund. The managers may be remunerated by the Trustees as an expense of the Fund.

(4) The Trustees may appoint one or more agents to act as custodians of the Fund and the Trustees may remunerate the custodians for these services. Any remuneration paid to a custodian shall be an expense of the Fund.

### **Indemnity for Trustees**

B4. (1) The Trustees shall be entitled to all the indemnities conferred on Trustees by law. The Trustees shall not be liable for any acts or omissions not due to their own wilful neglect or default. The National Assembly for Wales shall keep the Trustees indemnified against the consequences of the exercise of all the Trustees' powers and discretions providing that the National Assembly for Wales shall have control over the legal defence in respect of any proceedings against the Trustees, including the settlement of such proceedings.

(2) In this Rule the word 'Trustee' shall include every Trustee for the time being of the Scheme and every former Trustee of the Scheme.

## **PART C**

### **MEMBERSHIP**

#### **Membership for Members of the National Assembly for Wales**

C1. Any person who has not reached the age of 75 and is serving as a Member of the National Assembly for Wales shall automatically be a participating Member in the Scheme except any Member of that Assembly who has exercised an option under Rule C3 not to be a participant in the Scheme.

#### **Membership for Office Holders**

C2. (1) An office holder who has not exercised an option under Rule C5 and who (subject to the specific circumstances described in Rule F3(3) below) is a participating Member shall be a participating office holder in the Scheme in respect of any period of tenure of a qualifying office.

(2) In these Rules "period of tenure of a qualifying office" means any continuous period beginning on or after 6 May 1999 for which a person is

- (a) the holder of one and the same qualifying office, or
- (b) the holder successively of two or more qualifying offices in respect of which the same salary is payable.

The stipulation in Rule C2(1) that a participating office holder also be a participating Member shall be disregarded in respect of an individual who is not an Assembly Member who holds office as Counsel General under section 49 of the Act.

(3) In these Rules "qualifying office" means any of the following offices:

- (a) the Presiding Officer;
- (b) the Deputy Presiding Officer;
- (c) the First Minister (or Assembly First Secretary);
- (d) the Welsh Ministers (or Assembly Secretaries);
- (e) the leader of the largest political group without an executive role (or leader of the largest party not represented in the Assembly Cabinet);
- (f) Chairs of Committees established under Standing Order 12 (or Subject Committees previously established in accordance with section 57 of the Government of Wales Act 1998);
- (g) Chair of the Finance Committee established under Standing Order 14;
- (h) Deputy Welsh Ministers;
- (i) Counsel General;
- (j) leaders of political groups without an executive role (other than the largest of those groups);
- (k) Government Chief Whip;
- (l) Those Chairs of Committees (other than those referred to in (f) and (g) above), who are entitled, under any determination made under Standing Order 1.7, to an additional office-holder's salary by virtue of that office;
- (m) Members of the Assembly Commission (other than the Presiding Officer); and
- (n) Opposition Chief Whip (if that person also holds the office of Business Manager of the political group in question)

and “office holder” means the holder of a qualifying office.

### **Right to opt out for Members of the National Assembly for Wales**

C3. (1) A participating Member may exercise an option in writing under this Rule not to be a participant in the Scheme.

(2) Subject to paragraph (3) below, 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 the Member 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) of an ordinary election under section 3 of the Act or of an extraordinary general election under section 5 of the Act, at which the person was elected for the first time to membership of the National Assembly for Wales; or
- (b) of an election under section 10 of the Act at which the person was elected for the first time to membership of the National Assembly for Wales; or
- (c) on which the person first became a Member of the National Assembly for Wales under section 11 of the Act

the effective opt-out date is the date of the Member’s election as an Assembly Member and any contributions deducted from the Member since that election, under Rule D1 and if he or she is an office holder under Rule D2, shall be repaid to him or her.

(4) A Member of the National Assembly for Wales who has exercised his or her right under paragraph (1) above to opt out of the Scheme is referred to in these Rules 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 Rule not to be a participating office holder in the Scheme.

(2) Subject to paragraph (3) below, 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 the office holder written notice of the exercise of the option.

(3) If the Trustees receive the written notice not more than twelve 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 from an office holder under Rule D2 in respect of that period of tenure shall be repaid to him or her.

(4) An office holder who has exercised an option under paragraph (1) above not to be a participating office holder or who has exercised the option under Rule C3(1) is referred to in these Rules as an opted-out office holder.

## **Right to opt in for Members of the National Assembly for Wales**

C5 An opted-out Member may apply to rejoin the Scheme as a participating Member as from the date of any subsequent ordinary election to the National Assembly for Wales or subsequent other election at which the Member was elected to membership of the National Assembly for Wales (“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) the Member pays to the Trustees within twenty-eight days of their acceptance of the Member’s application, or within such longer period as the Trustees may in their discretion determine, the sum certified by the Trustees as being the amount which would have been deducted from the Member’s salary under Rule D1 between the

effective opt-in date and the first date thereafter when a deduction from his or her salary under Rule D1 is made; and

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

### **Right to opt in for office holders**

C6. An opted-out office holder who is a participating Member may apply to rejoin the 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 twelve months beginning with the effective opt-in date, provided that the office holder pays to the Trustees, within twenty-eight days of their acceptance of the application or within such longer period as the Trustees may in their discretion determine, the sum certified by the Trustees as being the amount which would have been deducted from the office holder’s salary under Rule D2 between the effective opt-in date and the first date thereafter when a deduction from his or her salary under Rule D2 is made.

## **PART D**

### **CONTRIBUTIONS**

#### **Contributions by participating Members**

D1. (1) Subject to paragraph (4) below and to Rule D3, there shall be deducted from each payment in respect of salary made to a participating Member the appropriate percentage of that payment; and all sums so deducted shall be paid into the Fund.

(2) In this Rule, “salary” means a Member's ordinary salary. Where a Member’s ordinary salary is reduced by virtue of an order under section 17 of the Government of Wales Act 1998 or under section 21 (limit of salaries of Members of other public bodies) of the Act, “salary” means the reduced level of salary paid to the Member.

- (3) For the purpose of Rule D1(1) above the appropriate percentage:-
  - (a) in relation to a payment of salary made in respect of a period ending prior to 1st April 2004 is 6 per cent; and
  - (b) in relation to a payment of salary made in respect of a period beginning on or after the 1st April 2004 and prior to 1st April 2005:-
    - (i) is 6 per cent where the participating Member has not exercised the option under Rule D1(3A) (a) to contribute at 10 per cent; or
    - (ii) is 10 per cent where the participating Member has exercised the option under Rule D1(3A) (a) to contribute at the higher rate; and
  - (c) in relation to a payment of salary made in respect of a period beginning on or after 1st April 2005:-
    - (i) is 10 per cent where the participating Member has not exercised the option under Rule D1(3A) (b) to continue at 6 per cent; or
    - (ii) is 6 per cent where the participating Member has exercised the option under Rule D1(3A) (b) to contribute at the lower rate.
- (3A) A participating Member shall exercise the options referred to in Rule D1(3) (b) and (c) by giving notice in writing to the Trustees:-
  - (a) in the case of a person who was a participating Member between 1st April 2004 and 1st April 2005, appropriate notice to be provided no later than 14th March 2005 to exercise the option to contribute at the higher rate with effect from 1st April 2004; and
  - (b) in the case of a person who is a participating Member on or after 1st April 2005, and has not already exercised an

option in terms of part (a), not more than 3 months notice from that date to contribute at the lower rate with effect from 1st April 2005; or in the case of a newly elected participating Member after 1st April 2005, not more than three months notice after the date of first election to contribute at the lower rate with effect from that date.

- (3B) (i) Pursuant to the exercise of the option in Rule D1(3A)(a), a member shall pay to the Trustees the sum representing the additional amount which would have been deducted from his or her salary had contributions been deducted from it at the rate of 10 per cent from the 1st April 2004.
  - (ii) Pursuant to the exercise of the option in Rule D1(3A)(b), the Trustees shall pay to the member such sum representing the additional amount that has been deducted from his or her salary during the period when contributions were deducted at the rate of 10 per cent.
- (4) 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 Rule F5, no deduction shall be made under this Rule from such Member's salary payments.

### **Contributions by participating office holders**

D2. (1) Subject to Rule D3, there shall be deducted from each salary payment made to a participating office holder, the appropriate percentage of that payment; and all sums so deducted shall be paid into the Fund.

(2) In this Rule "salary" means the difference between

- (a) the aggregate of the annual amount payable to the office holder in respect of his or her tenure of that office and of the annual salary which is or was

payable to him or her as a Member holding that office; and

- (b) the Member's ordinary salary as defined in Rule D1(2).

(3) For the purpose of Rule D2(1) above the appropriate percentage:-

- (a) in relation to a payment of salary made in respect of a period ending prior to 1st April 2004 is 6 per cent; and

- (b) in relation to a payment of salary made in respect of a period beginning on or after the 1st April 2004 and prior to 1st April 2005:-

- (i) is 6 per cent where the participating office holder has not exercised the option under Rule D1(3A)(a) to contribute at 10 percent; or

- (ii) is 10 per cent where the participating office holder has exercised the option under Rule D1(3A)(a) to contribute at the higher rate; and

- (c) in relation to a payment of salary made in respect of a period beginning on or after 1st April 2005:-

- (i) is 10 per cent where the participating office holder has not exercised the option under Rule D1(3A)(b) to contribute at 6 per cent; or

- (ii) is 6 per cent where the participating office holder has exercised the option under Rule D1(3A)(b) to contribute at the lower rate.

(3A) A participating Member who is also a participating office holder (or who subsequently becomes a participating office holder) who exercises either of the options in Rule D1(3A), shall be deemed to have exercised that option

(with the same effective date) in relation to his or her office holder's salary.

(3B) (a) Pursuant to the exercise of the option in Rule D1(3A)(a) by a participating Member who is also or subsequently becomes a participating office holder, a participating office holder shall pay to the Trustees the sum representing the additional amount which would have been deducted from his or her office holder's salary had contributions been deducted from it at the rate of 10 per cent from the 1st April 2004.

(b) Pursuant to the exercise of the option in Rule D1(3A)(b) by a participating Member who is also or subsequently becomes a participating office holder, the Trustees shall pay to the participating office holder such sum representing the additional amount that has been deducted from his or her office holder's salary during the period when contributions were deducted at the rate of 10 per cent.

(4) A participating Member who immediately prior to the election was also a participating office holder and who is re-appointed to the same qualifying office or another qualifying office at the same salary shall in respect of the interim period between the date of the election returning him or her to the National Assembly for Wales and the subsequent date of re-appointment into a qualifying office, be required to contribute an amount equal to the aggregate of his/her contribution rate and the Assembly's on-going contribution rate as advised by the Actuary from time to time, calculated on the amount of his/her office holder's salary. This contribution shall be deducted from the participating Member's salary in addition to the contribution payable by him/her under Rule D1 above. With effect from 1st April 2007, this Rule D2(4) shall cease to apply to the Presiding Officer, the First Minister and the Welsh Ministers, as their continuity of service will be maintained during the interim period by virtue of the provisions of section 22(4) of the Act.

(a) Any contributions paid by a participating Member under Rule D2(4) above shall be refunded by the Trustees to him

or her within such reasonable period as the Trustees may determine if the member fails to be re-appointed to the same qualifying office (or another qualifying office at the same salary) following the election.

### **Earnings Cap**

D3. Where in respect of any person's annual salary

- (a) as a Member of the National Assembly for Wales; or
- (b) as an office holder; or
- (c) as both (a) and (b) cumulatively

exceeds the permitted maximum, the contributions deducted from that annual salary shall be limited to the appropriate percentage (as defined in Rules D1 and D2) of that permitted maximum and where sub-paragraph (c) applies, the person's contributions under Rule D2 shall be reduced before his or her contributions under Rule D1.

