

DATED 27 May 2016

- (1) THE BOC GROUP LIMITED
- (2) BOC PENSION SCHEME TRUSTEES LIMITED

DEED OF VARIATION
adopting new Rules of
BOC PENSION SCHEME

MAYER • BROWN

LONDON

BOC PENSION SCHEME

DEED OF VARIATION

DATE: 27 May 2016

PARTIES:

- (1) **THE BOC GROUP LIMITED**, a company registered in England and Wales under company number 22096 (the "Company");
- (2) **BOC PENSION SCHEME TRUSTEES LIMITED**, a company registered in England and Wales under company number 3303706 (the "Trustees").

BACKGROUND:

- A. The BOC Pension Scheme (the "**Scheme**") was established on 1 April 1974 and is presently governed by a set of rules contained in a Deed of Variation dated 8 April 2016 (the "**Rules**"). This deed is supplemental to the Scheme documents described in Schedule 1, and to the Deed referred to in B. below.
- B. The Trustees are the present trustee of the Scheme, having been appointed with effect from 16 June 1997 in accordance with a Deed of Appointment and Removal dated 20 February 1999, and the Company is the current Company in relation to the Scheme.
- C. Under Rule K7 of the Rules, the Company with the consent of the Trustees may by deed executed by the Company and such Trustees alter any of the trusts, powers or provisions of the Rules.
- D. The Company with the consent of the Trustees wishes to adopt new Rules on the terms of this deed.
- E. The changes made by this deed are not regulated modifications (as defined in Section 67A(2) of the 1995 Act).

EFFECT OF THIS DEED:

1. The Company with the consent of the Trustees amends the Scheme by adopting the consolidated rules set out in Schedule 2 in place of the Rules with effect on and from 1 June 2016.
2. Insofar as any amendment made by this deed would or might, but for this clause 2, affect any entitlement or subsisting right of any member whose Pensionable Service ended before 1 April 2016, such amendment shall not apply to that member or any individual whose benefits arise on the death of such a member.

3. The Company and the Trustees shall by deed amend or add to all or any of the provisions of the Rules scheduled to this deed for the following purposes:
 - (1) to comply with the Preservation Requirements,
 - (2) to ensure, in such a way as the Company and the Trustees may reasonably decide, having regard to practicality as well as to the requirements of the law, compliance with the requirements of the 1995 Act, the Pensions Acts 2004 and 2014, the Pension Schemes Act 2014, the Finance Acts 2004, 2005, 2009 and 2011 and any regulations made under those Acts.
4. To the extent that any provision of this deed or the Rules (both as amended from time to time):
 - (i) provides a greater or lesser right or entitlement in respect of any person entitled or prospectively entitled under the Scheme than the Company and the Trustees intended; and/or
 - (ii) provides for a different balance of power between the Employers and the Trustees than that which they intended

such provision will be ineffective and this deed and the Rules will be construed to reflect the intended rights, entitlement or balance of power as the case may be unless the provision is confirmed by deed by the Company and the Trustees.

Any provision of this deed or the Rules which is inconsistent with (i) or (ii) above may, without prejudice to the jurisdiction of the Court, be corrected by the Company and the Trustees by deed.

5. This deed may be executed in as many parts as there are signatories to it. When each signatory has executed at least one part of this deed it shall be as effective as if all of the signatories had executed all of the parts of it. Each part of this deed may be treated as an original of this deed.
6. The parties to this deed do not intend that any term of this deed or of the Rules should be enforceable by any person who is not a party to this deed by virtue of the Contracts (Rights of Third Parties) Act 1999.

IN WITNESS of the above the parties duly executed this deed on the date first mentioned above.

SIGNED as a DEED by **THE BOC**)
GROUP LIMITED acting by:)

Director: CJ Cossins

~~Director~~/Secretary: Sue Kelly

SIGNED as a DEED by **BOC PENSION**)

SCHEME TRUSTEES LIMITED acting by:)

Director: Dale Gowland

~~Director~~/Secretary: Sue Kelly

SCHEDULE 1

EARLIER SCHEME DOCUMENTS

Date	Document
29 March 1974	Interim Trust Deed
30 August 1974	Deed of Variation
31 August 1977	Resolution of Individual Trustees
4 May 1979	Deed of Variation
25 April 1980	Definitive Trust Deed
23 July 1980	Resolution of Individual Trustees
1 September 1980	Deed of Amendment
29 November 1981	Deed of Variation
19 October 1982	Second Supplemental Deed of Variation
30 November 1984	Third Supplemental Deed of Variation
3 October 1985	Fourth Supplemental Deed of Variation
20 January 1986	Fifth Supplemental Deed of Variation
3 February 1987	Deed of Variation
26 March 1987	Deed of Variation
1 October 1987	Deed of Variation
2 October 1987	Deed of Variation
5 October 1987	Deed of Variation
6 October 1987	Deed of Variation
23 June 1989	Deed of Variation
19 March 1991	Deed of Variation
22 September 1992	Deed of Variation
22 December 1993	Deed of Variation
19 January 1996	Deed of Variation
4 April 1997	Deed of Variation
16 June 1999	Deed of Variation
3 July 2000	Deed of Variation
13 December 2000	Deed of Variation
6 May 2003	Deed of Variation
19 April 2004	Deed of Variation
12 May 2005	Deed of Variation
6 April 2006	Deed of Variation
19 December 2006	Deed of Variation
4 January 2008	Deed of Variation
6 August 2009	Deed of Variation
9 December 2009	Deed of Variation
15 March 2011	Deed of Amendment
30 March 2011	Deed of Variation
5 April 2012	Deed of Variation
27 February 2014	Deed of Variation
8 April 2016	Deed of Variation

SCHEDULE 2

RULES OF BOC PENSION SCHEME

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RULES OF BOC PENSION SCHEME

Definitions are contained in section M of these Rules, which also sets out how these Rules are to be interpreted

MEMBERSHIP

A1. Eligibility

A1.1 An employee or a director of an Employer may be eligible for Membership if the Trustees and the Company agree. Such a person's Membership may be subject to such conditions as the Company thinks fit.

A1.2 The Company may determine that any category of persons (not already Members) shall not be eligible to become Members or may become Members subject to such conditions as the Company may impose.

A2. Joining the Scheme

A2.1 A person who is eligible to join the Scheme under Rule A1 above will become a Member if he:

- (1) applies for Membership in the form required by the Trustees; and
- (2) provides such information, medical evidence and documents and satisfies such conditions (if any) as the Trustees require,

and the Trustees accept his application.

A2.2 Membership will have effect from such date as the Trustees decide.

A3. Levels of Membership

A3.1 A person (other than a SEPS Active Deferred Member) becoming a Member shall be a Level C Member unless before he pays any contributions (and before any contributions are paid in respect of him under Rule B5.1(2)) he elects to be a Level A Member or a Level B Member by giving written notice to his Employer and to the Trustees in a form acceptable to them. A SEPS Active Deferred Member becoming a Member shall be a Level 3 Member.

A3.2 A Member who was in Pensionable Service immediately prior to 1 April 2016 and remained in Pensionable Service on 1 April 2016:

- (1) who was immediately prior to that date a Level 1 Member shall be a Level C Member on and from 1 April 2016 unless prior to that date he elects to be a Level A Member or a Level B Member from that date by giving written notice to his Employer and to the Trustees in a form acceptable to them; and

- (1) who was immediately prior to that date a Level 2 Member shall be a Level B Member on and from 1 April 2016 unless prior to that date he elects to be a Level A Member or a Level C Member from that date by giving written notice to his Employer and to the Trustees in a form acceptable to them.

A3.3 A person in one Level of Membership may apply in writing to the Trustees to transfer to one of the others, except that no person other than a SEPS Active Deferred Member may become a Level 3 Member. If the Trustees, in their absolute discretion, permit the transfer, it shall take effect from a date decided by the Trustees, which shall normally be the first day of the month after receipt of the Member's application to transfer.

A3.4 For a period of Pensionable Service before 6 April 1987, a Member shall be treated as having been a Level 1 Member (if it was served or credited when he was contributing under the BOC No. 1 Pension Scheme) or a Level 2 Member (if he was contributing under this Scheme, which was then known as the BOC No. 2 Pension Scheme).

A4. **Part-time employees**

If a Member is a part-time employee when joining the Scheme or at any time during his Service, the following shall apply when calculating benefits (but not contributions), except for the purposes of Rule E1.1(1) (lump sum on death in service):

- (1) The Member's Earnings shall be deemed to be those he would have received if he had been a full-time employee.
- (2) Except in the calculation of New Final Earnings, Final Earnings, Old Pensionable Earnings, New Pensionable Earnings and Pensionable Earnings, each relevant period of Active Membership shall be multiplied by the fraction A/B where:
 - A. is the number of hours the Member was required to work during that relevant period by his contract of employment
 - B. is the number of hours the Member would have been required to work during the relevant period by his contract of employment had he been a full-time employee.
- (3) A relevant period for the purposes of (2) above begins on the first day of Active Membership and on each subsequent date that the fraction A/B changes. A relevant period ends on the day before the next relevant period or, if earlier, the last day of Active Membership.

A relevant period for the purposes of (2) above that has started but has not ended prior to 1 April 2011 will be deemed to end on 31 March 2011 with a new relevant period commencing on 1 April 2011.

- (4) If a benefit is calculated by reference to Potential Pensionable Service, the fraction A/B which applied on the last day of Active Membership shall apply also to Potential Pensionable Service after that day unless the Trustees, with the consent of the Company, decide that a higher fraction shall apply.
- (5) The Employer's decision shall be final as to the deemed Earnings in (1) above and the amounts of A and B in (2) above.

A5. Transfers in

A5.1 Subject to Rule F5.4 a transfer of assets may be accepted into the Fund from any other pension scheme or arrangement (including an occupational pension scheme or a personal pension scheme) upon such terms as the Trustees shall decide. If such a transfer is made in respect of a person:

- (1) that person may become a Member upon such special terms as the Trustees may think appropriate, and
- (2) such benefits or additional benefits may be granted for that person in respect of the assets received as the Trustees may decide, and
- (3) that part only of the transfer which is certified by the transferring scheme as relating to that person's own past contributions (plus any interest) shall be treated as having been contributed by him to the Fund.

The terms of the transfer, any special terms of Membership and any benefits granted shall comply with the Preservation Requirements.

A5.2 In addition to the power contained in Rule A5.1, the Trustees may accept a payment from another pension scheme of the Employers in respect of a Member who has also paid contributions to that other scheme.

If a transfer is made in respect of such a person, that part only of the transfer which is certified by the transferring scheme as relating to that person's own past contributions (plus any interest) shall be treated as having been contributed by him to the Fund.

