Draft of proposed new Appendix for PN

Transfers from Approved Retirement Benefit Schemes and Relevant Statutory Schemes to Personal Pension Schemes

This Appendix gives details of how to calculate the maximum amount that may be transferred from an approved retirement benefit scheme or relevant statutory scheme to a personal pension scheme under Regulation 7(3) of The Personal Pension Schemes (Transfer Payments) Regulations SI [ ]/2000.

Terms which appear in bold type have specific meanings in relation to this Appendix, which are explained in the text or defined in the attached Annex. **The terms as defined are for use with this Appendix only.**

Step 1

Calculate the total current value of the existing assets (VT)

The value of the assets is to be taken as the market value of the funds held for the purpose of providing benefits for the member and any dependants under

- the transferring scheme (**V1**)
- any other schemes relating to the same employment (including free-standing AVC schemes) of which the individual is, or has been, a member, regardless of whether a transfer is being made from these schemes (**V2**)
- any retirement annuity contract or personal pension arrangement which must be treated as providing benefits from the current employer (**V3**) - see Note 1
- any scheme or arrangement (including buy-out policies, retirement annuity contracts and personal pension arrangements) which must be taken into account as a retained benefit (**V4**) – see Note 2.

VT is the sum of **V1 + V2 + V3 + V4**.

Market value is to be taken as the actual market value of the assets as at the transfer valuation date, which may be any date within 2 months of the transfer request.

The market value of retirement annuities and personal pensions is to be taken as the transfer value at the transfer valuation date.

Interest at base rate may be added for the period between the transfer valuation date and the actual date of transfer.

Step 2

Calculate the maximum permissible accrued benefit

The calculation varies depending on which basis of Revenue limits applies to the member under the transferring scheme i.e. post 1989 (Class A), pre 1 June 1989 (Class B) or pre 17 March 1987 (Class C).

The maximum pension (P) at **normal retirement date** derived from this calculation applies to the aggregate benefits from all schemes relating to the current employment.

<u>Class A members</u>

P = the greater of

a) NS (maximum 40)/60 x **final remuneration** and

b) the lesser of

   i) NS (maximum 20)/30 x **final remuneration** and

   ii) 2/3 x **final remuneration**.

Final remuneration is subject to a maximum of the **permitted maximum**, if the member is capped.

Apply N/NS to arrive at the maximum permissible accrued benefit.

<u>Class B members</u>

The calculation of P is the same as for Class A members.

Apply N/NS to P to arrive at the maximum permissible accrued benefit

<u>Class C members</u>

P = the greater of

a) NS (maximum 40)/60 x **final remuneration** and

b) the lesser of

   i) the uplifted scale (see Note 3) x **final remuneration** and

   ii) 2/3 x **final remuneration**.

Apply N/NS to P to arrive at the maximum permissible accrued benefit.

Step 3

Calculate the maximum transferable fund

The maximum transferable fund (**MTF**) is the present value of the maximum accrued benefit assessed in Step 2 above from normal retirement age (NRA) using the following assumptions.

Rate of investment return	8.5%
Rate of future salary growth	6.9%
Rate of post retirement pension increases	5.3%

NRA should be taken as 60 (or the actual age of the member if already over 60).

The annuity factors may be calculated as a life annuity guaranteed for five years and using PA(90) minus one year of age. A contingent post-retirement spouse's pension of 2/3rds of the member's pension may be included if, and only if, the member is married at the date of the calculation. Wives should be assumed to be 3 years younger than their husbands.

The various assumptions are subject to periodic review.

Step 4

Compare the results of Steps 1 and 3

1) If **MTF** is equal to or higher than **VT**, then **V1** may be transferred.

2) If **MTF** is lower than **VT**, then **MTF - (V2 + V3 + V4)** may be transferred.

If 2) applies, the transfer may not take place until the surplus has been dealt with

- in accordance with the rules of the transferring scheme, and
- with the agreement of the member.

Note 1.

Benefits are treated as being provided by the current employer, and therefore aggregable,

- firstly, in the case of a **controlling director** not entitled to continued rights (a Class A member), where the benefits from retirement annuity contracts or personal pensions arrangements arise from premiums or contributions paid out of relevant earnings from the current employer, and
- secondly, where the emerging benefits from a personal pension arrangement arise as the result of a transfer from a pension scheme of the current employer, but only to the extent that they relate to service with the current employer.