## **PART E**

### **RECKONABLE SERVICE**

#### **Actual Reckonable Service**

E1. (1) Subject to paragraph (2) below and to Rules N1 (refunds), and P1, P2 and P3 (transfers out) for the purpose of these Rules any period during which any person

- (a) was or is a Member of the National Assembly for Wales; and
- (b) has made contributions to the Scheme,

is a period of reckonable service as a participating Member; and in these Rules "actual period of reckonable service as a participating Member", in relation to a person, means the period, or (if more than one) the aggregate of such periods, falling within this definition.

(2) In respect of a person who has been a participating office holder, and subject to Rules F7(3) (payment to office holder after normal retirement), N1 (refunds), P1, P2 and P3 (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 these Rules “actual period of reckonable service as a participating office holder”, in respect of a person, means his or her period (or, if more than one, the aggregate of those periods) of reckonable service as a participating office holder.

### **Aggregate reckonable service**

E2. (1) In respect of a person, his or her aggregate period of reckonable service as a participating Member is his or her 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.

(2) In respect of a person, his or her aggregate period of reckonable service as a participating office holder is his or her actual period of reckonable service as a participating office holder together with any increase in reckonable service attributable to sums received by way of transfer value.

### **(3) Reduced salary provisions**

(a) With effect from 1 April 2010, for the purposes of determining pension entitlement in accordance with Rules F2 and F4 respectively, any participating Member or participating office holder’s aggregate period of reckonable service (as defined in Rules E2(1) and E2(2)), shall be reduced on a pro rata basis for any period during which the participant chose to receive a lower salary than that to which he or she was entitled during the same period under the rules of the Scheme.

(b) In the circumstances set out in (a) above, the participant’s aggregate period of reckonable service shall be treated as reduced under Rule E2(3)(c), in the same proportion as the lower salary actually received by the participant bears (and from which relevant contributions were deducted under Rules D1 or D2) to the full equivalent Member’s ordinary salary or office holder’s salary (as appropriate) that would otherwise have been payable to the participant for the period in question.

(c) For the purposes of this Rule E2(3), the participating Member’s or participating office holder’s equivalent period of aggregate

reckonable service shall be determined by adjusting his or her aggregate period of reckonable service by applying the service factor adjustment 'C' below:-

$$A/B = C$$

Where A = the actual salary on which contributions were paid by the participant during the relevant period in question;

B = the full Member's ordinary salary or full office holder's salary which the participant was entitled to receive under the Scheme during the relevant period in question; and

C = the 'service factor adjustment' by which the participant's aggregate period of reckonable service is adjusted to reflect the period during which contributions were based on reduced salary.

(4) For the future avoidance of doubt the 'service factor adjustment' 'C' (as defined in the preceding paragraph) shall not be applied to reduce the participant's aggregate period of reckonable service when calculating the following:

- (a) the length of the participant's qualifying period of service for the purposes of ascertaining the abatement percentage to be used under Schedule 2. However, the 'service factor adjustment' 'C' shall be applied for the purposes of calculating the actual level of pension benefit to which the participant is entitled under the early retirement provisions of Rules H1 and H2;
- (b) the enhancement to the ill-health pension payable under Rule J4;
- (c) the enhancement to the death in service pension payable under Rule K4(2);
- (d) the calculation of the qualifying period of service under Rule N1(2)(b) for entitlement to payment of a short service refund lump sum; and
- (e) the length of the participant's qualifying period of service under Rule P1(1)(b) to be able to take a transfer payment from the Scheme. However, the 'service factor adjustment' 'C' shall be applied for the

purposes of calculating the actual level of transfer value payment to be made in respect of that participant.

(5) For the further avoidance of doubt, it is stipulated that 'service factor adjustment' 'C' shall be applied to reduce the participant's period of aggregate reckonable service for the purposes of calculating all other Scheme benefits (other than those mentioned at Rules E2(4)(a-e) above). In particular, the 'service factor adjustment' 'C' shall be taken into account, where added years are purchased under Schedule 4 paragraph 4, by periodical contributions which are payable by deduction from a Member's ordinary salary. Accordingly, the resulting added years' pension shall be based on the participating Member's aggregated period of reckonable service following application of the 'service factor adjustment' 'C'.

## **PART F**

### **PENSION ENTITLEMENT**

#### **Entitlement of pensioner Members**

F1. Subject to the provisions of these Rules, a person who has ceased 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 Rule when he or she fulfils both of the following conditions:

- (a) he or she ceases to be a Member of the National Assembly for Wales, and
- (b) attains the age of sixty-five years.

#### **Amount payable to pensioner Members**

F2. (1) Subject to Rules F5 and F6, G1 (Commutation), H1 (Early retirement) and J1 and J3 (Ill health pensions), the annual amount of the pension payable to a person under Rule F1 shall be a sum equal to the aggregate of the amounts produced, in relation to each year or fraction of a year comprised in the person's aggregate period of reckonable service as participating Member, by multiplying the relevant terminal salary by the appropriate fraction.

(2) In this Rule “the relevant terminal salary”

- (a) in relation to a person who has been a participating Member for a period of twelve months or more, or for two or more periods amounting in the aggregate to more than twelve months, means the amount of a Member's ordinary salary for the last twelve months (whether continuous or discontinuous) during which that person was a participating Member; and
- (b) in relation to a person who has been a participating Member, but whose actual period of service as a participating Member was less than twelve months, means an amount calculated by taking the aggregate amount of a Member's ordinary salary for the period (whether continuous or discontinuous) for which he or she was a participating Member and multiplying it by the appropriate figure;

and in sub-paragraph (b) of this paragraph "the appropriate figure" in relation to a person, means the figure (whether being a whole number or not) by which the number of days comprised in his or her period of service as a Member of the National Assembly for Wales must be multiplied in order to be equal to a year.

(3) In paragraph (1) of this Rule “the appropriate fraction”, in relation to a year or part of a year comprised in a person’s aggregate period of reckonable service as a participating Member whose ordinary salary is not reduced by virtue of an order under section 17 of the Government of Wales Act 1998 or under section 21 (limit of salaries of Members of other public bodies) of the Act, means:-

- (a) in the case of service of a participating Member during a year or part of a year ending prior to the 1st April 2004, one-fiftieth or a proportionate fraction of one-fiftieth;
- (b) in the case of service of a year or part of a year in the period between 1st April 2004 and 31st March 2005 of a participating Member who has not exercised the option

under Rule D1(3A)(a), one-fiftieth or a proportionate fraction of one-fiftieth;

- (c) in the case of service of a year or part of a year in the period between 1st April 2004 and 31st March 2005 of a participating Member who has exercised the option under Rule D1(3A)(a), one-fortieth or a proportionate fraction of one-fortieth;
- (d) in the case of service for a year or part of a year commencing on or after 1st April 2005 of a participating Member who has not exercised the option under Rule D1(3A)(b), one fortieth or a proportionate fraction of one-fortieth; and
- (e) in the case of service for a year or part of a year commencing on or after 1st April 2005 of a participating Member who has exercised the option under Rule D1(3A)(b), one-fiftieth or a proportionate fraction of one fiftieth.

Where a Member's ordinary salary is or has been reduced by virtue of an order under section 17 of the Government of Wales Act 1998 or under section 21 of the Act "the appropriate fraction" for the periods while the member's salary was reduced shall be one-fiftieth for each year prior to 1st April 2004 or one-fiftieth or one-fortieth (as appropriate) for each year on or after 1st April 2004 reduced by the same proportion as the member's salary was reduced relative to a Member's ordinary salary at that time. Fractions of a year shall count in a similar manner.

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

F3. (1) Subject to the provisions of these Rules, a person who has ceased to be a participating office holder and who has reckonable service as a participating office holder under Part E shall be entitled to receive a pension under this Rule when he or she fulfils both of the conditions specified in paragraphs (a) and (b) of Rule F1.

(2) The same person may be entitled to a pension under Rule F1 and to a pension under this Rule; and the amounts of the two pensions shall be cumulative.

(3)(a) This paragraph shall only apply where there has been a dissolution of the National Assembly for Wales on or after 1 March 2011 which results:

(i) in the immediate cessation of payment of a member's ordinary salary to an individual who, immediately prior to dissolution, was a participating Member who had indicated his or her intention not to stand for election, and who will continue to receive an office holder's salary (following dissolution) until a new appointment has been made; or

(ii) in the continued payment of a member's ordinary salary to a participating Member who has indicated his or her intention to stand for re-election, and who will continue to receive an office holder's salary (following dissolution) until a new appointment has been made, but who is subsequently unsuccessful at the election.

(b) In the circumstances at (a)(i) above, the individual will ordinarily, as a consequence of the cessation of payment of his or her salary as a Member of the National Assembly for Wales, cease with effect from the dissolution date, to be a participating Member of the Scheme and therefore, also cease to be a participating office holder in the Scheme. However, by virtue of this paragraph, the Rules that would ordinarily apply as above and in particular, Rule C2(1), shall be modified and shall be construed to incorporate such changes as may be necessary to give effect to the individual's continuing office holder salary (post dissolution) being deemed to be pensionable.

(c) In the circumstances at (a)(ii) above, the individual will ordinarily continue to be a participating Member of the Scheme until the date that the member's ordinary salary ceases as a consequence of not being returned at the election and accordingly, the individual will also ordinarily cease to be a participating office holder with effect from that date. However, by virtue of this paragraph, the Rules that would ordinarily apply as above and in particular, Rule C2(1), shall be modified and shall be construed to incorporate such changes as may

be necessary to give effect to the individual's continuing office holder salary (post election) being deemed to be pensionable.

### **Amount payable to pensioner office holders**

F4. (1) Subject to Rules F5 and F6, to G1 (Commutation) and to H1 (Early Retirement), the provisions of this Rule shall have effect for the purpose of calculating the annual amount of a pension payable to a person under Rule F3.

(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 Rule D2 in respect of that year from the person's salary (within the meaning of that Rule) except for this purpose that part of contributions under Rule D2(4) which represents the Assembly's ongoing contribution shall be disregarded; and
- (b) an amount equal to the aggregate amount which fell to be deducted under Rule D1 from a participating Member's ordinary salary in respect of that year;

and for each such year there shall be calculated the amount (referred to in these Rules, in relation to any such year, as "the contribution factor" for that year) which is equal to the amount calculated under sub-paragraph (a) divided by the amount calculated under subparagraph (b) of this paragraph.

(3) For each such year as is mentioned in paragraph (2) of this Rule a contribution credit shall be calculated by multiplying the appropriate fraction of the relevant terminal salary by the amount of the contribution factor for that year; and, subject to Rule G1 the annual amount of the pension payable to the person under Rule F3 shall be an amount equal to the aggregate of the contribution credits calculated under this paragraph.

(4) Subject to Rule F(4A) in this Rule "the relevant terminal salary"

- (a) if the person's actual period of reckonable service as a participating office holder was twelve months or more, means the amount of a Member's ordinary salary for the last twelve months (whether continuous or discontinuous) comprised in that actual period of reckonable service; and
- (b) if the person's actual period of reckonable service as a participating office holder was less than twelve months, means an amount calculated by taking the amount of a Member's ordinary salary for the period (whether continuous or discontinuous) which constituted that actual period of reckonable service and multiplying it by the appropriate figure;

and in sub-paragraph (b) of this paragraph "the appropriate figure" means the figure (whether being a whole number or not) by which the number of days comprised in the person's actual period of reckonable service as a participating office holder must be multiplied in order to be equal to twelve months.

(4A) Where a participating Member has paid additional contributions under Rule D2(4), the "relevant terminal salary" shall be determined at the end of the period of reckonable service as an office-holder immediately following the interim period in respect of which the additional contributions were due.