The terms of the transfer and any benefits granted shall comply with the Preservation Requirements.

A6. **Opting Out**

A6.1 A Member may elect to be treated as leaving Service by giving written notice to the Trustees in a form acceptable to them. The election shall take effect on a date decided by the Trustees which shall normally be after the end of the pay period in which the notice is received but shall not in any case be after the end of the next following pay period. An election shall not take effect after the Member has already left Service or reached Retirement Age.

A6.2 If a Member is treated under Rule A6.1 as having left Service:

- (1) he will be treated as entitled to benefits under Rules D1 or D4, except that no pension or refund of contributions may be paid to a Member under Rules D1, D2, D3 or D4 until:
 - (a) his employment by the Employers actually ends, or
 - (b) after Retirement Age, or
 - (c) such earlier date as the Trustees may agree
- (2) a transfer payment for the Member may be restricted to benefits accrued on or after 6 April 1988, as described in Rule F4(4)(b)
- (3) if the Member so requests in a form acceptable to the Trustees, he may again be treated as a Member in Service but only:
 - (a) with effect from the beginning of the pay period in which the Trustees, in their absolute discretion, and the Company have approved his request
 - (b) if he is then still eligible under Rule A1, and
 - (c) on such terms and subject to such conditions as the Trustees or the Company may think fit.

A7. **Overseas Employers**

A7.1 This Rule A7 will apply solely to employees of Employers which are not resident in the United Kingdom or to a Member during a period of Overseas Secondment and overrides any other inconsistent Rules.

A7.2 Eligibility for Membership of the Scheme under Rule A1 may be extended to employees of an Employer which is not resident in the United Kingdom if they are chargeable to United Kingdom income tax on their emoluments from the Employer. In the event that such an employee ceases to be effectively chargeable to United Kingdom income tax he shall be treated as having left Service and his

accrued benefits will be held subject to the Rules until he leaves Service, retires or dies.

A7.3 Any period of Overseas Secondment shall not be a period of Pensionable Service unless the Company directs the Trustees that such period is to be a period of Pensionable Service. During a period of Overseas Secondment which is to be a period of Pensionable Service the Company shall determine the amount which shall be treated as the Member's Earnings (notwithstanding that those earnings may not be subject to the PAYE system) during such period by reference to the rate of remuneration appropriate for similar employment in the United Kingdom and shall be reimbursed by the overseas employer for the cost of the contributions due in respect of the Member under Rule B4.1.

A8. Cross-border Activities

Notwithstanding the provisions of Rule A1.1 no employee who is a "qualifying person" as defined in regulation 2(1) of the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 shall be eligible to join the Scheme. Any Member in Pensionable Service who becomes a "qualifying person" shall be treated with immediate effect as having left Service under Rule D1.

CONTRIBUTIONS

B1. Members' contributions

B1.1 Subject to Rule B1.1A, each Member while in Service shall contribute to the Fund:

- (1) in the case of a Level 1 Member:
 - (i) 3.6% of Earnings in respect of any pay period ending on or after 1 April 2011 and before 1 April 2012,
 - (ii) 4.2% of Earnings in respect of any pay period ending on or after 1 April 2012 and before 1 April 2013,
 - (iii) 4.8% of Earnings in respect of any pay period ending on or after 1 April 2013 and before 1 April 2016, or
- (2) in the case of a Level 2 Member:
 - (i) 6% of Earnings in respect of any pay period ending on or after 1 April 2011 and before 1 April 2012,
 - (ii) 7% of Earnings in respect of any pay period ending on or after 1 April 2012 and before 1 April 2013,
 - (iii) 8% of Earnings in respect of any pay period ending on or after 1 April 2013 and before 1 April 2016.
- (3) in the case of a Level A Member, the lesser of:
 - (i) the aggregate of 8% of Earnings and 3.4% of Band Earnings; and
 - (ii) 10.5% of Earnings,in respect of any pay period ending on or after 1 April 2016.
- (4) in the case of a Level B Member, 8% of Earnings in respect of any pay period ending on or after 1 April 2016.
- (5) in the case of a Level C Member, 4.8% of Earnings in respect of any pay period ending on or after 1 April 2016.
- (6) in the case of a Level 3 Member the aggregate of 8% of Earnings and 3.4% of Band Earnings in respect of any pay period ending on or after 1 June 2016.

B1.1A For the purpose of Rule B1.1 (but not in relation to the definition of Band Earnings), "Earnings" only includes the modifications made by paragraphs (b) or, in the case of a Level 1 Member, Level 2 Member, Level A Member, Level B Member or Level C Member (c) of the provisions of that definition relating to any period falling on or after 1 April 2011 to the extent that the Member's "Earnings" are increased by the applications of those paragraphs (b) and, in the case of a Level 1 Member, Level 2 Member, Level A Member, Level B Member or Level C Member, (c).

B1.2 If, on any date before Retirement Age, a Member has a prospective Scale Pension at Retirement Age which is equal to two-thirds of Old Pensionable Earnings (where for this purpose both Old Pensionable Earnings and the Scale Pension are to be calculated as if the Member's Active Membership had terminated on that date and no account is to be taken of any increase which may be expected to be made between that date and Retirement Age to a deferred pension) and which is attributable to the Member's Active Membership and (where the Company so decides) to a transfer of assets received in accordance with Rule A5.1, he shall stop paying contributions under Rule B1.1. Once a Member has stopped paying contributions as a result of this Rule B1.2, he shall not again pay contributions under Rule B1.1.

B1.3 A Member shall pay or stop paying contributions on or after Retirement Age as set out in Rule C3, provided that if a Member stopped paying contributions under Rule B1.1 before Retirement Age as a result of Rule B1.2, he shall not again start to pay contributions after Retirement Age.

B2. Additional voluntary contributions

A Member may not pay additional voluntary contributions to the Scheme.

B3. Payment of contributions

B3.1 A Member's contributions shall be deducted from his Pay and paid by the Employer into the Fund within such timescales as the Employer may agree with the Trustees from time to time.

B3.2 A Member may reduce his contributions but only:

- (1) with the agreement of the Trustees, and
- (2) upon such terms as the Trustees shall think fit, which may include a reduction of benefits or a suspension or termination of Pensionable Service.

B3.3 This Rule B3 is subject to Rule B5.

B4. Employers' contributions

B4.1 The liability of an Employer to pay contributions to the Fund shall be decided from time to time by the Company after consulting the Actuary, subject to any requirements of the Trustees which are necessary for securing the Scheme's compliance with any requirements as to Scheme funding set out in the Pensions Act 2004, applying to the Scheme. The liability of one Employer may be different from that of another.

B4.2 An Employer's liability under the Scheme may be terminated under Rule L1.

B4.3 An Employer may, by written notice to the Trustees, reduce or suspend its liability to pay contributions as set out in the notice. The following shall then apply:

- (1) Members' contributions (and any contributions paid in respect of a Member under Rule B5.1(2)) shall not be affected.
- (2) After consulting the Actuary, the Trustees may immediately or at any later time reduce any benefits payable for all or any persons who are or have been Members in the Service of that Employer. The total reduction in benefits shall have a value which, in the opinion of the Actuary, is not more than the value of the reduction or suspension of Employer's liability.
- (3) The Trustees shall notify Members affected of any reduction in benefit. If such a Member has died, the Trustees shall instead notify the person entitled to the benefit.

B5. Reduced Salary Members

B5.1 In respect of any period during which an Active Member is a Reduced Salary Member:

- (1) the Reduced Salary Member will not be required to pay contributions to the Scheme,
- (2) the Reduced Salary Member's Employer must pay to the Trustees each month (at the same time as the Reduced Salary Member's contributions would have been paid) the amount the Reduced Salary Member would have been required to contribute to the Scheme if he were not a Reduced Salary Member, except that in respect of a Reduced Salary Member who is a Level 3 Member or is a Level A Member and would be required to pay the aggregate of 8% of Earnings and 3.4% of Band Earnings in respect of any pay period ending on or after 1 April 2016 if he were not a Reduced Salary Member, his Band Earnings shall be calculated as his Band Earnings after taking account of any reduction to his Earnings as a result of the application of any Salary Exchange Arrangement in respect

of the 8% of Earnings he would have been required to pay if he had not been a Reduced Salary Member,

- (3) the Reduced Salary Member's Employer must notify the Trustees of the relevant Member's Reference Earnings, his Reference Death Benefit Earnings, and his Reference Pay, and
- (4) benefits from the Scheme for and in respect of the Reduced Salary Member (or a former Reduced Salary Member) will be calculated as if the Member had not been a Reduced Salary Member at any time and accordingly:
 - (a) as if the Member's Earnings, his Death Benefit Earnings, his Pay for the purposes of the Rules had been, respectively, his Reference Earnings, his Reference Death Benefit Earnings, and his Reference Pay, and
 - (b) as if the Member had been paying contributions under Rule B1.1 based on his Reference Earnings. However, the Member shall not be entitled under Rule D4 to a refund of the contributions he would have made had he not been a Reduced Salary Member.

B5.2 The "**Reference Earnings**", the "**Reference Death Benefit Earnings**", and the "**Reference Pay**" of a Reduced Salary Member are, respectively, the Earnings, the Death Benefit Earnings, and the Pay which the Employer reasonably determines the Reduced Salary Member would have had if he had not been a Reduced Salary Member.

B5.3 An Active Member is a "**Reduced Salary Member**" in respect of any period on or after the Effective Date in which he is participating in a Salary Exchange Arrangement.

B5.4 "**Salary Exchange Arrangement**" means any arrangement which may be identified by the Company to the Trustees from time to time as a "Salary Exchange Arrangement" for the purposes of this definition (and under which an Active Member gives up the right to receive some of the employment income which would otherwise have been payable to him and under which his Employer (or any other person) agrees in exchange to pay some or all of the contributions which the Active Member would otherwise have paid to the Scheme).