Note 2.

As a general rule, benefits from any pension scheme or contractual pension arrangement under which the member has retained rights to tax privileged benefits (for example, from previous employments or periods of self-employment) and which do not fall within **V1**, **V2** or **V3** are treated as retained benefits. This includes benefits from

- retirement benefit schemes approved or seeking approval under Chapter I Part IV
- relevant statutory schemes
- schemes to which Section 608 applies

- retirement benefit schemes which have been accepted as corresponding for the purposes of Section 596(2)(b)
- retirement annuity contracts or trust schemes approved under Section 620
- personal pension schemes approved under Section 631
- deferred annuity contracts securing benefits which have accrued by virtue of membership of a retirement benefit scheme or relevant statutory scheme.

Note 3.

The uplifted scale means:

Years of service to **normal retirement date**	Maximum pension fraction of **final remuneration**
1-5	1/60 for each year
6	8/60
7	16/60
8	24/60
9	32/60
10 or more	40/60

Fractions of a year may be interpolated into this scale.

Annex to Appendix [ ]

These definitions are for use with this Appendix only.

Controlling director shall have the meaning in paragraph 5(5) of Schedule 23 to ICTA 1988.

Final remuneration means an amount not greater than either:

(a) the highest **remuneration** upon which tax liability has been determined for any one of the 5 years preceding the date of leaving **pensionable service** being the aggregate of:

(i) the basic pay for the year in question, and

(ii) the yearly average over 3 or more consecutive years* ending with the expiry of the corresponding basic pay year, of any **fluctuating emoluments** provided that **fluctuating emoluments** of a year other than the basic pay year may be increased in proportion to the increase in the Retail Prices Index from the last day of that year up to the last day of the basic pay year, or

(b) the yearly average of the total emoluments from the employer which are assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined for any 3 or more consecutive years ending not earlier than 10 years before the date of leaving **pensionable service**.

Provided that -

(i) **remuneration** and total emoluments do not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares (except where the shares or rights etc which give rise to such an amount liable to tax under Schedule E had been acquired before 17 March 1987) or anything in respect of which tax is chargeable by virtue of section 148;

(ii) in relation to a **controlling director**, final remuneration shall be the amount ascertained in accordance with (b) and (a) above shall not apply.

(iii) in relation to any other employee whose **remuneration** in any year subsequent to 5 April 1987 used for the purpose of calculating benefits has exceeded £100,000, (or such other figure as may be prescribed by the Treasury), final remuneration shall not exceed the amount ascertained in accordance with (b) above and (a) above shall not apply, unless the individual chooses to adopt £100,000 (or such other figure as may be prescribed by the Treasury);

(iv) where final remuneration is computed by reference to any year other than the last complete year ending on the date of application for the transfer, the member's **remuneration** or total emoluments of any year may be increased in proportion to any increase in the Retail Prices

Index from the last day of that year up to the date of the transfer application;

(v) final remuneration shall not exceed the **permitted maximum** except in relation to Class B or C members;

(vi) an early retirement pension in payment from the employer may not be included in final remuneration.

* Where **fluctuating emoluments** have not been paid for the full 3 years, they should be averaged over the period from the commencement of their entitlement to payment (or the beginning of the 3 year period, if later) to the end of the relevant basic pay year. Where, however, it is proposed to include in final remuneration a **fluctuating emolument** which was payable in a single year only the agreement of the Pension Schemes Office must be sought.

Fluctuating emoluments are any part of an employee's earnings which are not paid on a fixed basis and are additional to the basic wage or salary. They include overtime, commission, bonuses and benefits in kind as long as they are assessable to tax under Case I or II of Schedule E.

Normal retirement date means the date of attainment by the member of the age specified in the scheme rules as the age at which a member should normally retire.

Pensionable service shall have the meaning in Section 70(2) Pension Schemes Act 1993 as amended from time to time.

Permitted maximum is defined in Section 590C(2) ICTA 1988.

Remuneration means (unless qualified in the definition of **final remuneration**) any emoluments which are chargeable to tax under Case I or II of Schedule E other than those items which are specifically excluded by Section 612(1) ICTA 1988 (e.g. share option gains or golden handshakes)