(5) In paragraph (3) of this Rule "the appropriate fraction" means :-

- (a) in the case of service of a participating office holder during a year or part of a year ending prior to the 1st April 2004, one-fiftieth or a proportionate fraction of one-fiftieth;
- (b) in the case of service of a year or part of a year in the period between 1st April 2004 and 31st March 2005 of a participating office holder who has not exercised the option under Rule D1(3A)(a), one-fiftieth or a proportionate fraction of one-fiftieth;

- (c) in the case of service of a year or part of a year in the period between 1st April 2004 and 31st March 2005 of a participating office holder who has exercised the option under Rule D1(3A)(a), one-fortieth or a proportionate fraction of one-fortieth;
- (d) in the case of service for a year or part of a year commencing on or after 1st April 2005 of a participating office holder who has not exercised the option under Rule D1(3A)(b), one-fortieth or a proportionate fraction of one-fortieth; and
- (e) in the case of service for a year or part of a year commencing on or after 1st April 2005 of a participating office holder who has exercised the option under Rule D1(3A)(b), one-fiftieth or a proportionate fraction of one-fiftieth.

(6) In paragraphs (2) and (3) of this Rule “year” (except in the expression “sixty-five years”) means a period of twelve months beginning with 1st April.

### **Permitted maximum pensions**

F5 (1) The annual amount of the pension payable under Rule F1 or Rule F3 to a person shall not exceed whichever is the less 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 both under Rule F1 and under Rules F3, the amount of the two pensions together shall not exceed two-thirds of the permitted maximum and, if they do, the pension payable under Rule F3 shall be reduced before the pension payable under Rule F1.

## **Guaranteed minimum pensions**

F6. (1) Notwithstanding any provision of these Rules to the contrary, any person entitled to receive a pension under Rule F1 or Rule F3 (including an early retirement pension or an ill-health pension by virtue of Part H or Part J)

- (a) shall be entitled to receive, subject to the provisions of Rule F7(3), from state pension age a pension payable for the remainder of his or her life, at a rate equivalent to a weekly rate of not less than the guaranteed minimum pension, unless that person's right thereto is extinguished by payment of a contributions equivalent premium under section 55 of the Pension Schemes Act 1993; and
- (b) if the payment of the guaranteed minimum pension of that person is postponed in the circumstances to which section 13(4) of the Pension Schemes Act 1993 applies, the guaranteed minimum pension of that person shall be increased to the extent, if any, specified in section 15(1) of the Pension Schemes Act 1993.

## **Duration of pensions**

F7. (1) Subject to the following provisions of this Rule, a pension under Rule F1 or Rule F3 (including an early retirement pension or an ill-health pension by virtue of Part H or Part J) shall continue for the life of the person to whom it is payable.

(2) Any pension that is payable to a person under Rule F7(1) shall be reduced to nil, in respect of any period during which that person is a Member of the National Assembly for Wales; provided that such reduction shall not apply in relation to a Member who is entitled to or in receipt of a surviving spouse's, Partner's or child's pension under the provisions of Rule K.

(3) The provisions of this Rule shall not apply for the purposes of calculating the amounts payable under Rules M2(3), M2(4)(b), M3(2)(b), M4(2) or M6 (five year guarantee).

## **PART G**

### **COMMUTATION**

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

G1. (1) Any person 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 instalment of the pension is paid, give notice to the Trustees that he or she desires to commute into a lump sum such part of the pension as is specified in the notice.

(1A) with effect on and after 1st November 2006 however, a person may only give notice under paragraph (1) at least six months before he or she reaches the age of 75, or such later time before he or she reaches age 75 as the Trustees permit, and the lump sum payable as a result of the notice must be paid to him or her before that individual reaches age 75.

Where such lump sum becomes payable following notice provided by a member immediately prior to their 75th birthday in accordance with Rule G1(A) above, the provisions of Rule F7(2) shall apply, to enable the Member's pension to come into payment but be reduced to nil, until the individual ceases to be a Member of the National Assembly for Wales.

(2) Where a person has given notice under this Rule, 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 or her pension would be appropriate in consideration of the payment of that lump sum; and

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

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

(4) If, in the case of any person who has given notice under this Rule, the amount of the lump sum determined in accordance with paragraphs (2) and (3) above, 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 or her pension under that Rule shall be diminished by the like proportion.

(5) For the purposes of paragraph (4) above, the maximum commutable lump sum is the “permitted maximum” relating to pension commencement lump sums as defined and set out in Schedule 29 to the Finance Act, or such higher amount as is permitted by Schedule 36 to the Finance Act, where the person has the benefit of pension commencement lump sum protection.

(6) In determining the amount of the lump sum under this Rule, the maximum commutable sum shall if necessary be diminished so that the annual amount of pension shall not be reduced under paragraph (4) above below the rate of the guaranteed minimum pension.

(7) Any person (not yet aged 75) who is entitled to pension benefits payable under Rule F which exceed the “Standard Lifetime Allowance” (as defined in the Finance Act), may receive a lifetime allowance excess lump sum from the Scheme, provided that the lump sum meets the conditions set out in paragraph 11 of Schedule 29 to the Finance Act.

## PART H

### EARLY RETIREMENT AND EARLY ABATED PENSIONS

#### Early retirement for Members

H1. (1) Where a person who

- (a) has ceased to be a Member of the National Assembly for Wales; and
- (b) either was a participant or deferred pensioner of the Scheme prior to 6th April 2006 who attains the age of fifty years or, who becomes a new participant in the Scheme on or after 6th April 2006 and who attains the age of fifty-five years, (unless that individual has the benefit of a protected pension age in accordance with the provisions of paragraph 22 of Schedule 36 to the Finance Act);

applies in writing to the Trustees for an immediate pension under this Rule then, if the Trustees are satisfied that he or she does not intend to stand for re-election to the National Assembly for Wales, he or she shall be entitled to receive a pension under Rule F1 as if he or she had attained the age of 65 years on the date of his or her application or, if later, such other date as may be there specified; but the annual amount of the pension to which the person is so entitled, both before and after he or she attains the age of sixty-five years, shall (subject to Part G (Commutation)) be an amount calculated in accordance with Rule F2 and abated in accordance with Schedule 2.

(2) For the purpose of this Rule, service of a person as a Member of the House of Commons of the Parliament of the United Kingdom or as a Member of the Parliament of the European Communities may count towards his or her qualifying period to the extent that it is not concurrent with service as a Member of the National Assembly for Wales.

(3) For the purposes of calculating an early retirement pension under Rules H1 and H2, existing members of the Scheme as at 1st December 2006, may only count that part of their service which constitutes actual service in the Scheme after 1st December 2006, as a

“qualifying period” of service in the calculation of the relevant abatement percentage under Schedule 2. For the avoidance of doubt, all reckonable service prior to 1st December 2006 shall count as qualifying service for the purposes of the calculations to be undertaken under Schedule 2.

(4) For the purposes of Rules H1 and H2, a new entrant to the Scheme after 1st April 2007, may not receive an early retirement un-abated pension under the provisions of Schedule 2; notwithstanding that his or her age together with his or her qualifying period of service amounts to 80 or more years.

(5) With effect from 1 July 2010, for the purposes of calculating an early retirement pension under Rules H1 and H2, the relevant abatement percentage to be applied to the early retirement pension under the provisions of Schedule 2 shall (comply fully with the requirements of preservation legislation) and shall be calculated in accordance with such external tables as are prepared from time to time by the Actuary appointed under Rule S1 and adopted and notified to members of the Scheme by the Trustees. In preparing such tables the Actuary must seek to achieve cost neutrality, i.e. that the likely total cost to the Scheme, over time, of paying pensions is the same irrespective of the age at which individuals begin to be paid a pension.

### **Early retirement for office holders who have been Members**

H2. A person who is entitled to receive a pension under Rule H1 who is or has been a participating office holder shall (subject to Part G (Commutation)) be entitled also to receive a pension under Rule F3 calculated in accordance with Rule F4 and abated in accordance with Schedule 2 and payable from the same date as the pension payable under Rule H1.

## **PART J**

### **ILL-HEALTH PENSIONS**

#### **Ill-health pensions based on service as a participating Member**

J1. (1) A participant who because of ill-health ceases to be a participating Member before attaining the age of sixty-five years may apply to the Trustees for an early pension under Rule F1 if at the time

when the participant so ceases (“the material time”) he or she would have become entitled to receive a pension under that Rule but for the fact that he or she has not attained the age of sixty-five years.

(2) If on an application under this Rule the Trustees are satisfied

- (a) that the applicant does not intend to seek re-election to the National Assembly for Wales;
- (b) that the participant ceasing as mentioned in paragraph (1) above was a direct consequence of his or her ill-health; and
- (c) that the participant’s ill-health is such as would prevent him or her from performing adequately the duties of a Member of the National Assembly for Wales,

the applicant shall be entitled to receive a pension under Rule F1 as from the material time.

(3) A person who, if he or she were to cease as mentioned in paragraph (1) above at a particular time in the future because of ill-health, would become entitled to make an application under that paragraph, may make such an application before that time, specifying in it the time when he or she 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 or she will be entitled under paragraph (2) above to receive a pension under Rule F1 as from that time, they shall give the person notice in writing to that effect.

(4) The annual amount of a pension payable under Rule F1 to a person by virtue of this Rule shall (subject to Part G (Commutation)) be calculated in accordance with Rule F2, but for the purposes of that calculation his or her actual period of reckonable service as a participating Member shall be increased by a period equal to the period between the date on which he or she ceased to be a Member of the National Assembly for Wales (as mentioned in paragraph (1) above) and the date on which he or she would attain the age of sixty-five years. If at the time the Member retires his or her salary as a Member of the National Assembly for Wales is reduced by virtue of an order

under section 17 of the Government of Wales Act 1998 or under section 21 (limit of salaries of Members of other public bodies) of the Act, then it shall be assumed for the purpose of this calculation that during the period until the person attains the age of sixty-five years he or she would continue to be paid a salary at such reduced level.

(5) For the purposes of this Rule a person who has ceased to be a participating Member in consequence of an ordinary election for the National Assembly for Wales shall be treated as having so ceased because of ill-health if, but only if, the person satisfies the Trustees that as a direct consequence of his or her ill-health he or she did not seek re-election to the National Assembly for Wales at that ordinary election.

### **Ill-health pensions based on service as a participating office holder**

J2. (1) A participant who because of ill-health ceases to be a participating office holder before attaining the age of sixty-five years may apply to the Trustees for an early pension under Rule F3 if at the time when the participant so ceases (“the material time”) he or she would have become entitled to receive a pension under that Rule but for the fact that he or she has not attained the age of sixty-five years.

(2) If on an application under paragraph (1) above the Trustees are satisfied as mentioned in sub-paragraph (a) (so far as applicable) and sub-paragraphs (b) and (c) of Rule J1(2), the applicant shall be entitled to receive a pension under Rule F3 as from the material time.

(3) Rule J1(3) shall apply in relation to paragraphs (1) and (2) above as it applies to paragraphs (1) and (2) of that Rule, the reference to a pension under Rule F1 being for this purpose read as a reference to a pension under Rule F3.

(4) The annual amount of a pension payable under Rule F3 by virtue of this Rule shall (subject to Part G (Commutation)) be calculated in accordance with Rule F4.

(5) Rule J1(5) shall apply for the purposes of this Rule.

### **Ill-health pensions for former Members**

J3. (1) A person who because of ill-health has, while neither a Member of the National Assembly for Wales nor a candidate for election to it, retired from gainful work before attaining the age of sixty-five years may apply to the Trustees for an early pension under Rule F1 if at the time when the person so retired he or she would have become entitled to receive a pension under that Rule but for the fact that he or she had not attained the age of sixty-five years.

(2) If on an application under this Rule the Trustees are satisfied

- (a) that the applicant does not intend to seek election to the National Assembly for Wales;
- (b) that his or her retirement from gainful work was a direct consequence of his or her ill-health and
- (c) that his or her ill-health is such as would prevent him or her from performing adequately the duties of a Member of the National Assembly for Wales,

the applicant shall, as from the date on which the Trustees are so satisfied, be entitled to receive a pension under Rule F1.

(3) Where an application is made under this Rule, the Trustees shall by notice in writing inform the applicant whether they are satisfied as mentioned in paragraph (2) above and, if they are so satisfied, shall state the date from which the pension shall be payable.

(4) In this Rule “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 or her income.