RETIREMENT BENEFITS

C1. Scale Pension

The Scale Pension is equal to the sum of:

- (1) 1/100 of Pensionable Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 1 Member (with a proportionate amount for each additional complete day), and
- (2) 1/100 of New Pensionable Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 1 Member (with a proportionate amount for each additional complete month), and
- (3) 1/60 of Pensionable Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 2 Member (with a proportionate amount for each additional complete day), and
- (4) 1/60 of New Pensionable Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 2 Member (with a proportionate amount for each additional complete month), and
- (5) 1/60 of New Pensionable Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level A Member (with a proportionate amount for each additional complete month), and
- (6) 1/70 of New Pensionable Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level B Member (with a proportionate amount for each additional complete month), and
- (7) 1/130 of New Pensionable Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level C Member (with a proportionate amount for each additional complete month), and
- (8) the 1997 Credit (if any) calculated at 31 March 2011,

PROVIDED THAT:

- (i) The amounts referred to in Rule C1(1), (3), and (8) are to be increased for the period from 1 April 2011 until the Calculation Date as follows:
 - (a) during any period during which the Member remains in Service which is Pensionable Service and, in respect of any period prior to 6 April 2016, contracted-out employment, the GMP (if any) is increased as set out in Rule I1.2, and during any other period of Service, the GMP is increased as set out in Rule I1.3;

- (b) any amount which is not part of the GMP is increased as if the Member had left Active Membership on 31 March 2011 as a Type B Leaver in accordance with the Revaluation Requirements (as set out in Rule M1 and not, for the avoidance of doubt, as it would actually have applied if the Member had left Active Membership on 31 March 2011). For these purposes, where the Member's Active Membership terminates before Retirement Age, such increase will be calculated as if the Member had reached Retirement Age but no account shall be taken of any period after the Calculation Date.

For the avoidance of doubt, no account shall be taken of any period after the Calculation Date when calculating the increases under (a) or (b) above.

- (ii) the annual amount of the pension which is attributable to the Member's Active Membership and (where the Company so decides) to a transfer of assets received in accordance with Rule A5.1, shall be not more than two-thirds of Old Pensionable Earnings (where for this purpose Old Pensionable Earnings are to be calculated as if the Member's Active Membership had terminated at Retirement Age if he is in Active Membership at Retirement Age and, for the avoidance of doubt, at the date the Member's Active Membership actually terminated in any other case). Where this limit applies, that part of the Scale Pension which relates to New Pensionable Service will be reduced accordingly before any reduction is made to that part of the Scale Pension which relates to Old Pensionable Service.
- (iii) benefits to and in respect of the Member shall be increased to the extent required by Rule 11.1(b) and (c) (if applicable).

C2. Normal retirement

A Member who ceases to be in Service at Retirement Age shall be immediately entitled to the Scale Pension.

C3. Late retirement

If a Member remains in Service after Retirement Age, the following shall apply:

- (1) If the Member stopped paying contributions under Rule B1.1 before Retirement Age as a result of Rule B1.2, his Active Membership shall end at Retirement Age.
- (2) If (1) does not apply, he shall pay contributions in accordance with Rule B1.1 until the earliest of:
 - (a) the date he ceases to be in Service

- (b) the date on which a cash sum is payable to him under Rule F1 (commutation)
- (c) the date on which (on the assumption that the Member's Active Membership had terminated on that date) the Member's pension calculated in accordance with (4) below and which is attributable to the Member's Active Membership and (where the Company so decides) to a transfer of assets received in accordance with Rule A5.1 is equal to two-thirds of Old Pensionable Earnings
- (d) 5 years after Retirement Age or such later date as the Trustees may allow, and
- (e) a date on or after Retirement Age chosen by the Member

and his Active Membership shall then end.

- (3) A pension shall be paid to the Member from the later of:
 - (a) (i) if the Member stopped paying contributions under Rule B1.1 before Retirement Age as a result of Rule B1.2, Retirement Age; or
 - (ii) in any other case, the day after he stops paying contributions under (2) above, and
 - (b) a date chosen by the Member not later than the date he ceases to be in Service.
- (4) The pension (before commutation or surrender under Rules F1 and F2) shall be the sum of:
 - (a) the greater of:
 - (i) the pension to which the Member would have been entitled under Rule C2 if he had ceased to be in Service at Retirement Age but increased to take account of any postponement of payment after Retirement Age, and
 - (ii) a pension calculated in the same way as the Scale Pension but based only on the Member's Pensionable Service when he reached Retirement Age and on the basis that:
 - (A) references to the Member's New Pensionable Earnings in paragraphs (2) and (4) of Rule C1. are to be read as references to the Member's New Pensionable Earnings when his Active Membership ended; and

- (B) the increase required by proviso (i)(b) to Rule C1 to be made to any amount which is not part of the GMP is calculated as if the date when the Member's Active Membership actually terminates was the Member's Retirement Age;

and then increased to take account of any postponement after the last day of Active Membership, and

- (b) a pension calculated in the same way as the Scale Pension (excluding any GMP and 1997 Credit) but based only on:
 - (i) the Member's Pensionable Service when his Active Membership ended less his Pensionable Service when he reached Retirement Age, and
 - (ii) the Member's New Pensionable Earnings on the basis that reference to the Member's New Pensionable Earnings in paragraphs (2) and (4) of Rule C1. are to be read as references to the New Pensionable Earnings respectively when his Active Membership ended,

and then increased to take account of any postponement after the last day of Active Membership. Rule H3.2 describes how increases are made to take account of postponement.

C4. Ill-Health and Incapacity

If a Member ceases to be in Service before Retirement Age due to Ill-Health or Incapacity, the Trustees may, at the Employer's request and with the Member's consent, direct that the Member shall be entitled on retirement to an immediate pension being:

- (1) in the case of Ill-Health, the Scale Pension, or
- (2) in the case of Incapacity, the Scale Pension calculated after increasing, in relation to the part of the Scale Pension calculated by reference to New Pensionable Service, the Member's New Pensionable Service by one-half of the difference between his actual Pensionable Service and his Potential Pensionable Service

or such greater amount as the Trustees may think fit.

Without affecting their general discretion whether or not to direct payment of an immediate pension under this Rule, the Trustees may decline to make such a direction in circumstances where they are satisfied that inadequate medical checks were carried out by the Employer on their behalf at the time when the Member was first eligible for membership, or that the Member failed fully to

disclose a relevant medical condition which existed and of which the Member was aware at the time of being admitted to membership. The Trustees must however comply with the requirements of the Equality Act 2010.

A pension granted under this Rule may be reduced or suspended under Rule H3.5 (recovery of health).

C5. Redundancy

C5.1 If a Member's Service is terminated on or after 1 December 2006 by the Employer by reason of Redundancy and at that time the Member has at least 10 years' Active Membership the Member shall on retirement when the Member leaves Service or, if later, attains age 55 be entitled to an immediate pension equal to the Scale Pension.

"Active Membership" for this purpose shall, if and to the extent which the Company decides, include a period of service completed by the Member before becoming an Employee.

If the Member left Service before age 55, the pension shall be increased during the period of deferment up to that age in accordance with Rule D1.2 as if the Member's Retirement Age were age 55.

C5.2 A Member entitled to a pension under Rule C5.1 may in writing choose to receive the pension from such later date as he shall specify (not being later than age 70, or such later date as the Trustees may allow) in which case the pension shall be increased by such amount as the Trustees shall think fit. The Company's consent shall be required if the increase is different from that which the Actuary advises would be appropriate to take account of later payment.

C5.3 If a Member who is prospectively entitled to a deferred pension in accordance with Rule C5.1 suffers from Ill-health before reaching age 55, he may, if the Company and the Trustees consent, receive payment of his pension immediately. Such pension may later be reduced or suspended under Rule H3.5.

C6. Other early retirement

If a Member ceases to be in Service before Retirement Age and

- (1) he has attained age 55, and
- (2) he has at least 10 years' Active Membership (as that term is defined for the purposes of Rule C5.1), and
- (3) he gave to the Employer and served at least 3 months' notice of retirement (or such longer period as his contract of employment required or such shorter period as the Company may have approved for this purpose), and

(4) the Company agrees that this Rule may apply,

the Member shall, at his request, be entitled on leaving Service to an immediate pension equal to:

- (a) in the case of a Member who is within 5 years of Retirement Age, the Scale Pension,
- (b) in any other case, the Scale Pension reduced (except insofar as the Scale Pension is attributable to a 1997 Credit) by 1/6% for each complete month (and for any part of a month left over) between the date of retirement and age 60. However the Company, with the consent of the Trustees, may determine in any particular case that a lesser reduction, or no reduction, shall be applied.

C7. Special terms for certain female Members

For female Members who were in Service and aged 40 or more on 31 May 1990, and who have not subsequently left Service under A6.1, the amount of a benefit payable under Rules C5.2 or C6 (but not eligibility for that benefit) shall be determined in accordance with those Rules, with the following modifications. The part of the benefit which is attributable to Pensionable Service completed by the Member before 17 May 1990 shall:

- (1) under Rule C5.2, not be reduced for early payment if it commences after the Member has attained age 50; and
- (2) under Rule C6, not be reduced for early payment if it commences after the Member has attained age 55.

C8. Flexible retirement

A Member may, with the consent of the Company and the Trustees, elect to receive a deferred pension before Retirement Age equal to the Scale Pension whilst remaining in Service, calculated in accordance with Rule D2.1, provided that, if the Company so requires and the Trustees consent, the reduction applied may be of some other amount than that set out in that Rule and provided also that he has reached age 55. For the avoidance of doubt, he shall no longer be in Active Membership and Rule E1 shall not apply to him.

LEAVING BENEFITS

D1. Deferred Pension

D1.1 Subject to Rule D4, if a Member leaves Service before Retirement Age and is not immediately entitled to a pension under Rules C4, C5 or C6, he shall be entitled immediately after Retirement Age (or, in the case of a Member to whom Rule C5.1 applies, on the day after attaining age 55) to a deferred pension equal to the Scale Pension.

D1.2 The deferred pension shall be split into parts, and those parts increased, as follows:

- (1) The deferred pension shall be made up of the following parts:
 - (a) The Basic GMP, and
 - (b) The excess over the Basic GMP, which shall be split where appropriate into:
 - (i) the post-1984 excess, and
 - (ii) the pre-1985 excess

The post-1984 excess, as a fraction of the whole of the excess over the Basic GMP, shall be equal to Pensionable Service after 31 December 1984 divided by total Pensionable Service. A period of Pensionable Service which is not Active Membership shall be treated as ending immediately before the Active Membership.

- (2) The parts shall be increased as follows:
 - (a) the Basic GMP shall be increased on the basis described in Rule II.3 (and subject to Rule II.5) so that, at State Pension Age, it is equal to the Revalued GMP, and with such further increase (if any) as may be required under Rule II.2 on commencement of GMP after State Pension Age.
 - (b) the post-1984 and the pre-1985 excess shall each be increased from the date on which the Member's Active Membership terminates by the revaluation percentage specified in the Revaluation Requirements

D2. Early payment

D2.1 (1) Subject to Rule D2.1(2), a Member entitled to a deferred pension on retirement after Retirement Age may, with the consent of the Trustees, elect instead to receive a reduced pension from an earlier date. The

earlier date may not be before the Member reaches age 55, unless the Member has retired from employment due to sickness or disability and the Trustees are satisfied that the Ill-Health Condition has been met. The reduced pension (excluding any 1997 Credit, which shall remain payable unreduced) shall, subject to Rule D2.2, have at least the same overall value, in the opinion of the Trustees, as the deferred pension otherwise payable under Rule D1 (excluding any 1997 Credit). Early payment cannot be made if the Member's pension at State Pension Age would, but for Rule I1, be less than the Revalued GMP.