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

J4. Rule J3 shall apply in relation to a person who because of ill-health has, while neither a Member of the National Assembly for Wales nor a candidate for election to it, retired from gainful work

before the age of sixty-five years and who applies to the Trustees for an early pension under Rule F3; and where Rule J3 applies to such a person any reference to Rule F1 shall be construed as a reference to Rule F3.

### **Requirement for Incapacity for occupation**

J4(A) No person is entitled to receive an ill-health pension by virtue of the provisions of this Rule J, unless the person has in fact ceased to carry on his or her occupation.

### **Medical evidence**

J5. (1) Every application under this Rule J, must be accompanied by evidence from a registered medical practitioner that the applicant is (and will continue to be) incapable of carrying on the applicant's occupation because of physical or mental impairment.

(2) In the case of any such application the Trustees may require the applicant to undergo a medical examination by a medical practitioner or practitioners nominated by them for the purpose and the Trustees may call for further medical reports or evidence; and the fees for any such examination or reports shall be borne by the Trustees or the applicant, as the Trustees may determine.

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

J6. (1) The Trustees may at any time review the award of an ill-health pension made under Part J if they have reason to believe that the recipient of the pension has recovered sufficiently such that, were a fresh application to be made at the date of the review for an ill-health pension, the ill-health pension would not be granted.

(2) As part of any review made under this Rule the Trustees may ask for medical evidence under Rule J5 as though the review were a fresh application. However, the cost of any report or examination requested by the Trustees shall be borne by the Trustees and met as an expense of the Scheme. If a person receiving an ill-health pension declines reasonable assistance to the Trustees then the Trustees may infer that the person's health is sufficient to prevent the award of an ill-health pension.

(3) If the Trustees conclude that a person receiving an ill-health pension has recovered sufficiently that were a fresh application to be made at the date of the review for an ill-health pension that it would not be granted, then the Trustees shall stop the ill-health pension. The Trustees shall give one month's notice to the recipient of any decision to stop a pension under this Rule.

(4) The Trustees shall not stop a pension under this Rule if the recipient is aged 65 years or more at the date of the review.

## **PART K**

### **WIDOWS, WIDOWERS AND CHILDREN**

#### **Equal Treatment**

K1. Rules K2, 3, 4, 5, 7, 8 and 9 shall apply in relation to widows and widowers except in so far as they relate to the guaranteed minimum pension and to pensions payable to widows under section 17 of the Pension Schemes Act 1993 (Rule K2(5), (6), (7) and (8)).

#### **Pensions for Widows and Widowers**

K2. (1) Subject to the provisions of this Rule, widows and widowers of spouses who were at the time of their death either:

- (a) a participant; or
- (b) a pensioner; or
- (c) a deferred pensioner;

shall be entitled to receive a pension under this Rule.

(2) The annual amount of a pension payable under this Rule to a widow or widower shall be five-eighths of the basic or prospective pension or pensions of his or her late spouse.

(3) Subject to paragraphs (4) and (6), a pension payable under this Rule to a widow or widower shall continue for his or her life notwithstanding such remarriage.

(4) Subject to paragraphs (5) and (6), a pension that becomes payable under this Rule to a widow or widower on or after 6th April 2006, shall continue for life notwithstanding that such individual was cohabiting with another person at the date of his or her spouse's death.

(5) Notwithstanding anything in these Rules and in particular notwithstanding the provisions of paragraphs (3) and (4) above

- (a) the widow of a man who had a guaranteed minimum pension under these Rules shall, upon his death, be entitled to a pension for the remainder of her life at a rate equivalent to a weekly rate of not less than half the guaranteed minimum of that man; and
- (b) the widower of a woman who had such a guaranteed minimum pension, shall, upon her death, be entitled to a pension for the remainder of his life at a rate equivalent to not less than half of that part of the woman's guaranteed minimum pension which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

(6) During any period specified in section 17 of the Pension Schemes Act 1993 as being a period during which a Category B retirement pension, widowed mother's allowance or widow's pension is payable under that sub-section, the widow of a person shall, notwithstanding the provisions of paragraphs (3) and (4) above, be entitled to a pension under paragraphs (1) and (2) above.

(7) Where a person dies in circumstances in which, apart from this paragraph, a widow's or widower's pension calculated in accordance with paragraph (2) would be payable to a widow or widower married by that person within the period of six months ending with his or her death and it appears to the Trustees that his or her death within six months was to be foreseen by the person at the date of the marriage, then if

- (a) there are no children of that marriage; and
- (b) the person was married to his or her spouse after the termination of his or her service in contracted-

out employment in respect of which the widow's or widower's pension is payable; and

- (c) the rate of the widow's or widower's pension payable would be in excess of the guaranteed minimum pension calculated in accordance with paragraph (5)(a) or (5)(b) as appropriate

the Trustees may direct that any part of the widow's pension which is in excess of the widow's guaranteed minimum pension shall not be payable.

### **Pensions for Children**

K3. (1) Subject to the provisions of this Rule, a children's pension shall be payable for the benefit of any relevant child or children of a person who has died if at the time of his or her death the conditions specified in Rule K2(1) are fulfilled in his or her case.

(2) The annual amount of a children's pension payable under this Rule for the benefit of any relevant child or children of a person who has died in the circumstances mentioned in the previous paragraph shall be:

- (a) a sum equal to one-quarter of the basic or prospective pension or pensions of the deceased if there is one child or, if there is more than one, a sum equal to three sixteenths of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding two; or
- (b) if the widow or widower is dead and subject to paragraph (4) below, a sum equal to five-sixteenths of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding two.

(3) A children's pension under this Rule 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 relevant child or

relevant children of the deceased or such of them as the Trustees may from time to time direct.

(4) In this Rule “child” in relation to any person includes an illegitimate child, a stepchild or an adopted child and “relevant child” (subject to the provisions of Schedule 3) means any child of the deceased, or of any wife or husband of the deceased, who

- (a) is under seventeen years of age; or
- (b) has not reached twenty-three years of age and is within a period of full-time education as defined by Schedule 3; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within subparagraph (a) or (b) of this paragraph or incapable, and likely to remain permanently incapable, by reason of physical or mental impairment in accordance with paragraph 15(3) of Schedule 28 of the Finance Act, of earning his or her own living, and is not for the time being maintained out of moneys provided by the National Assembly for Wales or Parliament in a hospital or similar institution so maintained; or
- (d) was already conceived but not yet born at the time of the death of the deceased.

### **Death in service of participating Member**

K4. (1) Where a person has died and, at the time of his or her death, he or she was a participating Member, paragraph (2) below and Rule K5 (so far as applicable) shall apply if his or her widow or widower is entitled to receive a pension under Rule K2, or if a children's pension is payable under Rule K3 for the benefit of any relevant child or children.

(2) If the deceased died before attaining the age of sixty-five years, the annual amount of any pension payable to his or her widow

or widower under Rule K2, or for the benefit of any relevant child or children of the deceased's under Rule K3, shall be calculated as if he or she had immediately before his or her death ceased because of ill-health to be a Member of the National Assembly for Wales and had by virtue of Rule J1 been entitled to receive a pension under Rule F1 as from the date of such cessation.

### **Enhancement of initial widows' and widowers' pensions**

K5. (1) In this Rule "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 death.

(2) Where a widow or widower of a person who was at the time of his or her death a pensioner Member is entitled to receive a pension under Rule K2, paragraphs (3) and (4) of this Rule 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 widow or widower by way of pension under Rule K2 apart from this paragraph; and
- (b) any amount which (by direction of the Trustees under Rule K3(3)) is payable to such widow or widower by way of pension under Rule K3 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (4) below, then for that part of that period the amount payable to such widow or widower by way of pension under Rule K2 shall be increased by the difference.

(4) The said amount is the amount which, if the deceased had lived, would have been payable to the deceased for the part of the three month period in question by way of pension under one or both of Rule F1 and Rule F3.

(5) Where a person has died and, at the time of his or her death, he or she was participating Member, paragraphs (6) and (7) of this

Rule (so far as applicable) shall apply if his or her widow or widower is entitled to receive a pension under Rule K2 or if a children's pension under Rule K3 is payable for the benefit of any relevant child or children.

(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 widow or widower by way of pension under Rule K2 apart from this paragraph; and
- (b) any amount which (by direction of the Trustees under Rule K3(3)) is payable to the deceased's widow or widower by way of pension under Rule K3 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (7) below, then for that part of that period the amount payable to such widow or widower by way of pension under Rule K2 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 Rule F1; and
- (b) with effect from 1st April 2007, the annual amount of that pension had been a sum equal to the Member's ordinary salary at the rate in force at the material time; but where the member's salary has been reduced by virtue of an order under section 17 of the Government of Wales Act 1998 or under section 21 (limit of salaries of Members of other public bodies) of the Act, "salary" shall mean the reduced level of ordinary salary paid to the Member at the date of his or her death.

In this paragraph "the material time" means the date when the deceased died.

(8) The preceding provisions of this Rule are without prejudice to paragraphs (3), (4) and (7) of Rule K2 (duration of widow's or widower's pension, and restrictions on payment).

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

K6. In these Rules "basic or prospective pension or pensions"

- (a) in relation to a person who has died and who at the time of his or her death was a participant, means the annual amount of the pension or pensions specified in whichever of the following paragraphs apply to that person:
  - (i) where the deceased was or had been a participating Member, the annual amount of the pension calculated in accordance with Rule F2 or, if he or she died while a participating Member before attaining the age of sixty five years, the annual amount of the pension calculated by virtue of Rule K4; and
  - (ii) where the deceased was or had been a participating office holder, the annual amount of the pension, calculated in accordance with Rule F4, which such deceased office holder would have been entitled to receive under Rule F3, if immediately before his or her death he or she had fulfilled the conditions specified in sub-paragraphs (a) and (b) of Rule F1; and
- (b) in relation to a person who has died and who at the time of death was a pensioner, means the annual amount of the pension or pensions of which he or she was in receipt or which he or she was entitled to receive calculated in accordance with Part F, including an ill health pension calculated in

accordance with Part J; provided that where the annual amount of which he or she was in receipt resulted from one or more reductions or abatements made under Rules 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 Rule;

- (c) in relation to a person who has died and who at the time of death was a deferred pensioner, means the annual amount of the pension or pensions specified in whichever of the following sub-paragraphs apply to that person
  - (i) where the deceased was a former participating Member, the annual amount of the pension, calculated in accordance with Rule F2, which he or she would have been entitled to receive under Rule F1 if he or she had ceased to be a Member of the National Assembly for Wales immediately before death and he or she had then fulfilled the conditions specified in sub-paragraphs (a) and (b) of Rule F1;
  - (ii) where the deceased was a former participating office holder; the annual amount of the pension, calculated in accordance with Rule F4, which he or she would have been entitled to receive under Rule F3 if immediately before death he or she had fulfilled the conditions specified in sub-paragraphs (a) and (b) of Rule F1.

### **Pensions for Partners**

K7 (1) On the death of a member on or after 1<sup>st</sup> November 2002 who was at the time of his or her death either;

- (a) a participant; or
- (b) a pensioner; or
- (c) a deferred pensioner;

and in respect of whom no widow's or widower's pension is payable under the preceding provisions of this Section K, there shall be payable to his or her Partner a pension of an amount equal to that otherwise payable to a widow or widower under the provisions of Rule K2.

(2) In paragraph (1) above and in Rule K8 (1) and Rule K9 "Partner" means a person of either sex who

- (a) was co-habiting with the member at the date of the member's death and had been co-habiting with the member for a period of at least 12 months immediately prior to death, and
- (b) had been nominated in writing by that member at least six months' prior to the member's death as being the person to whom the member wished a Partner's pension to be paid under this Rule K7, and
- (c) was in the opinion of the Trustees either financially dependent upon or financially inter-dependent with that member and who

has provided proof of the existence of that financial dependency or inter-dependency subsisting for at least the twelve month period prior to the death of the member.

(3) The provisions of Rules M2 and M4 shall apply if a pension is being paid under Rule K7 (including a pension payable to a civil partner) unless the Trustees otherwise determine.