(2) Notwithstanding Rule D2.1(1), no Trustee consent is required for a Gist Member in respect of whom Rule D2.1(1) applies and who makes an election under Rule D2.1(1), if the Gist Member is an active member of the Gist Limited Pension Scheme at the time of the election and satisfies the Trustees that:

(i) the trustee of the Gist Limited Pension Scheme has agreed to pay the Gist Member his pension early under one of the following rules of the Gist Limited Pension Scheme: rule C5 (Redundancy), C7 (Other Early Retirement) or C8 (Flexible Retirement); or

(ii) the trustee of the Gist Limited Pension Scheme has agreed to pay the Gist Member his pension early under Gist Limited Pension Scheme Rule C4 (Ill-Health and Incapacity) if the Trustees are satisfied that the Ill-Health Condition has been met.

D2.2 If the Member elects for early payment under Rule D2.1 when suffering from Ill-Health, the Trustees may, with the Company's consent, decide that the amount of pension shall not be reduced or shall be reduced by a lesser amount than would otherwise apply. Such a pension may later be reduced or suspended under Rule H3.5.

D3. **Late payment**

A Member who is an Active Member on 31 March 2011 and who is entitled to a deferred pension at Retirement Age may elect to receive pension at a later date. The consent of the Trustees shall be required to defer the pension past age 70. The pension shall be increased to take account of this postponement in accordance with Rule H3.2.

D4. **Refund of contributions**

D4.1 This Rule D4 applies to an Unreduced Salary Member (or a former Unreduced Salary Member) who has left Service (or is treated under Rule A6.1 as having done so) with less than 2 years' Qualifying Service and in respect of whom no transfer has been accepted from a personal pension scheme under Rule A5.

D4.2 A refund of the Member's Scale Contributions (plus Interest) will be made unless the Member elects within two months after leaving Service (or such longer period as the Trustees may allow) for a transfer payment under Rule F4.

D4.3 The Member's share of the cost of buying back into the State Scheme shall be deducted from his refund as set out in Rule I1.7. Tax shall also be deducted under Rule H3.4.

D5. Transfer payments

D5.1 A Member entitled to a deferred pension may have a transfer payment made for him under Rule F4.

D5.2 A Member entitled to a deferred pension which has not come into payment and who rejoins the Scheme as a Member in Service may request the Trustees to treat the value of his deferred pension as if it were a transfer payment received from another pension scheme, in accordance with Rule A5. The Trustees may, in accordance with Rule A5.1(2), grant such benefits for that person as they decide, after consulting the Actuary, and the deferred pension to which the Member was previously entitled will cease to be payable. The Trustees must however comply with the Preservation Requirements.

DEATH BENEFITS

E1. Death in Service

E1.1 Subject to Rule E1.2, if a Member dies in Service there shall be paid the benefits set out in (1), (2), (3) and (4) below except this Rule E1.1 shall not apply (and instead Rule E3 shall apply) if the Member dies in Service after Retirement Age when any benefits payable under the Scheme (whether pension or lump sum benefits) have been paid in accordance with Rule C3:

- (1) a lump sum equal to (a) 4 x Death Benefit Final Earnings, plus (b) the Member's Scale Contributions with Interest. The Trustees may however reduce the benefit in accordance with Rule H5 to any extent necessary.
- (2) an immediate pension to his Recognised Dependant equal to the sum of:

(i) the aggregate of:

(A) 1/200 of the Member's Final Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 1 Member (with a proportionate amount for each additional complete day); and

(B) 1/120 of the Member's Final Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 2 Member (with a proportionate amount for each additional complete day),

increased in accordance with Rule E8, and

(ii) 1/200 of the Member's New Final Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 1 Member (with a proportionate amount for each additional complete month), and

(iii) 1/120 of the Member's New Final Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 2 Member (with a proportionate amount for each additional complete month), and

(iv) 1/120 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level A Member (with a proportionate amount for each additional complete month), and

- (v) 1/140 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level B Member (with a proportionate amount for each additional complete month), and
 - (vi) 1/260 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level C Member (with a proportionate amount for each additional complete month), and
 - (vii) an additional amount for the remainder of the Member's Potential Pensionable Service calculated as in (iv) above (if the Member died as a Level A Member), (v) above (if the Member died as a Level B Member) or (vi) above (if the Member died as a Level C Member),
- (2A) for any period of postponement of pension payment after the date on which the Member's Active Membership ended after Retirement Age in accordance with Rule C3, the amount calculated under (2) shall be increased as follows:
- (i) that part equal to one half of the Member's Revalued GMP shall be increased by the amount (if any) required under section 15(1)-(4) of the 1993 Act; and
 - (ii) that part equal to the excess over half the Member's Revalued GMP shall be increased in the same proportion as the increase between:
 - (a) that part of the pension which is equal to the excess over half the Member's Revalued GMP (as increased as required by under section 15(1)-(4) of the 1993 Act) the Member would have received under Rule C3 if he had retired on the date on which the Member's Active Membership ended in accordance with Rule C3; and
 - (b) that part of the pension which is equal to the excess over half the Member's Revalued GMP (as increased as required by under section 15(1)-(4) of the 1993 Act) the Member would have received if it had come into payment on the day before his death.
- (3) a Children's allowance under Rule E4.
- (4) on the first date that no pensions are payable to a Recognised Dependant or a dependant in respect of the Member, a lump sum equal to the amount (if any) by which:-

- (a) 5 times the part of the Member's Scale Pension (which, where a Member dies in Service after Retirement Age and no benefits payable under the Scheme (whether pension or lump sum benefits) have been paid in accordance with Rule C3 means a pension calculated in accordance with Rule C3 as if he had started to draw his pension immediately before his death) which relates to Old Pensionable Service exceeds
- (b) any instalments of pension (but not Children's allowance) relating to Old Pensionable Service paid in respect of the Member.

E1.2 The benefits payable under Rule E1.1 shall be calculated to be no less than if the Member had died in Service on 31 March 2011.

E2. **Death in deferment**

E2.1 If a Member dies after leaving Service entitled to a pension under Rule C5, D1 or D3 which has not come into payment, there shall be paid:-

- (1) on the death of a Gist Member who was an active member of the Gist Limited Pension Scheme immediately before his death a lump sum equal to the Member's Scale Contributions with Interest. The Trustees may however reduce the benefit in accordance with Rule H5 to any extent necessary.
- (2) an immediate pension to his Recognised Dependant (whether or not the Member is a Gist Member) equal to:

the sum of:-

- (i) the aggregate of:
 - (A) $\frac{1}{200}$ of the Member's Final Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 1 Member (with a proportionate amount for each additional complete day); and
 - (B) $\frac{1}{120}$ of the Member's Final Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 2 Member (with a proportionate amount for each additional complete day),

increased in accordance with Rule E8, and

- (ii) $\frac{1}{200}$ of the Member's New Final Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level

- 1 Member (with a proportionate amount for each additional complete month), and
- (iii) 1/120 of the Member's New Final Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 2 Member (with a proportionate amount for each additional complete month), and
 - (iv) 1/120 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level A Member (with a proportionate amount for each additional complete month), and
 - (v) 1/140 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level B Member (with a proportionate amount for each additional complete month), and
 - (vi) 1/260 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level C Member (with a proportionate amount for each additional complete month),

the total of which then being increased as follows:-

- (A) that part equal to half the Member's Basic GMP shall be increased so that it is equal to half the Revalued GMP together with half of any further increase to the Basic GMP arising under section 15(1)-(4) of the 1993 Act.
- (B) those parts equal to the pre-1985 and post-1984 portions of the excess over half the Member's Basic GMP shall each be increased for the period for which the Member's pension was in deferment until Retirement Age (or the Member's death if earlier) in accordance with the Revaluation Requirements.
- (C) if the Member died after postponing payment of his pension under Rule C5.1 until after age 55 (and before receiving a pension) that part equal to the excess over half the Member's Basic GMP shall be increased:
 - (i) as in (B) above for any period of deferment up to age 55, but
 - (ii) for the period from age 55 or the date of termination of his Active Membership (if later) until death (or the Member's Retirement Age if sooner), the increase to that part shall be made in accordance with Rule H1, and

- (iii) if the Member died after Retirement Age the pension will be further increased in respect of the period between the Member's Retirement Age and the Member's death by the same percentage as the Member's pension would have been increased over the same period under Rule C5.2 if he had started to receive it immediately before his death.

The post-1984 portion and pre-1985 portion shall be calculated in the same way as in Rule D1.2(1).

- (D) for any period of postponement of pension payment after Retirement Age under Rule D3, that part equal to the excess over half the Member's Basic GMP as increased in (A) above at that date shall be increased in the same proportion as the difference between:

- (i) that part of the pension which is equal to the excess over half the Member's Basic GMP as increased in (A) above the Member would have received under Rule D1 if he had retired at Retirement Age; and

- (ii) that part of the pension which is equal to the excess over half the Member's Basic GMP as increased in (A) the Member would have received in accordance with Rule D3 had he started to receive it immediately before his death.

- (3) a Children's allowance under Rule E4

- (4) on the first date that no pensions are payable to a Recognised Dependant or a dependant in respect of the Member, a lump sum equal to the amount (if any) by which:-

- (a) 5 times the pension he would have received had he started to receive it immediately before his death, calculated under (i) or (ii) below:

- (i) (A) where the Member elected under Rule D3 to receive a pension from a date after Retirement Age, under Rule D3; or

- (B) in the case of a Member entitled to a pension under Rule C5.1 who died after postponing payment of his pension under Rule C5.1 until after age 55 (and before receiving a pension), under Rule C5.2; or

- (ii) in any other case, the Member's deferred pension calculated with increases under Rule D1.2 up to the date of his death,

exceeds

- (b) any instalments of pension (but not Children's allowance) paid in respect of the Member.

E2.2 If a Member entitled to a pension under Rule C5.1 dies before choosing in writing under Rule C5.2 to request the commencement of pension at a later date than that specified in Rule C5.1, the Trustees may, in their absolute discretion, direct that Rule F1.2 shall apply as well as Rule E2.1, as if the Member had retired from Service immediately before death.

E3. **Death in retirement**

If a Member dies while in receipt of a pension under the Scheme (or if he would have been receiving such a pension if he had not totally given up pension for a lump sum under Rule F1), there shall be paid:-

- (1) an immediate pension to his Recognised Dependant equal to:

the sum of:-

- (i) the aggregate of:

- (A) $\frac{1}{200}$ of the Member's Final Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 1 Member (with a proportionate amount for each additional complete day); and

- (B) $\frac{1}{120}$ of the Member's Final Earnings calculated as if his Active Membership had terminated on 31 March 2011 for each complete year of Old Pensionable Service as a Level 2 Member (with a proportionate amount for each additional complete day),

increased in accordance with Rule E8, and

- (ii) $\frac{1}{200}$ of the Member's New Final Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 1 Member (with a proportionate amount for each additional complete month), and

- (iii) $\frac{1}{120}$ of the Member's New Final Earnings for each complete year of New Pensionable Service prior to 1 April 2016 as a Level 2 Member (with a proportionate amount for each additional complete month), and

- (iv) 1/120 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level A Member (with a proportionate amount for each additional complete month), and
- (v) 1/140 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level B Member (with a proportionate amount for each additional complete month), and
- (vi) 1/260 of the Member's New Final Earnings for each complete year of New Pensionable Service on and after 1 April 2016 as a Level C Member (with a proportionate amount for each additional complete month), and

if the Member had retired due to Incapacity under Rule C4, an additional amount for the remainder of his Potential Pensionable Service calculated as in (ii) above (if the Member retired as a Level 1 Member), (iii) (if the Member retired as a Level 2 Member), (iv) above (if the Member retired as a Level A Member), (v) above (if the Member retired as a Level B Member) or (vi) above (if the Member retired as a Level C Member),

the total of which then being increased as follows:-

- (A) for any period of deferment between the Member leaving Service and the earlier of his Retirement Age and the date on which his pension came into payment (including any period of postponement prior to Retirement Age under Rule C5.2), in accordance with paragraphs (A) to C(ii) inclusive of Rule E2.1(2) in the same way as if the member had died when his pension came into payment
- (B) for any period between the Member's Retirement Age (or, if later, the date on which the Member's Active Membership ended in accordance with Rule C3(2)) and a later date on which his pension came into payment:
 - (i) that part equal to one half of the Member's Revalued GMP shall be increased by the amount (if any) required under section 15(1)-(4) of the 1993 Act; and
 - (ii) that part equal to the excess over half the Member's Revalued GMP shall be increased in the same proportion as the increase between:
 - (a) that part of the pension which is equal to the excess over half the Member's Revalued GMP (as increased as required by under section 15(1)-(4) of

the 1993 Act) the Member would have received under Rule C2 (or where applicable Rule C3(3)(a)(i), C5.2, Rule D1) if he had retired at Retirement Age or, if later, he had retired under Rule C3(3)(a)(ii) on the date on which the Member's Active Membership ended in accordance with Rule C3(2); and

- (b) that part of the pension which is equal to the excess over half the Member's Revalued GMP (as increased as required by under section 15(1)-(4) of the 1993 Act) the Member in fact received under on the date on which his pension came into payment, and
- (C) for the period between the date on which the Member's pension came into payment and his death, in proportion to any increases made to the Member's pension during that period under Rules H1. and I1.4 or (if greater) in proportion to the increases that would have been made under those Rules to the Member's pension assuming that:
- (i) the Member's pension had not been commuted or surrendered under Rules F1 or F2
 - (ii) the Member's pension had not been reduced because of earlier payment under Rules C5.3 (Redundancy), C6 (Early Retirement) or D2 (Early Payment of Deferred Pension)
 - (iii) the Member's pension, if payable under Rule C4(2) (Incapacity), had been his Scale Pension calculated after increasing his New Pensionable Service so that his Pensionable Service was equal to his full Potential Pensionable Service

plus one-half of the amount of the 1997 Credit (if any) to which the Member was entitled at the date of death,

- (2) a Children's allowance under Rule E4
- (3) on the first date that no pensions are payable to a Recognised Dependant or a dependant in respect of the Member, a lump sum equal to the amount (if any) by which:-
 - (a) 5 times the pension payable to the Member when it came into payment (after any commutation or surrender under Rules F1 and F2)

exceeds

- (b) any instalments of pension (but not Children's allowance) paid to or in respect of the Member.

A payment under this paragraph shall, as far as possible, constitute a Defined Benefits Lump Sum Death Benefit (as defined in paragraph 13 of Schedule 29 of the Finance Act 2004).

E4. Children's allowance

E4.1 If a Member dies and is survived by one or more Children, an allowance shall be paid for so long as there continues to be a Child or Children. A Children's allowance shall be payable whether or not the Member is survived by a Recognised Dependant.

E4.2 The amount of the allowance at any time is as follows:-

- (1) where the Member is not survived by a Recognised Dependant but he is survived by at least one Qualifying Child, four times the basic amount in respect of the first Qualifying Child and the basic amount for each additional Child (not exceeding 4 Children in total); or
- (2) where paragraph (1) above does not apply, the basic amount multiplied by the number of Children at that time (not exceeding 4).

In (1) and (2) above, the basic amount is one-quarter of the Recognised Dependant's pension calculated in accordance with Rules E1, E2 or E3 (as appropriate), increased whilst in payment under Rule H1.

For the purposes of this Rule E4.2, "Qualifying Child" means a Child of a Member who, in the opinion of the Trustees and at the time of the death of the Member, has been left without the financial support of another adult for the ordinary necessities of life.

E4.3 In calculating the allowance, Rule E6 (Limitations on Recognised Dependant's pension) shall be ignored.

E4.4 If there is one Child, the allowance shall be paid to him. If there are two or more Children, the allowance shall be paid to such one or more of them and in such shares as the Trustees shall decide.

E4.5 If there is a Child who suffers incapacity (as mentioned in paragraph (2)(c) of the definition of "Child" in Rule M1), the Trustees may impose such terms as to the payment of an allowance as they think fit.

E5. Dependant's pension

If a Member dies and is not survived by a Recognised Dependant, one or more of the Member's dependants may receive an immediate pension as follows:

- (1) The Trustees shall in their absolute discretion decide whether or not a dependant's pension shall be paid and, if so, its amount.
- (2) A dependant's pension shall cease on his death or on such earlier date or event as the Trustees may specify.
- (3) The aggregate value of the dependants' pensions shall not exceed the value of the Spouse's pension which would have been payable if the Member had been survived by a Spouse of his own age, less the value of any widow's or widower's GMP payable under the Scheme.
- (4) A person shall be treated as a dependant only if he was, in the opinion of the Trustees, at the time of the Member's death financially dependent on, or interdependent with, the Member, or if the person was dependent on the Member because of physical or mental impairment, to an extent deemed appropriate to the particular circumstances and within the meaning of "dependant" set out in Schedule 28 of the Finance Act 2004.

One or more of the Member's dependants who are entitled to a pension under this Rule E5 may, where possible and at the discretion of the Trustees, commute the whole of that pension for a cash sum in accordance with the provisions of Rule F1.1.

E6. Limitations on Recognised Dependant's pension

E6.1 A pension payable to a Recognised Dependant who is younger than the Member shall, unless the Company and the Trustees decide otherwise, be reduced as follows:

- (1) If the age difference is more than 20 years, the reduction shall be 2.5% for each complete year (and for any remaining part of a year) by which the age difference exceeds 20 years.
- (2) If the age difference is 20 years or less but more than 10 years and the marriage took place (or the Recognised Dependant last became normally resident with the Member) less than 6 months before the Member's death, the reduction shall be 2.5% for each complete year (and for any remaining part of a year) by which the age difference exceeds 10 years.

E6.2 If a pension is payable to a Recognised Dependant of the Member who is not the Member's widow or widower or the Member's surviving Civil Partner, the amount of that pension shall be reduced from time to time by the amount of any

GMP or any Section 9(2B) Rights payable under the Scheme to the widow or widower or surviving Civil Partner of the Member.

E7. Payment of lump sums

E7.1 The whole or part of a lump sum benefit payable by reason of the death of a Member may be paid to such one or more of the following persons and in such shares as the Trustees shall in their absolute discretion decide:-

- (1) the Member's spouse or Civil Partner
- (2) the grandparents, parents and descendants of the Member or his spouse or Civil Partner
- (3) the brothers, sisters, uncles and aunts of the Member or his spouse or Civil Partner
- (4) the descendants of the persons mentioned in (3) above
- (5) the spouses of the persons mentioned in (2),(3) and (4) above
- (6) any Recognised Dependant of the Member or other person who was at any time dependent upon the Member or his spouse or civil partner for all or any of the ordinary necessities of life, or for whom the Member might have been expected to provide such necessities
- (7) any person entitled as a beneficiary under the Member's will
- (8) any person nominated for this purpose by the Member by notice in writing:
 - (a) to the Trustees;
 - (b) to the trustees of a Previous Scheme;
 - (c) in the case of a Member who is a Gist Member, to the trustees of the Gist Limited Pension Scheme; or
 - (d) in the case of a Member who is a Level 3 Member, to the trustees of the BOC Senior Executive Pension Scheme,

where that nomination has not subsequently been replaced or revoked

- (9) the Member's personal representatives, except that no payment shall be made to the personal representatives if the Crown, the Duchy of Lancaster or the Duke of Cornwall would benefit or if the Member's estate is insolvent

- (10) the Trustees, or such person or persons as they may appoint, who shall hold the benefit (or share) upon trust for such one or more of the persons mentioned in (1) to (8) above and in such shares or with such interests as the Trustees shall direct or allow.

Any of the relations mentioned above shall include relations of the whole-blood and of the half-blood. The descendants of a Member (or of a Member's descendant) shall include a stepchild or a legitimated, adopted or illegitimate child. The opinion of the Trustees shall be final as to whether (6) above applies to a person.

- E7.2 The terms of any separate trust created under Rule E7.1(10) shall be such as the Trustees shall think fit and may, for example, include wider powers than those granted by statute (including those of investment, maintenance, advancement, appropriation and insurance).
- E7.3 Any part of a lump sum death benefit which remains unpaid after a period of two years beginning with the earlier of the day on which the Member's death (or the death of any other person as a result of whose death a lump sum is payable) was first known to the Trustees and the day on which the Trustees could first reasonably be expected to have known of it, shall be retained as part of the Fund for the general purposes of the Scheme.