(4) The provisions of Rules M3 and M5 shall not apply if a pension is being paid under this Rule K7 (apart from where the pension is being paid to a civil partner in which case it shall apply), unless the Trustees otherwise determine.

(5) With due alteration for detail, the provisions of Rule K2(3) and of Rule K2(4) shall apply equally to a Partner's pension (including a civil partner's pension) payable under this Rule K7.

(6) The provisions of Rules K4 and K5 shall not apply to a Partner's pension payable under this Rule K7 (apart from where the pension is being paid to a civil partner in which case it shall apply), unless the Trustees otherwise determine.

### **Dependants' Pensions**

K8 (1) In circumstances where no widow's or widower's or Partner's pension is payable on the death of a person falling within the categories specified in Rule K2 (1) or Rule K7 (1), the Trustees may, at their absolute discretion, pay all or part of the pension otherwise payable to a widow, widower or Partner to another Dependant on such terms and for such time as the Trustees shall determine.

(2) In paragraph (1) above and in Rule K9 references to a "Dependant" means a person who has been financially dependent on the member and who in the opinion of the Trustees ought properly to receive a benefit under the Scheme in the event of the member's death whether or not the member has notified the Trustees that he or she wishes that person to be considered as a recipient of such benefits.

(3) With due alteration for detail, the provisions of paragraphs (3) and (4) of Rule K2, shall apply equally to a Dependant's pension being paid under this Rule K8.

(4) The provisions of Rule M2 shall apply if a pension is being paid under this Rule K8 unless the Trustees otherwise determine.

(5) The provisions of Rules M3 and M5 shall not apply to a pension being paid under this Rule K8 unless the Trustees otherwise determine.

(6) The provisions of Rules K4 and K5 shall not apply to a pension being paid under this Rule K8 unless the Trustees otherwise determine.

## **Dependants' Pensions on death of a member survived by both a widow(er) and a Partner**

K9 (1) Where a person dies in circumstances in which, apart from this paragraph, a widow's or widower's pension calculated in accordance with Rule K2 would be payable but that person is also survived by a Partner the pension payable to that person's widow or widower shall be limited to the amounts payable under Rule K2 (5) and (6) and the excess shall be paid to that person's Partner.

(2) The provisions of Rule M2 shall apply if a pension is being paid under this Rule unless the Trustees otherwise determine.

(3) With due alteration for detail, the provisions of paragraphs (3) and (4) and paragraphs (5) and (6) of Rule K2, shall apply equally to a widow(er)'s or Partner's pension payable under this Rule K9.

(4) The provisions of Rules K4 and K5 shall not apply to a pension being paid under this Rule K9 unless the Trustees otherwise determine.

## **PART L**

### **DEATH GRATUITIES**

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

L1. (1) Where a person has died at a time when he or she was a participant the Trustees may, if they think fit in their discretion to do so, grant a gratuity under this Rule in respect of that person.

(2) A gratuity granted under this Rule in respect of a participant shall be granted

- (a) to the person or persons nominated in any nomination made by the participant for the purposes of this Rule which was in force at the time of his or her death; or
- (b) if no such nomination was in force at that time or, pursuant to paragraph (4) below, to the extent that

a nomination is treated as not being in force, to the participant's personal representatives.

(2A) No gratuity on death in service may be granted to a participant under Rule L1(2) above, if the deceased person had reached the age of 75 at the date of death.

(3) Where a participant nominates more than one person for the purposes of this Rule, he or she 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 section 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) they 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 Rule must be made, and may be revoked, by a notice in writing given to the Trustees; and such a notice must be in such form as the Trustees may require.

(6) Subject to paragraph (7) below, the amount of a gratuity granted under this Rule in respect of a participant shall be whichever of the two following amounts is the greater

- (a) the amount equal to three times the participant's salary at the time of his or her death if that death occurred prior to 1<sup>st</sup> November 2002; or an amount equal to four times the participant's salary at the time of his or her death if that death occurred on or after 1<sup>st</sup> November 2002; or
- (b) the aggregate of the contributions paid by that participant, and not refunded to him or her, together with interest on each such contribution from the date on which it was paid.

(6A) Any gratuity payable on death in service on or after 1 April 2010 under this Rule L1(6), shall be determined as a multiple of the actual salary that the participant was receiving immediately prior to his or her death, rather than by reference to the full participant's salary to which he or she is entitled under the rules of the Scheme.

(7) The amount of the gratuity in paragraph (6) above shall be subject to an overall maximum of four times the permitted maximum.

(8) In paragraph (6) above "salary" means

- (a) where the participant is a participating Member, a Member's ordinary salary at the time of his or her death, but where the Member's salary has been reduced by virtue of an order under section 17 of the Government of Wales Act 1998 or under section 21 (limit of salaries of Members of other public bodies) of the Act, "salary" shall mean that reduced amount payable at the time of his or her death;
- (b) where the participant is a participating office holder, his or her salary as an office holder at the time of his or her death as defined by Rule D2(2);

and, where the participant is both a participating Member and a participating office holder, the aggregate of those two amounts.

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

L2. (1) Where a pensioner dies and no pension in respect of him or her is payable under Rule K2, Rule K3 or Rule K7, the Trustees may, if they think fit in their discretion to do so, but subject to paragraph (2) below, grant to his or her personal representatives a gratuity under this Rule.

(2) The Trustees shall not grant a gratuity under this Rule in respect of a person 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 Rule M4(2) or Rule M6.

(3) For the purpose of determining the amount of a gratuity which may be granted in respect of a pensioner under this Rule, there shall be calculated

- (a) the amount of the gratuity which the Trustees could have granted to the pensioner's personal representatives under Rule L1 above if the pensioner had died at a time when he or she was a participant; and
- (b) the aggregate amount of the payments made to the pensioner by way of pension under Part F, Part H or Part J together with any lump sum paid to the pensioner under Rule 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) of this paragraph.

## **PART M**

### **FIVE YEAR GUARANTEE**

#### **Entitlement**

MI. (1) Rules M2, M3, M4 and M5 shall apply in respect of a deceased pensioner Member.

#### **Guarantee Payments and the Finance Act**

M1A All guarantee lump sum payments made in respect of deceased pensioner Members or deceased pensioner office holders under Rules M2-M7, shall be payable as a Defined Benefit Lump Sum Death Benefit, where the deceased had not yet reached the age of 75 at the date of his or her death and all of the conditions of paragraph 13 of Schedule 29 of the Finance Act have been met; unless the deceased was already in receipt of a pension (with a 5 year guarantee) as at 6th April 2006.

No guarantee lump sum payment may be payable where the deceased had attained the age of 75 on death on or after 6th April 2006. In those circumstances, the provisions of this Rule M

shall enable the survivor of the deceased to receive payment of a pension in place of any lump sum.

(2) Rule M6 shall apply in respect of a deceased pensioner office holder.

### **Guarantees for widows and widowers**

M2. (1) Where a pensioner Member dies during the pensioner Member's five year period and is survived by a widow or widower, paragraphs (2) to (6) of this Rule 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 widow or widower by way of pension under Rule K2 apart from this paragraph (including any enhancement payable under Rule K5); and
- (b) any amount which (by direction of the Trustees under Rule K3(3)) is payable by way of pension under Rule K3 for the benefit of any relevant child or children of the deceased pensioner Member,

is less than the amount mentioned in paragraph (3) of this Rule, then for that part of that period the difference shall be payable to the widow or widower.

(3) The said amount is the amount which, if the deceased pensioner Member had lived, would have been payable to him or her for the part of the pensioner Member's five year period in question by way of pension under Rule F1 (including an early retirement pension or an ill-health pension payable by virtue of Rule H1, J1 or J3).

(4) If the widow or widower of the deceased pensioner Member dies during the pensioner Member's five year period, there shall be paid to the personal representatives of the widow or widower a lump sum which shall be calculated by deducting the amount mentioned in subparagraph (a) below from the amount mentioned in sub-paragraph (b) below

- (a) the total of any pensions which (by direction of the Trustees under Rule K3(3)) would have been payable under Rule K3 for the benefit of any relevant child or children of the deceased pensioner Member if the annual sum payable under Rule K3(2) (after the death of the widow or widower of the deceased pensioner Member) in respect of each relevant 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 the deceased pensioner Member was entitled under Rule F1 (including an early retirement pension or an ill health pension payable by virtue of Rule H1, J1 or J3) were to have been paid to him or her during 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 the pensioner Member became entitled to receive a pension or pensions under Rule F1 (including an early retirement pension or an ill health pension payable by virtue of Rule H1, J1 or J3).

(6) In this Part, "the pensioner Member's children's prospective pension end date" means, in respect of any relevant child of a deceased pensioner Member the sooner of,

- (a) (i) the day before that on which that child reaches, seventeen years of age; or  
  
(ii) if the child is within his or her period of full time education as defined by Schedule 3, such later date as the Trustees may determine being no later than the day before that on which the child reaches twenty three years of age; 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 a relevant child or children, but no spouse, paragraph (2) of this Rule 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 subparagraph (a) below from the amount mentioned in subparagraph (b) below

- (a) the total of any pensions payable under Rule K3 (by direction of the Trustees under Rule K3(3)) for the benefit of any relevant child or children of the deceased pensioner Member, if the annual sum payable under Rule K3(2) (after the death of the pensioner Member) in respect of each relevant 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 or she was entitled under Rule F1 (including an early retirement pension or an ill health pension payable by virtue of Rule H1, J1 or J3) were to have been paid to him or her during the remainder of the pensioner Member's five year period.

### **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 or her spouse nor by any relevant child or children, paragraph (2) of this Rule 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 or she was entitled under Rule F1 (including an early retirement pension or an ill health pension payable

by virtue of Rule H1, J1 or J3) were to be paid to him or her during the remainder of the pensioner Member's five year period.

(3) This Rule shall not apply if a gratuity is granted under Rule L2.

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

M5. If

- (a) a sum has been paid to the personal representatives of the widow or widower of a deceased pensioner Member under Rule M2(4) or to the personal representatives of a deceased pensioner Member under Rule M3(2); and
- (b) the period of full time education of any relevant 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 subparagraph (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 the pensioner Member's children's prospective pension end date;
- (ii) the total of the pensions which have been paid for their benefit.

### **Deceased pensioner office holders**

M6. (1) Rules M2, M3, M4 and M5 shall apply in relation to a deceased pensioner office holder and his or her widow or widower and any relevant child or children as they apply in relation to a deceased pensioner Member and his or her widow or widower and relevant child

or children but where those Rules apply in relation to a deceased pensioner office holder

- (a) any reference to “pensioner Member” shall be construed as a reference to “pensioner office holder”; and
- (b) any reference to “the pensioner Member's children's prospective pension end date” shall be construed as a reference to “the pensioner office holder's children's prospective pension end date”; and
- (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 Rule F1 shall be construed as a reference to Rule F3; and
- (e) any reference to Rule H1 shall be construed as a reference to Rule H2; and
- (f) any reference to Rule J1 shall be construed as a reference to Rule J2; and
- (g) any reference to Rule J3 shall be construed as a reference to Rule J4.

(2) In this Part

“the pensioner office holder's children's prospective pension end date” means, in respect of any relevant child of a deceased pensioner office holder, the sooner of

- (a)
  - (i) the day before that on which the child reaches seventeen years of age; or
  - (ii) if the child is within his or her period of full time education as defined by Schedule 3, such later date as the Trustees may determine being no later than

the day before that on which the child reaches twenty-two years of age;

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 or she became entitled to receive a pension under Rule F3 (including an early retirement pension or an ill health pension payable by virtue of Rule H2, J2 or J4).

## **PART N**

### **REFUNDS**

Rule N is to be administered in accordance with the requirements of the Finance Act by reference to participants who become entitled to short service refund lump sums on or after 6th April 2006. Deduction of tax on short service refund lump sums shall be made in accordance with Rule V3.

#### **Refund to contributor**

N1. (1) Subject to paragraphs (3) and (5) below contributions paid by a person and not previously refunded to him or her, shall be refunded to him or her by the Trustees, with interest from the dates on which the contributions were paid respectively, if the conditions specified in the next following paragraph are fulfilled.

(2) The conditions referred to in paragraph (1) of this Rule are that

- (a) the person has ceased to be a participant;
- (b) his or her aggregate period of reckonable service as a participating Member is less than two years; and
- (c) he or she has not become entitled to a pension under these Rules.

(3) If, after a refund of contributions under this Rule, the person becomes entitled to pay and pays contributions under Rule D1 or Rule D2, he or she may

- (a) if he or she so desires, and makes the repayment before the end of the period of three months beginning with the date on which he or she becomes so entitled, or
- (b) after the end of that period, if the Trustees so allow,

repay to the Trustees the sum so refunded, with interest from the date on which it was refunded 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) repaid by the participant to the Trustees under paragraph (3) of this Rule shall be treated for the purposes of this Rule as if it were a contribution paid by him or her at the date of repayment.

(5) The Trustees shall deduct from the amount of any contributions which may be repaid to a person in accordance with the provisions of this Rule the amount certified in accordance with Section 55(2) and 58(4) of the Pension Schemes Act 1993 in respect of that person.

(6) For the purpose of calculating a person's actual period of reckonable service as a participating Member, no account shall be taken of any period in respect of which contributions paid by that person have been

- (a) refunded to him or her under this Rule; and
- (b) not subsequently repaid by him or her to the Trustees.

## **Refund after death**

N2. Where a person has died

- (a) without leaving a widow, widower or relevant child who is, or may become, entitled in respect of that person to receive a pension under Rules K2 or K3; and
- (b) in circumstances where the conditions specified in sub-paragraphs (a) and (c) of paragraph (2) of Rule N1 were fulfilled, but where no gratuity, lump sum or pension benefit is payable in respect of him or her,

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

## **PART P**

### **TRANSFERS**

Rule P shall be administered in accordance with the requirements of the Finance Act with effect from 6th April 2006; such that the Trustees may make transfers to and may accept transfers from other registered pension schemes and qualifying recognised overseas pension schemes in accordance with the provisions of section 169 of the Finance Act.

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

P1. (1) At the request of any person

- (a) who has been a participant but who has ceased to be a Member of the National Assembly for Wales; and
- (b) whose aggregate period of reckonable service is at least three months; and
- (c) who has not become entitled to a pension under these Rules,

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

(2) This Rule applies to any scheme or annuity which satisfies the requirements prescribed by Chapter IV of Part IV of the Pension Schemes Act 1993 and Rules made thereunder.

(3) A person may require the Trustees to pay a transfer value in respect of him or her at any time before a date

(a) not more than one year before the date on which he or she attains the age of sixty-five years; or

(b) not more than six months after the date on which he or she ceases to be a participant,

whichever is the later.

#### **Transfers to other pension scheme 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 these Rules other than a guaranteed minimum pension arising under Rule F6,

the Trustees shall pay into or for the purpose of any one or more than one scheme or annuity to which this Rule applies the transfer value calculated in accordance with paragraph (3) below.

(2) This Rule applies to any fund or scheme specified in Rule P1(2) above.

(3) For the purposes of this Rule the transfer value payable will be the value of the person's accrued pension rights.

(4) Paragraph (3) of Rule P1 shall apply for the purposes of this Rule.

## **Transfer to overseas pension schemes**

P3. (1) At the request of any person who has been a participant but who has ceased to be a Member of the National Assembly for Wales and who has not become entitled to a pension under these Rules other than a guaranteed minimum pension, the Trustees shall pay into or for the purposes of any one, or more than one, fund or scheme to which this Rule applies a sum or sums representing the transfer value of that person's accrued pension rights in the Scheme.

(2) This Rule 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 HMRC and the requirements of the Finance Act as to the suitability of the fund or scheme for the purposes of this Rule.

(3) At the request of any person

- (a) in respect of whom any sum has been paid under this Rule 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 National Assembly for Wales,

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 Rule together with interest thereon from the date of that payment at such a rate as may be agreed by the Trustees.

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

P4. Where any sums are paid by the Trustees under Rule 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 or her 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 Rules N1 and N2 any contributions paid by him or her before that date shall be treated as not having been paid.

### **Certification by the Actuary**

P5. For the purposes of Rules P1, P2 and P3, any transfer value of the whole or part of a person's accrued pension rights under these Rules shall be such sum as the Trustees shall determine on the advice of the Actuary. These sums shall satisfy the requirements prescribed under Chapter IV of Part IV of the Pension Schemes Act 1993 and shall be certified by, or calculated in accordance with tables prepared by, the Actuary appointed under Rule 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 the Scheme under Rule C5,

the Trustees shall receive any sums payable by way of transfer value in respect of him or her out of, or out of moneys held for the purposes of, any scheme or annuity to which Rule P1 applies, or under any enactment 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) above at the request of a person who is a participating Member at the time when the request is made

- (a) his or her aggregate period of reckonable service as a participating Member shall be treated as increased by the addition of such period as may be determined by the Trustees; and
- (b) for the purposes of Rules N1 and N2, the sums so received by the Trustees, so far as in the opinion of

the Trustees they represent the person's own contributory payments, shall be treated as if they were contributions paid by him or her, at the same times as those contributory payments were made, by deduction from his or her salary under Rule D1.

(3) Any period determined by the Trustees under paragraph (2)(a) above shall be a period or number of years either certified by the Actuary appointed under Rule 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 the Actuary, as being appropriate in relation to those sums.

## **PART Q**

### **ADDED YEARS**

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

Q1. Schedule 4 shall have effect with respect to the purchase of added years by a participating Member, and subject to the provisions of that Schedule, the aggregate period of reckonable service of a participating Member shall be treated as increased by the period of added years so purchased.

## **PART R**

### **CONTRIBUTIONS BY THE NATIONAL ASSEMBLY FOR WALES**

#### **National Assembly for Wales to contribute to the Fund**

R1. (1) In respect of each financial year of the Scheme the National Assembly for Wales shall contribute to the Fund an amount in accordance with the recommendation of the Actuary appointed under Rule S1.

(2) The amount of the contribution by the National Assembly for Wales may be nil in any particular year if that is in accordance with the recommendation of the Actuary.

## **PART S**

### **ACTUARIAL VALUATIONS**

#### **Appointment of an Actuary**

S1. (1) The Trustees shall appoint an actuary to be the Actuary to the Scheme and may at any time dismiss the Actuary and appoint another actuary to be the Actuary. If the Actuary resigns or dies or the Trustees dismiss that person then the Trustees shall as soon as practicable appoint another actuary to be the Actuary.

(2) The Actuary shall be either

- (a) the Government Actuary; or
- (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 the National Assembly for Wales first meets the Actuary shall prepare a report to the Trustees of the Scheme on the general financial position of the Scheme as at that date, except that the Actuary, with the consent of the Trustees of the Scheme, may prepare the report as at a different date being not more than three months after the National Assembly for Wales first meets.

(2) The Actuary shall prepare further reports on the general financial position of the Scheme at dates that are agreed with the Trustees. The effective date at which the financial position is assessed by the Actuary must be not more than three years after the effective date of the most recently preceding actuarial report prepared under this Rule.

(3) An actuarial valuation prepared under this Rule shall be completed and signed by the Actuary within one year of the effective date of the valuation.

### **Content of each actuarial valuation**

S3. Each report by the Actuary shall

- (a) advise on the value of the liabilities of the Scheme compared to its assets;
- (b) recommend a contribution rate to be paid by the National Assembly for Wales (via its relevant entity) to the Scheme.

### **Actuarial valuations to be laid before the National Assembly for Wales**

S4. A copy of every report made by the Actuary shall be laid before the National Assembly for Wales by the Trustees within three months of the Trustees receiving it.

## **PART T**

### **MISCELLANEOUS AND SUPPLEMENTAL**

#### **Application of pensions**

T1. (1) If the Trustees are satisfied after considering medical evidence that a person to whom any pension or other benefit payable under the other provisions of this Scheme (referred to in this Rule as 'the patient') is incapable by reason of mental disorder of managing and administering his or her property and affairs, they may, instead of paying any pension or benefit to the patient, apply it in accordance with paragraph (2) below.

(2) The Trustees may pay the pension or benefit or such part of it as they think fit to the institution or person having the care of the patient, to be applied for his or her benefit and may pay the remainder (if any) or such part of the remainder as they think fit

- (a) to or for the benefit of persons who appear to the Trustees to be members of the patient's family or other persons for whom the patient might be expected to provide if he or she were not mentally disordered; or
- (b) in reimbursement, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or such persons as are mentioned in paragraph (a) above.

## **PART V**

### **Finance Act changes and deduction of tax**

#### **Payment on behalf of participants of lifetime allowance charge**

V1. (1) A participant or former participant may request the person who is the Scheme Administrator for the purposes of the lifetime allowance charge under section 217 of the Finance Act, to pay on his or her behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act when:

- (a) an event that is a benefit crystallisation event listed in section 216(1) of the Finance Act occurs in relation to him or her, and
- (b) the participant or former participant and the Scheme Administrator are jointly and severally liable to the charge in respect of the event.

(2) Such a request may only be made by notice in writing given before the event occurs.

(3) The Scheme Administrator may only comply with such a request if the participant or former participant pays him or her the amount in question on or before the date on which the event occurs.

#### **Reduction of benefits and transfer values where lifetime allowance charge payable**

V2. (1) This Rule applies if:

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act occurs in relation to a participant or former participant,
- (b) the participant or former participant and the person who is the Scheme Administrator for the purposes of section 217 of the Finance Act are jointly and severally liable to the charge in respect of the event, and
- (c) no request has been duly made under Rule V1 in relation to the event or, if such a request has been made, the Scheme Administrator is prevented from complying with it by paragraph (3) of that Rule.

(2) Where this Rule applies:

- (a) the Scheme Administrator must pay from the Fund the tax payable on the event,
- (b) if the benefit crystallisation event is a transfer to a qualifying recognised overseas pension scheme, the amount or value of the sums or assets transferred must be reduced, and
- (c) in the case of any other event under section 216, the amount or value of the benefits payable to or in respect of the participant must be reduced to the extent permitted by law to meet the tax charge arising.

(3) The amount or value of the reduction must be such that in the opinion of the Government Actuary it fully reflects the amount of the tax paid under this Rule.

### **Deduction from payments of other tax due under the Finance Act**

V3. (1) This Rule applies where:

- (a) a payment is made under Rule M of these Rules that is a pension protection lump sum death benefit for the purposes of paragraph 14 of Schedule 29 to the Finance Act, or
- (b) a repayment of contributions (including interest on contributions) is made under Rule N that is a short service refund lump sum for the purposes of paragraph 5 of Schedule 29 to that Act.

(2) Before making the payment the person who is the Scheme Administrator may deduct from it any tax due in respect thereof, under:

- (a) section 205 of the Finance Act (short service refund lump sum charge); or
- (b) section 206 of the Finance Act (the special lump sum death benefits charge), or any other tax charge that may apply under the Finance Act.

## SCHEDULE 1

Rule B2

### General provisions as to Trustees

#### Appointment of Trustees etc.

1. The Trustees shall be no more than six in number.
- 1A. At any point in time, one of the six Trustees shall be a pensioner, in so far as there are individuals willing to present themselves for nomination, selection and appointment to that role. If at any time, only one nomination is received, that nominee will take effect as the pensioner Trustee with effect from such date and for such period as has been notified to him or her. Where more than one nomination is received, a ballot to select the individual with the highest number of votes will be held amongst the pensioner category membership of the Scheme.
2. No person shall be appointed to be a Trustee unless he or she is a Member of the National Assembly for Wales but a person shall not cease to be a Trustee merely because he or she ceases to be a Member of the National Assembly for Wales.
3. The National Assembly for Wales may appoint or dismiss any Trustee to or from that office. A Trustee may resign from office by notice in writing to the presiding officer of the National Assembly for Wales.
4. The Trustees may act by a majority of those present at any meeting of the Trustees at which a quorum is present.
5. The procedure of the Trustees shall, subject to the provisions of these Rules, be such as the Trustees may determine; and the quorum for any meeting of the Trustees shall be three.
6. A decision of the Trustees shall continue in force until amended, varied or revoked by a further decision of the Trustees, notwithstanding any changes in the persons who are Trustees and notwithstanding that, by reason of a ordinary election for the

National Assembly for Wales or for any other reason, there are for the time being no Trustees.