E8. Increases in relation to Old Pensionable Service

The increase referred to in Rules E1.1(2)(i), E2.1(2)(i) and E3(1)(i) is:

- (1) an increase for the period from 1 April 2011 until the Calculation Date as follows:
- (a) during any period during which the Member remains in Service which is Pensionable Service and, in respect of any period prior to 6 April 2016, contracted-out employment, an amount equal to one half of the Member's GMP (if any) is increased as set out in Rule II.2, and during any other period of Service, the amount attributable to one half of the Member's GMP is increased as set out in Rule II.3; and
 - (b) any amount which is not attributable to one half of the Member's GMP is increased as if the Member had left Active Membership on 31 March 2011 as a Type B Leaver in accordance with the Revaluation Requirements (as set out in Rule M1 and not, for the avoidance of doubt, as it would actually have applied if the Member had left Active Membership on 31 March 2011). For these purposes, where the Member's Active Membership terminates before Retirement Age, such increase will be calculated as if the Member had reached Retirement Age but no account shall be taken of any period after the Calculation Date,

and for the avoidance of doubt, no account shall be taken of any period after the Calculation Date when calculating the increases under (a) or (b) above; and

- (2) where a Member's Active Membership ended in accordance with Rule C3(2) after Retirement Age, a further increase for the period from Retirement Age until the date the Member's Active Membership ended in accordance with Rule C3(2):
 - (a) in relation to an amount equal to one half of the Member's Revalued GMP, by the amount (if any) required under section 15(1)-(4) of the 1993 Act; and
 - (b) in relation to any amount which is not attributable to one half of the Member's Revalued GMP, in a manner consistent with the way in which a deferred pension which did not include any Basic GMP would be increased under Rule D3 to take account of postponement after Retirement Age.

CASH SUM AND OTHER OPTIONS

F1. Cash sum

F1.1 A Member or, where permitted by the Trustees, a Recognised Dependant or a dependant (to whom a pension is payable under Rule E5) may commute (that is, exchange) the whole or part of his pension for a "pension commencement lump sum", a "serious ill-health lump sum" or a "defined benefits lump sum death benefit" (each as defined in Schedule 29 to the Finance Act 2004) in accordance with the provisions of this Rule F1.1. The amount of any pension to be commuted to provide a particular lump sum under this Rule shall be decided by the Trustees after consulting the Actuary.

- (1) Where the cash sum payable to the Member is a pension commencement lump sum, it must not exceed the applicable limit for a pension commencement lump sum set out at paragraphs 1, 2, 3 and 3A of Schedule 29 to the Finance Act 2004. An option to take a pension commencement lump sum may be exercised only when the pension comes into payment or (if earlier) at or after Retirement Age. The remaining pension shall not be less than the aggregate of the Member's GMP and the 1997 Credit (if any).
- (2) A Member may commute pension for a serious ill-health lump sum only if he is in exceptional circumstances of serious ill-health and the following conditions are met:
 - (a) the Trustees have received evidence from a registered medical practitioner that the Member is expected to live for less than one year;
 - (b) it is paid when all or part of the Member's Lifetime Allowance is available;
 - (c) it is paid where there have been no previous "benefit crystallisation events" (within the meaning of the Finance Act 2004) in respect of the Member under the Scheme;
 - (d) the Member's rights to benefits for himself under the Scheme will be extinguished by the exercise of this option; and
 - (e) the lump sum must otherwise satisfy the requirements of a "serious ill-health lump sum" within the meaning of paragraph 4 of Schedule 29 to the Finance Act 2004.

Before any serious ill-health lump sum is paid, a separate arrangement will (unless the Trustees decide otherwise) be deemed to have been set up under the Scheme to provide any pension payable in respect of the

Member to any dependant (to whom a pension may be paid under Rule E5) or Recognised Dependand.

- (3) Where the cash sum is payable to a Recognised Dependand or a dependant (to whom a pension may be paid under Rule E5) it must satisfy the requirements for a defined benefits lump sum death benefit (as defined in paragraph 13 of Schedule 29 to the Finance Act 2004). No lump sum may be paid under this Rule F1.1(3) except where permitted by the Occupational Pension Schemes (Contracting-out) Regulations 1996.

F1.2 If a Member dies shortly after his pension was due to come into payment but before deciding whether or not to commute any of the pension, payments may be made as if the Member had commuted such part of his pension as the Trustees, in their absolute discretion, may think fit.

F2. **Extra dependand's pension**

A Member may surrender part of his pension to provide pensions payable on his death to dependands nominated by him as follows:

- (1) This option may be exercised only when the Member's pension comes into payment and with the consent of the Trustees (who may require evidence of the Member's state of health).
- (2) The dependands whom the Member may nominate shall be his Recognised Dependand and any other person who at that time is, in the opinion of the Trustees, substantially dependent on the Member to an extent deemed appropriate to the particular circumstances.
- (3) The dependands' pensions shall be equal in value to the part of the Member's pension surrendered.
- (4) Any such pension payable to a dependand who, at the time of the surrender, is under age 18 or such older age as may be specified by the Member ("the specified age") shall be payable only until he reaches that age; except that the Trustees may decide that the pension shall be payable for life if in their opinion the dependand is permanently incapable of self-support.
- (5) This option may not be exercised so that:
 - (a) a dependand's pension would be such that the Trustees could commute that pension into a "trivial commutation lump sum death benefit" (as defined in Schedule 29 to the Finance Act 2004), or
 - (b) the Member's pension would be less than his GMP and Section 9(2B) Rights, or

- (c) the aggregate annual amount of the dependants' pensions exceeds the Member's pension after surrender but before commutation under Rule F1.
- (6) The Member's pension after surrender will not be increased back to its pre-surrender level if a nominated dependant dies or reaches the specified age after the Member's pension has become payable.

F3. Levelling adjustment

The Trustees may adjust a pension so that its amount is first increased and later reduced (or first reduced and later increased) as follows:

- (1) An adjustment must be requested by the recipient of the pension.
- (2) The adjustment must be such as the Trustees think appropriate having regard to entitlements to State benefits (or conditions of such entitlements).
- (3) The Trustees may make such assumptions as to a person's State benefit entitlements as they think fit.
- (4) Any benefits payable on the death of the person entitled to the pension shall not be affected unless and to the extent that the Trustees think fit.
- (5) No adjustment may be made which would, but for Rule I1.2, result in a pension payable to a Member after State Pension Age (or to a Member's widow or widower) being less than the GMP. Benefits after adjustment must still comply with the Preservation Requirements.
- (6) The overall value of the pension together with any other benefits mentioned in (4) above shall stay the same.
- (7) The amount of any reduction must be consistent with the pension being and remaining a "scheme pension" for the purposes of the Finance Act 2004.

F4. Transfers out

Subject to Rule F5.4 a transfer of cash, other assets or a pension in payment from the Fund to another pension scheme or an Insurance Company (a "transfer payment") may be made for a Member or other beneficiary as follows:

- (1) Other pension scheme:

A transfer payment may be made to another pension scheme (including an occupational pension scheme or a personal pension scheme) but, in the case of a transfer to an occupational pension scheme, not more than

the amount included in the transfer payment attributable to a Member's contributions to the Scheme shall be treated as having been contributed by him to the other pension scheme.

(2) Insurance Company:

A transfer payment may be made to an Insurance Company only if:

- (a) it will issue a policy or annuity contract which satisfies so far as applicable the requirements of section 19(3) of the 1993 Act and Regulation 6 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991, and
- (b) the Member or other person for whom it is made has, if his consent to the transfer payment is required, selected the Insurance Company.

(3) Consents:

The decision whether or not to make a transfer payment shall be made by the Trustees unless the transfer payment is to be made because a person has exercised his right to a cash equivalent in accordance with the 1993 Act. In any case, a transfer payment shall not be made for a Member or for a person in receipt of pension except:

- (a) at his written request or with his written consent, or
- (b) in circumstances where such consent need not be required to comply with the Preservation Requirements or the 1993 Act, or
- (c) in accordance with Rule F5.

(4) Discharged benefits:

- (a) A transfer payment shall relate to all or an identified portion of the benefits otherwise payable for the person for whom the transfer payment is made ("the discharged benefits").
- (b) Unless the Trustees agree otherwise, a transfer payment for a person shall relate to all of the benefits payable for him. Where the Trustees wish to allow a transfer which relates to part but not all of the benefits payable for a person, they may do so on such terms as they agree with the person, including as regards the treatment of the benefits remaining payable for the person under the Scheme.
- (c) The making of a transfer payment shall discharge the Trustees from any further liability to pay the discharged benefits. The

Trustees shall not be obliged to inquire into the application of the cash or other assets transferred.

(5) Value transferred:

The value of the cash or other assets included in a transfer payment shall be decided by the Actuary so that the Trustees are reasonably satisfied that it is equal to:

- (a) in the case of transfer payment made at the request of a person who has a right to a cash equivalent under the 1993 Act, the amount of that cash equivalent, or
- (b) in any other case, the value of the discharged benefits.

(6) GMPs and Section 9(2B) Rights:

If the discharged benefits include GMPs or Section 9(2B) Rights, the transfer payment shall comply with the relevant requirements of the 1993 Act.

(7) Statements of entitlement and cash equivalents:

The Trustees will, on the application of a Member, comply with the requirements of the 1993 Act as to the provision of estimates and guaranteed statements of entitlement of the Member's cash equivalent (if any); and as to the payment of a cash equivalent following a valid request from the Member.

F5. Divorce

F5.1 In this Rule:

"Dependant" of a person means a spouse (whether of the same or opposite sex), Civil Partner or dependant of that person;

"Ex-Spouse" means an individual (including an ex Civil Partner) to whom Pension Credit Rights have been or are to be allocated following a Pension Sharing Order, agreement or equivalent provision;

"Pension Credit Rights" means rights to future benefits under a scheme which are attributable (directly or indirectly) to a pension credit under section 29(1)(b) of the 1999 Act;

"Pension Debit" means a debit under section 29(1)(a) of the 1999 Act;

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

"1999 Act" shall mean the Welfare Reform and Pensions Act 1999.

- F5.2 Rule H4.8 is amended to permit the assignment of part or all of the Member's retirement benefits or rights to benefits under the Scheme to his/her Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision.
- F5.3 The Trustees must give full details of the Pension Debit and a lump sum certificate to the receiving scheme/arrangement where the fund underlying the benefits for a Pension Debit Member is transferred to another registered occupational pension scheme.
- F5.4 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 benefits for that Member. If a transfer of the fund underlying the benefits for the Member is made to a registered occupational pension scheme, the Trustees must give full details of the Pension Debit to the receiving scheme/arrangement.
- F5.5 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 Trustees may, at their discretion, pay either a lump sum death benefit to any person or a lump sum death benefit and a pension or pensions to a Dependant(s) of the Ex-Spouse.

The total amount of benefits payable will be equal in value to the Pension Credit Rights.

Any pensions must be payable for life, except for pensions paid to children. Such children's pensions may not continue beyond the child attaining age 18 or, if later, on the cessation of full-time education provided that such pension shall cease upon the child reaching age 23.