### **Administrative provisions**

7. The Trustees may employ such officers and servants (if any) as they think necessary in connection with the management of the Scheme; and the expenses of managing it, including the fees of professional advisers and the remuneration and pensions, or contributions towards the pensions, payable to or in respect of officers and servants employed by the Trustees, shall be defrayed out of the Fund.
- 7A. The Trustees may by written authority signed by all the Trustees delegate, authorise the sub-delegation or provide for the exercise of any of their duties, powers and discretions as they consider appropriate, to such persons or body (including any one or more of themselves) as the Trustees may from time to time determine.
8. The Trustees of the Scheme 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.
9. The Trustees of the Scheme shall review any acquisition or disposal of the assets of the Fund by such person as may be appointed under paragraph 8 on an annual basis.
10. Upon a review pursuant to paragraph 9, the Trustees may ratify the acquisition or disposal, or may take such other action in respect of it as they think fit.
11. The Trustees shall keep proper accounts and shall prepare in respect of each financial year of the Scheme statements of account and shall have the accounts and financial statements of the Scheme audited annually. The Trustees shall ensure that the audit is completed within seven months of the end of the financial year.

12. The auditor shall be appointed annually by the Trustees and shall be either the Auditor General for Wales or a person or firm authorised to audit a public limited company. The auditor shall have access to the books and records of the Scheme and may require such information and explanations as are reasonable for them to audit the accounts.
  
13. The auditor shall examine and certify every statement of account prepared under paragraph 11 of this Schedule and shall give an audit opinion on it. A copy of every such statement, together with the auditor's report and opinion on it, shall be laid before the National Assembly for Wales within three months of the opinion being signed.

## SCHEDULE 2

Rule H1

### Percentage Abatement of Pension Entitlement

1. The pension to which a person is entitled by virtue of Rule H1 shall be abated, having regard to the person's age and the length of his or her qualifying period at the date of his or her 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 and on or after 1 July 2010 by the percentage specified in such tables as may be prepared by the Actuary from time to time in accordance with Rule H1(5).<sup>1</sup>

2. The pension to which a person is entitled by virtue of Rule H1 shall not be reduced below the rate of the guaranteed minimum pension, as provided for by Rule F7.

\* A new entrant to the Scheme after 1 April 2007 shall receive a pension reduced in accordance with the abatement percentage above that is applied to persons with 15 or less qualifying years of service.

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<sup>1</sup> Table below is retained for calculation purposes and the factors shown therein relate to pre 1 July 2010 service and may be superseded by such later factors as prepared by the Actuary from time to time

Age pension brought into payment	Abatement by Single Percentage from Date Pension Payable					
	<i>Qualifying period (years)</i>					
	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	7.0
63	0.0	0.0	0.0	0.0	7.0	13.7
62	0.0	0.0	0.0	7.0	13.7	19.9
61	0.0	0.0	7.0	13.7	19.9	25.6
60	0.0	7.0	13.7	19.9	25.6	30.8
59	7.0	13.7	19.9	25.6	30.8	35.6
58	13.7	19.9	25.6	30.8	35.6	39.9
57	19.9	25.6	30.8	35.6	39.9	43.7
56	25.6	30.8	35.6	39.9	43.7	47.0
55	30.8	35.6	39.9	43.7	47.0	50.0
54	35.6	39.9	43.7	47.0	50.0	52.8
53	39.9	43.7	47.0	50.0	52.8	55.4
52	43.7	47.0	50.0	52.8	55.4	57.7
51	47.0	50.0	52.8	55.4	57.7	59.7
50	50.0	52.8	55.4	57.7	59.7	61.8

Where the age or the qualifying period is not an exact number of years, the percentage abatement shall be obtained by interpolating both for the required age and for the required qualifying period as necessary.

For the purposes of Rules H1 and H2, a new entrant to the Scheme after 1st April 2007 shall receive a pension reduced in accordance with the abatement percentage above that is applied to persons with 15 or less qualifying years of service. For the same purposes existing members of the Scheme as at 1st December 2006, may only count that part of their service which constitutes actual service in the Scheme after 1st December 2006, as being a “qualifying period” of service in calculating the relevant abatement percentage that applies under the provisions of this Schedule and revised tables from time to time.

## SCHEDULE 3

Rule K3

### Persons Qualifying for Children's Pensions

1. In this Schedule "the deceased" means the person on whose death a children's pension is or may be payable under Rule K3, and "child" has the same meaning as in that Rule.

2. For the purposes of Rule K3 a child shall be treated as within a period of full-time education while

- (a) receiving full-time instruction at any university, college, school or other educational establishment; or
- (b) undergoing full-time or substantially full-time training for any trade, profession or vocation; and any question arising under this paragraph shall be determined by the Trustees.

3. A child shall not be treated as a relevant child for the purposes of Rule K3

- (a) as being an illegitimate or adopted child of the deceased; if such child was born or adopted, as the case may be, after the termination of the marriage or last marriage of the deceased; or
- (b) as being the child of the spouse of the deceased, if that child was born or became that child of that spouse after the termination of the spouse's marriage with the deceased;

unless, in the case of an adopted child falling within sub-paragraph (a) or sub-paragraph (b) of this paragraph, the Trustees, if satisfied that before the material event therein mentioned the deceased (or, as the case may be, the deceased and his or her spouse) had already formed the intention of adopting the child, and that the child was then wholly or mainly dependent on the deceased, or in the case of an illegitimate child falling within sub-paragraph (a) above, the Trustees if satisfied that had the child been born prior to the death of the deceased, that

child would have been wholly or mainly dependent on the deceased; direct that the child shall be treated as a relevant child.

4. A child shall not be treated as a relevant child for the purposes of Rule K3 as being

- (a) the illegitimate child of the deceased; or
- (b) a child of the spouse of the deceased,

unless the child was wholly or mainly dependent on the deceased; at the time of the death of the deceased.

5. A child shall not be treated as a relevant child for the purposes of Rule K3 if, at the date of the death of the deceased, the child is married to or cohabiting with another person; and a child who thereafter marries or cohabits with another person shall thereupon cease to be a relevant child unless and until the Trustees, being satisfied that the marriage or cohabitation has been terminated and that for exceptional reasons it is proper to do so, direct that the child shall be so treated.

## SCHEDULE 4

Rule Q1

### Purchase of Added Years

1. In this Schedule, unless the context otherwise requires

“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;

“relevant terminal salary” has the same meaning as “the relevant terminal salary” in Rule F2(2).

### Purchase of added years by periodical contributions

2. (1) A participating Member may apply in writing to the Trustees to purchase added years by periodical contributions payable until he or she attains the age of 65 years and the Trustees shall accept his or her application if all the following conditions in respect of that application are satisfied

- (i) the participating Member will not at his or her next birthday after the date of the application have attained the age of sixty-five;
- (ii) the participating Member has satisfied the Trustees, in whatever manner the Trustees shall require, that he or she is in good health;
- (iii) the number of added years which the participating Member has applied to purchase does not exceed the maximum permitted by virtue of the contributions that are permitted to be made by paragraph 8 of this Schedule; and
- (iv) the participating Member has supplied to the Trustees such information and evidence as they may require and has indicated whether his or her application is made

under the provisions of this subparagraph or under the provisions of sub-paragraph (2) below.

(2) A participating Member may, within the period of twelve months immediately following the date when he or she commenced a period of service as a Member, or within such longer period as the Trustees may in special circumstances and at their discretion 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 or her application if, at the date when the Trustees receive the application, the participating Member has not reached the age of 65 years and if the conditions of sub-paragraphs (ii), (iii) and (iv) of subparagraph (1) above are satisfied in respect of that application.

3. An application by a participating Member to purchase added years shall be irrevocable on and from the date when the Trustees accept the application.

4. Where an application by a participating Member to purchase added years by periodical contributions is accepted by the Trustees

(1) those periodical contributions shall, subject to the provisions of paragraph 5 of this Schedule, be payable

(a) in the case of an application under paragraph 2(1) of this Schedule, from the date of the participating Member's birthday next following the receipt by the Trustees of the application and until the participating Member attains the age of 65 years; and

(b) in the case of an application under paragraph 2(2) of this Schedule, 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;

(2) with effect from 1 April 2010, periodical contributions by a participating Member shall be payable by deductions from the Member's ordinary salary, or in the case of a participating Member

who chooses to take a lower salary payable by deduction from and based upon his or her reduced salary; and in the case of arrears, in such manner as the Trustees shall require; and

(3) 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 Rule S1.

### **Interrupted Service**

5. (1) If a participating Member dies or ceases to be a Member of the National Assembly for Wales because of ill-health in circumstances to which Rule J1 applies and he or she

- (a) has applied to purchase added years by periodical contributions; and
- (b) has been notified in writing by the Trustees that his or her application has been accepted;

no further periodical contributions will be payable from the day following the date of his or her death or from the day following the date he or she ceases to be a Member of the National Assembly for Wales, as the case may be, and any added years that he or she 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 National Assembly for Wales in circumstances to which Rule J1 does not apply, no such periodical contributions will be payable by him or her from the day following the date when he or she ceases to be a Member of the National Assembly for Wales but his or her reckonable service as a participating Member will in respect of each application be increased by  $(A \times B) / C$

where-

A is the number of added years he or she 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(1) above.

(3) If a Member to whom sub-paragraph (2) of this paragraph has applied subsequently commences a further period of service as a participating Member before he or she has attained the age of 65 years, in circumstances in which the periods together constitute an aggregate period of reckonable service as a participating Member, then subject to subparagraphs (4) and (6) of this paragraph, he or she may give notice to the Trustees in writing within the period of three months beginning with the date upon which he or she commenced the further period of service that he or she intends to resume payment of periodical contributions in respect of the added years for which he or she was making periodical contributions in his or her immediately preceding period of service and such periodical contributions shall then be payable from the date when he or she commenced the further period of service as a participating Member and shall continue until the participating Member attains the age of 65 years 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 or her ceasing to serve as a Member of the National Assembly for Wales for a period but subsequently became a Member of the National Assembly for Wales again and resumed the purchase of added years by periodical contributions in accordance with sub-paragraph (3) of this paragraph thereafter becomes entitled to a pension under Rule F1, his or her reckonable service as a participating Member shall be increased in accordance with subparagraph (2) of this paragraph except that C shall be read as the total period during which he or she would have paid periodical contributions for those added years if his or her service as a participating Member had been continuous.

(5) If a participating Member to whom sub-paragraph (2) of this paragraph has applied, subsequently commences a further period of

service as a participating Member before he or she has attained the age of 65 years, in circumstances in which the periods together constitute an aggregate period of reckonable service as a participating Member, then subject to sub-paragraphs (4) and (6) of this paragraph, he or she may, if, in consequence of his or her break in service as a participating Member, there has been a reduction in the number of added years which he or she is able to purchase in full, with the agreement of the Trustees and, subject to the provisions of paragraphs 2(1)(ii) and 8 of this Schedule, apply to purchase by periodical contributions payable until he or she attains the age of 65 years 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 or her application.

(6) Sub-paragraphs (3), (4) and (5) of this paragraph shall not apply where the application to purchase added years before the participating Member ceased to be a Member of the National Assembly for Wales was made under paragraph 2(2) above.

#### **Purchase of added years by lump sum**

6. (1) Subject to the provisions of sub-paragraph (2) of this paragraph, 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

- (i) the participating Member has not reached the age of 65;
- (ii) the participating Member applies to the Trustees within such period as the Trustees may at their discretion allow;
- (iii) the participating Member has not applied to the Trustees under the provisions of Rule J1 for an early pension because of ill-health

- (iv) the number of added years which the Member applies to purchase does not exceed the maximum permitted by virtue of the contributions that are permitted to be made by paragraph 8 of this Schedule; and
- (v) the participating Member has supplied to the Trustees such information and evidence as they may require.