Such pensions may be fully commuted, however, for a lump sum at the time such a pension becomes payable in the circumstances set out in (1) or (2) of Rule H4.4.

- F5.6 If a Member's benefits under the Scheme are subject to a Pension Debit, the Trustees may discharge their liability for the Pension Credit Rights of the Ex-Spouse by paying the amount of the credit to a qualifying arrangement in accordance with paragraph 1(3) of Schedule 5 of the 1999 Act.
- F5.7 The Trustees may reduce the cash equivalent of a Member where Regulation 5(3) of the Pension Sharing (Valuation) Regulations 2000 applies.

ABSENCES

G1. Family leave

This Rule applies to a Member who is absent from work during any period of ordinary maternity leave, additional maternity leave, ordinary adoption leave, additional adoption leave, parental leave or paternity leave (all within the meaning of the Employment Rights Act 1996) or is otherwise absent during a "period of paid family leave" (as defined in paragraph 6(4)(a) of Schedule 5 of the Social Security Act 1989) and in either case was an Active Member immediately before the absence began.

- (1) The Member shall remain an Active Member throughout any period of ordinary maternity leave, ordinary adoption leave, paternity leave or absence from work for which he/she is paid contractual remuneration by the Employer. The Member's contributions shall be calculated by reference to the contractual remuneration actually paid by the Employer or if none the statutory maternity pay, the statutory adoption pay or statutory paternity pay. During a period of ordinary maternity leave, additional maternity leave, ordinary adoption leave, additional adoption leave or paternity leave Pensionable Earnings and New Pensionable Earnings (as the case may be) shall be deemed to be calculated by the relevant elements of remuneration the Member would have received had he or she been working normally (as to which the Employer's decision shall be final).
- (2) The Member will cease to be an Active Member on the latest of the following dates, as to which under (i), (ii), (iii) or (iv) below the Employer's certificate will be final:
 - (i) the end of her period of ordinary maternity leave;
 - (ii) the end of his/her period of ordinary adoption leave;
 - (iii) the end of his period of paternity leave;
 - (iv) the right to contractual remuneration ceases; and
 - (v) such later date as the Trustees may agree.
- (3) If the Member ceases to be an Active Member and later returns to work in exercise of a right to do so (whether statutory or contractual) periods of service as an Active Member immediately before, during and immediately after the absence shall be added together.
- (4) If the Member ceases to be an Active Member and has a right to return to work (whether statutory or contractual) he or she will nevertheless be treated as remaining an Active Member for the purposes of the lump sum

death benefit under Rule E1.1(1) until the date of the expiry of his or her right to return to work. If a Member dies during a period of unpaid leave but is nevertheless being treated as an Active Member, New Pensionable Earnings (and, so far as relevant, Pensionable Earnings) will be deemed to be calculated by the relevant elements of remuneration the Member would have received had he or she been working normally (as to which the Employer's decision shall be final).

- (5) If:
- (i) this Rule G1 applies to a Member's period of absence; but
 - (ii) a part of that period does not count as Active Membership, save for the purposes of the lump sum death benefit under Rule E1.1(1) (see Rule G1.(4)),

then the Member may, with the consent of the Company, elect to pay such additional contributions as the Trustees and the Company may jointly determine, after taking actuarial advice, to be necessary to restore all or part of the period of Active Membership (if any) lost during that period of absence.

G2. Other absence

This Rule applies to a Member who is in Service but absent from work for reasons other than set out at Rule G1 above or for Overseas Secondment (when Rule A7 applies).

- (1) The Member shall be treated as leaving Service when his Earnings stop or on such later date as his Employer may decide (which shall not, unless absence is due to illness, be more than 3 years after Earnings stopped).
- (2) Periods of absence whilst in Service shall count as Active Membership if Earnings were paid for them or if the Company so directs, but not otherwise. Periods of Active Membership immediately before, during and immediately after absence shall be added together.
- (3) If the Member's Earnings are reduced for reasons connected with his absence, the Trustees may agree to reduce or suspend his contributions (or contributions paid in respect of him under Rule B5.1(2)) on such terms as they think fit.
- (4) If a Member treated as having left Service under (1) above starts again to have Earnings, he shall then be treated as a Member in Service if he is still eligible under Rule A1. His benefits from earlier Pensionable Service shall be unaffected.

G3. Breaks in Service

G3.1 If a Member leaves Service but is still employed by the Employers, no pension or refund of contributions may be paid to him until:

- (1) his employment by the Employers ends, or
- (2) Retirement Age, or
- (3) such earlier date as the Trustees may agree.

G3.2 A Member who leaves and then re-enters Service shall be treated as if he had not previously been a Member, except that:

- (1) his Membership on or after re-entering Service may be on such special terms as the Trustees and the Company think fit, and
- (2) subject to (1) above, benefits in respect of earlier periods of Service shall not be affected.

OTHER BENEFIT RULES

H1. Pension increases

Pensions in payment and Children's allowances in payment shall be increased as follows, subject to the requirements of the 1995 Act:

- (1) Subject to the other provisions of this Rule:
 - (a) where a pension or Children's allowance to the extent (in either case) it relates to a Member's Old Pensionable Service has on 1 April in each year been in payment for at least 12 months, the amount of each such pension shall on that date be increased by applying to it a rate of increase (expressed as a percentage) equal to the excess, over the percentage by which the pension or allowance has already been increased since 1 November 1990, of whichever is the lesser of:
 - (i) 6% per annum compound over the Relevant Period, and
 - (ii) the percentage increase in the Retail Prices Index over the Relevant Period.
 - (b) where a pension or Children's allowance to the extent (in either case) it relates to a Member's New Pensionable Service has on 1 April in each year been in payment for at least 12 months, the amount of each such pension shall on that date be increased by 2.5% or the rate of increase in the Retail Prices Index for the year to the previous 31 December if lower. An increase to this amount shall be applied if and to the extent that, in accordance with the methodology agreed by the Company and the Trustees from time to time, a credit applies due to any annual increase in pension paid during a relevant period falling wholly after 31 March 2011 being less than 2.5% on a rolling five year basis (such rolling five year basis to be agreed between the Company and the Trustees from time to time).
 - (c) where a pension or Children's allowance has been in payment for less than 12 months at the relevant 1 April:
 - (i) if the pension or Children's allowance arises on the death of a Member whose pension payment started before he died, the increase to the pension or Children's allowance shall be at the same percentage rate which would have applied to the Member's pension had he not died, and
 - (ii) if (i) does not apply, the increase in the pension or Children's allowance shall be calculated by multiplying

one-twelfth of the increase which would have applied had the pension or allowance been in payment for 12 months by the number of complete months for which the pension or allowance has been in payment.

- (2) In relation only to a Member who left Service before 1 April 1997:
 - (a) where a pension was in payment on 1 April 1997, sub-Rule(1) above applies in relation to that part of the Member's (or widow's or widower's) pension which represents that part of the Member's (or, as the case may be, the widow's or widower's) Revalued GMP which is attributable to earnings in the Tax Years from 6 April 1988, (or, if the Member has not reached State Pension Age, that part of the Basic GMP), as if the "Relevant Period" began on 31 December 1996.
 - (b) where a Member has, on a relevant 1 April, reached State Pension Age (or will do so before 6 April in the same year) or a pension is being paid to the Member's widow or widower, there shall be excluded from increases under (1) above the Member's GMP or (as the case may be) the GMP of the Member's widow or widower, insofar as that GMP is attributable to earnings in the Tax Years up to and including the Tax Year which commenced on 6 April 1987.
 - (c) where a Member has, on a relevant 1 April, not reached State Pension Age (and will not do so before 6 April in the same year), there shall be excluded from increases under (1) above, the part of the Member's pension equal to his Basic GMP, insofar as that is attributable to earnings in the Tax Years up to and including the Tax Year which commenced on 6 April 1987, plus any increases on that part of the Basic GMP applied to date in accordance with Rule I1.3. That part of the Member's pension will be increased in accordance with (d) below.
 - (d) the part of a Member's pension referred to in (c) above will be increased at the rate required by Rule I1.3(2) on each 1 April between the date on which the pension commenced and State Pension Age as if a Tax Year began on 1 April.
- (3) Any pension which on a 1 April is attributable to the payment by the Member of additional voluntary contributions to the Scheme or to a payment received from the BOC AVC Plan or the AVC Section of the BOC Retirement Savings Plan shall be increased on that date at the rate notified to the Member by the Trustees on retirement, instead of at the rate and on the basis prescribed in (1) above.

- (4) Additional increases shall be made to all or any pensions or allowances in payment, at such times and in such manner as the Company may in its discretion direct. The Company shall consider not less often than annually whether or not to make such a direction.
- (5) The amount of each pension or Children's allowance (other than a Basic or Revalued GMP, as previously increased in accordance with Rule I1) which, on 1 April 1991, has been in payment for at least one month shall be increased on that day (but on that occasion only) by applying to it a rate of increase calculated as in (1) above, but as if the rate of increase to be applied in accordance with that paragraph were 7.5% compound (or, where the pension had on that day been in payment for a period of less than twelve months, a proportionate rate), without reference to the increase in the Retail Prices Index or to the Relevant Period.
- (6) The Trustees may, with the consent of the person entitled to the pension or allowance and with the consent of the Company:
 - (a) suspend all or part of an increase that would otherwise be made under this Rule, and
 - (b) at any time subsequently, give effect to all or part of the suspended increase, but without payment of arrears.

Any suspension of an increase to a Member's pension shall not affect benefits payable on his death.

H2. **Special benefits**

H2.1 The Trustees shall have power to augment any benefit payable under the Scheme or to pay any benefit otherwise than in accordance with the Rules, as follows:

- (1) The power may be exercised by the Trustees in their absolute discretion if:
 - (a) the Company consents,
 - (b) the Employer agrees to pay such additional contributions to the Fund (if any) as the Company, having consulted the Trustees, may require, and
 - (c) such benefits awarded constitute an "authorised member payment" as defined in section 164 of the Finance Act 2004.
- (2) The power shall be exercised in such manner as the Company may direct if the Employer agrees to pay such additional contributions to the Fund (if any) as the Trustees may require (not being more than the Actuary certifies to be appropriate).

- (3) In any case, the power may be exercised only if the Preservation Requirements will be satisfied.

H2.2 If the Trustees so direct, a separate fund shall be set aside within the Fund for a person or category of persons. The Trustees may direct that such persons shall be entitled to benefit from the separate fund only and that no other persons shall benefit from it. The value of the separate fund shall be decided by the Trustees after consulting the Actuary. The Trustees shall also have power by deed to make or adopt additional Rules or sets of Rules to apply to particular classes or categories of employees or Members (or other persons entitled to benefit). These powers may be exercised only with the Company's consent.