(3) A participating Member who has applied to purchase added years under the provisions of paragraph 2(2) and to whom paragraph 5(2) applies may, in respect of any such application if

- (a) in consequence of ceasing to be a participating Member, there has been a reduction in the number of added years which he or she is able to purchase in full;
- (b) the conditions of paragraphs (iii), (iv) and (v) of sub-paragraph (2) of this paragraph 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 him or her ceasing to be a participating 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 participating 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 or her 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 or her application was received by the Trustees and in accordance

with tables to be prepared from time to time by the Actuary appointed under Rule S1 and the amount of their reckonable service as a participating Member shall be increased accordingly with effect from the date that 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 commencing on the date when the application is accepted by the Trustees, the application to purchase shall cease to be valid.

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

8. The total amount of a participating Member's contributions for the purchase of added years (whether made as periodical contributions under paragraph 2 or by way of lump sum under paragraph 6), when aggregated with his or her contributions under Rule D1 and any other additional voluntary contributions, shall not in any tax year exceed 20% of a Member's ordinary salary.

### **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.

### **Limitations on buying added years and general provisions**

10. (1) The Trustees must reject an application to buy added years on or after 1 April 2011, if the corresponding increase in reckonable service, when taken with the applicant's "anticipated reckonable service", would entitle the applicant to an annual pension under Rule F1 which exceeds the lesser of:

(a) the amount equal to two-thirds of the multiple; or

(b) the amount equal to two-thirds of the permitted maximum.

(2) An applicant's "anticipated reckonable service" is the reckonable service as a participating Member which the applicant would obtain if he or she continued as such and continued making contributions under Rule D1 at the same rate until:-

(a) where applying to buy by periodical contributions, the end of the period for which instalments are payable, or

(b) where applying to buy by lump sum, the next ordinary general election day.

(3) The Trustees must reject an application to buy added years if they consider that this would give rise to a lifetime allowance or annual allowance tax charge in respect of the applicant respectively payable under sections 214 and 227 of the Finance Act .

(4) The provisions of this Schedule are without prejudice to any maximum pension imposed in relation to a participating Member by Rule F5.

## SCHEDULE 5

### Pension Sharing on Divorce

1. The provisions of this Schedule shall apply to a civil partner as they apply to a spouse and shall apply to dissolution of a civil partnership as they apply to divorce on marriage. The provisions of this Schedule shall be construed such that no lump sum death benefit shall be payable on the death of an Ex-Spouse Participant or former civil partner after age 75. In the event of inconsistency the following provisions of this Schedule shall be treated as overriding all other provisions of the Scheme. The following words shall have the following meanings:-

#### **Definitions**

“Aggregate Retirement Benefit” in relation to a participant means the aggregate of:-

- (a) his or her pension under this Scheme and any Associated Scheme; and
- (b) the pension equivalent of his or her Lump Sum Retirement Benefits and in respect of a Class A participant this shall be calculated as one twelfth of its total cash value.

“Associated Scheme” means:

- (a) in respect of a Class A participant any Relevant Scheme which is a Connected Scheme or which provides benefits in respect of Reckonable Service;
- (b) in respect of a Class B participant any Relevant Scheme providing benefits in respect of Reckonable Service.

“Class A participant” means any participant who joined the Scheme on or after 1st June 1989 or any other participant who has elected to become a Class A participant (however termed) under the rules of the Scheme;

“Class B participant” means any participant who joined the Scheme on or after 17th March 1987 and before 1st June 1989 and has not elected to become a Class A participant;

“Class C participant” means any participant who joined the Scheme before 17th March 1987 and has not elected to become a Class A participant;

“Connected Scheme” means any Relevant Scheme which is connected with the Scheme in relation to a participant i.e. if:

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

For the purpose of this definition employers shall be deemed to be associated if one is controlled either directly or indirectly by the other or both are controlled by a third party, control in either case having the meaning set out in Section 840 of the Taxes Act 1988 or in the case of a close company as set out in Section 414 of the Taxes Act 1988.

“Dependant” means a person who has been financially dependent on the member and who in the opinion of the Trustees ought properly to receive a benefit under the Scheme in the event of the member’s death whether or not the member has notified the Trustees that he or she wishes that person to be considered as a recipient of such benefits.

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

“Ex-Spouse Participant” is an Ex-Spouse who participates in the Scheme.

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

“Negative Deferred Pension” means the amount by which the participant’s pension or deferred pension under the Scheme which arose/arises from service with the National Assembly for Wales is reduced at the relevant date by section 31 of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation, following a Pension Sharing Order, agreement or equivalent provision. For this purpose, service with the National Assembly for Wales includes all periods of service with other employers which give rise to benefits in this Scheme where a transfer payment has been made to the Scheme in respect of that other service.

“participant” is defined in Part A2(1) of the Rules.

“Pension Credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation.

“Pension Credit Benefit” in relation to a scheme, means the benefits payable under the scheme to or in respect of a person by virtue of rights under the scheme attributable (directly or indirectly) to a Pension Credit.

“Pension Credit Rights” means rights to future benefits under a scheme which are attributable (directly or indirectly) to a Pension Credit.

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

“Pension Debit Member” means a participant whose benefits have been permanently reduced by a Pension Debit. Such a participant will be:

- (i) a participant whose earnings at the date at which his or her marriage was dissolved or annulled exceeded  $\frac{1}{4}$  of the permitted maximum for the year of assessment in which the dissolution or

annulment occurred. A participant's ordinary salary for these purposes shall be taken to be the total emoluments -

- (a) which were paid to the participant in consequence of pensionable service to which the Scheme relates during the year of assessment before the year of assessment in which the marriage was dissolved or annulled, and
- (b) from which tax has been deducted in accordance with the Income Tax (Employments) Regulations 1993.

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

"Personal Pension Scheme" shall have the meaning ascribed to it by section 1 of the Pension Schemes Act 1993.

"Reckonable Service" means:

- (a) in respect of a Class A participant the aggregate of all periods of service and all other periods which count in respect of any associated employment or any Connected Scheme;
- (b) in respect of a Class B participant his or her service.

"Relevant Date" in relation to a Member means the earliest of the following:-

- (a) the date he or she retires;
- (b) the date he or she leaves service;
- (c) the date he or she dies;
- (d) the date he or she ceases to be a participant; and
- (e) his or her normal retirement date.

"Relevant Scheme" means any retirement benefits scheme other than the Scheme which is capable of obtaining and is seeking tax registered status with HMRC.

“service” means aggregate reckonable service as set out in Rule E2.

2. Part or all of the member’s retirement benefits or rights to benefits under the Scheme may be assigned to his or her Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision.

3. An Ex-Spouse may be invited by the Trustees to participate in the Scheme either:-

- (i) solely for the provision of a Pension Credit Benefit; or
- (ii) for the wholly separate provision of a Pension Credit Benefit where benefits accrue or have accrued to that individual under the Scheme for any other reason.

The invitation will be upon such terms and conditions as the Trustees shall determine. The decision of the Trustees whether or not to invite an Ex-Spouse to participate shall be final and binding on all parties.

4. The Trustees must make provision for the Pension Credit Benefit under the Scheme to be treated as provided separately from any benefits provided under the Scheme for the same individual as a participant or as the Dependant of a participant.

5. Participation in the Scheme offered to the Ex-Spouse either where the requirement in paragraph 4 is satisfied, or where the Ex-Spouse only has Pension Credit Benefits under the Scheme.

The following options will be available to the Ex-Spouse Participant in relation to the Pension Credit Benefit, subject to compliance with Social Security legislation.

- (i) A pension can be paid at the request of the Ex-Spouse Participant at any time from age 65 or from between ages 60 and 65 on an actuarially reduced basis. The Ex-Spouse Participant cannot defer commencement of the pension beyond his or her 75<sup>th</sup> birthday. If he or she is aged 75 or over at the date the Pension Sharing Order is implemented, the pension must come into payment

immediately. There is no limit on the amount of the pension. Such pension should not be commuted, surrendered or assigned except in accordance with the Scheme Rules. Such a pension must be payable for life unless it is fully commuted under paragraph 5(iv) and may be guaranteed for up to a maximum of five years.

- (ii) The Ex-Spouse Participant shall not have the option to take a lump sum in commutation of part of the pension at the time the pension first becomes payable.
- (iii) Where the Ex-Spouse Participant dies before benefits come into payment a lump sum death benefit may be paid to any person at the discretion of the Trustees subject to a maximum of five times the pension payable and to such Finance Act restrictions as may then be in force.
- (iv) Full commutation of the Pension Credit Rights on the ground of triviality is permitted when the pension first becomes payable. Where the Ex-Spouse Participant is also entitled to benefits under the Scheme arising from service as a participant for the purposes of determining the aggregate value of the total benefits payable to the participant under the triviality rule benefits from Pension Credit Rights must be included. Where the Ex-Spouse Participant is also entitled to benefits under the Scheme arising from service as a participant full commutation of the Pension Credit Rights on the grounds of triviality will only be permitted where benefits arising from service as a participant are simultaneously commuted.
- (v) The Ex-Spouse Participant whose pension has not yet commenced may request that the Trustees arrange a transfer of his or her Pension Credit Rights to another registered pension scheme in accordance with section 169 of the Finance Act, if he or she is already a member of that scheme or an Ex-Spouse Participant in that scheme. The Ex-Spouse Participant may request that the Trustees arrange a transfer of his or her Pension Credits Rights to any other scheme if HMRC's requirements are satisfied in relation to a transfer to that scheme. The Trustees must

confirm to the receiving scheme or arrangement, that the transfer value consists wholly or partly of Pension Credit Rights for the benefit of an Ex-Spouse Participant.

- (vi) The rights to a Pension Credit Benefit under the Scheme shall not be absolute, but shall be forfeited upon the bankruptcy of the Ex-Spouse Participant. Such benefits may then be paid to any individuals or individual as specified by the Trustees, in their absolute discretion.

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

- (i) The pension shall not exceed the Aggregate Retirement Benefit less the Negative Deferred Pension in this Scheme and the Negative Deferred Pension in any Associated Scheme and, furthermore in the case of a Class A participant the Negative Deferred Pension in any Connected Scheme.
- (ii) The lump sum from this and any Associated Scheme shall not exceed;
  - (a) for Pension Debit Members or Class A participants or Class B participants an amount determined by  $2.25 \times$  the initial annual pension payable.
  - (b) for Pension Debit Members who are Class C participants an amount of the greater of:
    - (I)  $2.25 \times$  the initial annual pension payable or
    - (II) an amount determined in accordance with the Rules as if there had been no Pension Debit, less  $2.25 \times$  the Negative Deferred Pension.

For the purposes of this paragraph, the initial annual pension should be calculated on the following bases:

- (aa) if the pension payable for the year changes, the initial pension payable should be taken;

(bb) it should be assumed that the Pension Debit Member will survive for a year;

(cc) the effect of commutation should be ignored.

7. Where appropriate, the Trustees must give full details of the Pension Debit and a lump sum certificate specifying the maximum permissible lump sum, to the receiving scheme/arrangement where the fund underlying the benefits for a Pension Debit Member is transferred to another registered pension scheme.

8. Where the Trustees accept a transfer payment and are informed by the transferor of the details of a Pension Debit relating to the transfer payment, the Trustees must take account of the Pension Debit, if appropriate, in the calculation of any limit on benefits for that participant.

9. If the Ex-Spouse dies after a Pension Sharing Order, agreement or equivalent provision is made but before it is acted upon by the Trustees, the following benefits may be paid. A lump sum death benefit may be paid to any person at the discretion of the Trustees. The lump sum is limited to 25% of what would have been the cash equivalent of the fund which would have provided the Pension Credit Rights for the Ex-Spouse.