H3. **Benefit calculations**

H3.1 Unless the contrary is expressly stated, a pension or allowance is payable for life and its amount described in these Rules is its annual amount.

H3.2 Unless expressly left to be decided in a particular way, the Trustees shall, after consulting the Actuary, decide:

- (1) the value of any pension, allowance or other benefit,
- (2) the amount by which a pension, allowance or other benefit is to be increased or reduced as required by the Rules, and
- (3) whether a pension, allowance or other benefit is equal in value to any other pension, allowance or other benefit.

In making any benefit calculation decisions for which they are responsible, the Trustees, the Company, the Employer and the Actuary shall make such assumptions and take account of such matters as they think appropriate, and may treat a person as enjoying normal health.

H3.3 An amount payable to or from the Fund which is not a whole number of pennies shall be rounded up or down to the nearest higher or lower whole number as the Trustees shall decide.

H3.4 If the Trustees are liable for any tax in respect of any benefit, they may apply part of the benefit in paying the tax (including any interest) or may postpone payment of the benefit until the tax has been paid or provided for to their satisfaction. In the event that the Lifetime Allowance Charge (pursuant to section 214 of the Finance Act 2004) is due in respect of a Member the Trustees will permanently reduce the benefits payable in respect of the Member under the Scheme by such amount as shall cause the value of the benefits (having consulted the Actuary) to be reduced by the amount of the Lifetime Allowance Charge. The Trustees may in their absolute discretion require the Member to accept a Lifetime Allowance Excess Lump Sum (as defined in paragraph 11 of Schedule 29 of the Finance Act 2004) in respect of the balance of the Member's

entitlement in excess of the Lifetime Allowance and the provisions of Rule F1 shall otherwise apply to this payment.

H3.5 If a pension is payable to a Member under Rule C4 (Ill-health and Incapacity) or Rule C5.3, the Trustees may at any time before Retirement Age (or age 55, in the case of a pension paid under Rule C5.3) reduce or suspend his benefits by such amounts and for such periods as they think fit, except that:

- (1) benefits may be reduced or suspended only if:
 - (a) the Member earns an income from any employment or self-employment,
 - (b) the Member does not, when so requested, supply evidence satisfactory to the Trustees of his continued Ill-health or Incapacity (whichever caused his retirement);
 - (c) in relation to any reduction, the amount of any reduction is consistent with the pension being and remaining a "scheme pension" for the purposes of the Finance Act 2004.
- (2) a reduction or suspension shall not result in the Member's pension being less:
 - (a) after Retirement Age (or, in the case of a pension paid under Rule C5.3, age 55) than the pension calculated in accordance with Rule D1 (deferred pension) (as modified by Rule C5 (Redundancy) in the case of a pension payable under Rule C5.3), reduced as the Trustees may think appropriate having regard to payments made to the Member before then, or
 - (b) after State Pension Age than the Member's GMP
- (3) benefits payable on the death of the Member shall be reduced or suspended to such extent (if any) as the Trustees shall decide but they shall not, on death before Retirement Age, be less than those which would have been payable if Rule E2 (death in deferment) had applied.

This Rule also applies where a pension is paid under Rule D2, if the Trustees decided (because of the Member's Ill-Health) not to apply the full reduction for early payment.

H3.6 If, because of his own fraud, negligence or crime, a Member owes an Employer a monetary obligation, the Employer may, subject to the 1995 Act, recover from the Fund an amount equal to the lesser of:

- (1) the monetary obligation, and

- (2) the value of the benefits remaining payable for the Member other than GMPs and benefits payable under Rule A5 (transfers in).

The Trustees shall reduce the value of the benefits payable for the Member by the amount recovered. If the Member disputes the monetary obligation, this Rule shall not apply until the obligation has become enforceable by a court order or an award of an arbitrator. The Trustees shall inform the Member in writing of the amount recovered by the Employer and the reduction in benefits.

H4. Payment of benefits

H4.1 Payment of any benefit to any person shall be conditional upon that person providing the Trustees with such information and evidence as they may require.

H4.2 A pension or allowance shall be paid by instalments, as the Trustees shall decide, in advance or in arrears, at monthly or other regular intervals and with or without addition or deduction for periods of less than a month (or other interval).

H4.3 The Trustees may make a payment to the person entitled to it by sending him a cheque, by direct credit to his bank account or by any other method which the Trustees may consider appropriate. The use of any such method shall be at the risk of the person entitled to the payment.

H4.4 The Trustees may pay a cash sum in place of a pension or allowance in the circumstances set out in (1) or (2) below:

- (1) The Trustees may, at their discretion, commute a pension or allowance for a cash sum if the cash sum would be a "trivial commutation lump sum", a "trivial commutation lump sum death benefit", a "winding-up lump sum" or a "winding-up lump sum death benefit" (all as defined in Schedule 29 to the Finance Act 2004). The cash sum must be of such amount as the Actuary certifies to be reasonable having regard to the benefits commuted and any entitlement to increases under Rule H1. In the case of a Member's pension, the Trustees must at the same time commute any pension or allowance prospectively payable on the Member's death, and the cash sum shall be paid, as the Trustees shall decide, to the Member or to the person who was prospectively entitled to the commuted pension or allowance. A Member's pension payable before Retirement Age shall for this purpose be deemed to be not less than his Revalued GMP.

- (2) The Trustees may commute any pension or allowance for a cash sum in accordance with Regulation 3 and Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009. The cash sum must be of such amount as the Actuary certifies to be reasonable having regard to the benefits commuted and any entitlement to increases under Rule H1.

For the avoidance of doubt this Rule H4.4 also applies to future payments of any pension already in payment from the Scheme which were not previously capable of commutation because of the limit which applied prior to 6 April 2006.

- H4.5 If the person entitled to a benefit is a minor, payment may be made to the minor direct or to his parent or guardian or any adult with whom he resides. If the person entitled to a benefit suffers from mental or physical incapacity, payment may be made to any person or institution whom the Trustees consider to be responsible for his care. In any of these cases, the Trustees need not inquire into the use by the recipient of payments to him.
- H4.6 If a person dies when payment of a benefit was due to him and no grant of representation to his estate has been shown to the Trustees, payment may be made to his widow, widower or other dependant.
- H4.7 Any instalment of a pension or allowance and any lump sum benefit shall be forfeited if not claimed within 6 years of the date on which payment first became due. The Trustees may at their discretion decide that all or part of any instalment or lump sum shall be paid despite its having been forfeited.
- H4.8 Subject to the provisions of the 1995 Act and Rule F5.2:
- (1) no pension or other benefit may be assigned, charged or alienated; and
 - (2) benefits under the Scheme are not absolute, and no payment shall be made of a benefit (except a GMP) if the Trustees are aware that the person entitled to it has attempted to assign, charge or alienate all or part of the benefit or any interest in it, or that an event has occurred that was intended to have the same effect.

Despite forfeiture under (2) above, the Trustees may decide that all or part of a benefit shall be paid or applied to or for the benefit of the person initially entitled to it, or to or for the benefit of such other persons as may be permitted in these circumstances under the 1995 Act.

This Rule H4.8 is amended to permit the assignment of part or all of a Member's retirement benefits or rights to benefits under the Scheme to his/her Ex-Spouse to the extent necessary to comply with a Pension Sharing Order (as defined in Rule F5), agreement or equivalent provision.

H5. **Maximum Benefits**

- H5.1 Prior to 6 April 2006 the Scheme was approved as an exempt approved scheme under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988. As such benefits payable under the Scheme were restricted to limits specified in practice notes published by HM Revenue & Customs. In the event that the Trustees are of the opinion that a benefit payable under the Scheme is greater than that which would have been payable when restricted by the HM Revenue &

Customs limits and the resulting higher benefit is an unintended consequence of the abolition of those limits then it may pay a lower benefit which shall not be less than the benefit that would have been paid had the limit not been abolished.

H5.2 Any provision in the Trust Deed and Rules which would require the Trustees to make a payment which would be an unauthorised payment (within the meaning of section 160 of the Finance Act 2004) shall be treated as conferring an absolute discretion upon the Trustees to make that payment.

H5.3 The provisions of the Trust Deed and Rules reflect the nature of the Scheme as a Registered Pension Scheme with effect on and from 6 April 2006. Where a benefit to which a Member or potential beneficiary was entitled or contingently entitled prior to 6 April 2006 remains an "authorised member payment" as defined in section 164 of the Finance Act 2004 by virtue of Schedule 36 of the Finance Act 2004 (or a similar transitional provision) then the Trustees shall pay that benefit even though it is not otherwise payable under the Trust Deed and Rules. This Rule H5.3 is subject to the amendments to the Trust Deed and Rules made with effect from 1 April 2011 and any subsequent amendments.

H6. **Restriction of benefits**

Notwithstanding any other provision of the Rules (with the exception of Rules H5, H7, I1.1 and K7):

H6.1 The Employer may agree with any Member that the benefits payable to and in respect of him, Member contributions (and any Employer contributions under Rule B5) in respect of such benefits, will be different to those described elsewhere in these Rules. Any such agreement must be recorded in writing and the Employer must supply a copy of such written agreement to the Trustees. The Trustees will administer the Scheme in accordance with such written agreement unless Rule H6.2 below applies.

H6.2 If the Actuary certifies to the Trustees that the total value of the benefits payable to and in respect of the Member in accordance with any written agreement under Rule H6.1 above is greater than would have been the case if the agreement had not been made, then the Trustees will only administer the Scheme in accordance with such written agreement to the extent that they agree to do so.

H7. **Members electing for Fixed Protection 2012**

H7.1 **Application**

(1) Subject to H7.1(2) below, where notice of intention to rely on the Finance Act 2011, Schedule 18, paragraph 14 (lifetime allowance transitional protection ("**Fixed Protection 2012**")) is given by or on behalf of a person to HMRC in accordance with the regulations made by the Commissioners for HMRC within the time permitted by HMRC the

following provisions of this Rule H7 apply to that person (a "**Fixed Protection 2012 Member**") with effect from the start of 6 April, 2012.

- (2) If a Fixed Protection 2012 Member has not made a 2012 Revaluation Election in accordance with paragraph (iii) of the definition of "Revaluation Requirements", he may elect by notice in writing to the Trustees specifically referring to this Rule H7 that this Rule H7 shall not apply to him. Any such notice may have retrospective effect to the start of 6 April, 2012.

H7.2 Protective provision to prevent Fixed Protection 2012 being inadvertently lost

Unless otherwise agreed in writing by the Company, the Trustees and the Fixed Protection 2012 Member concerned, the Scheme shall include such provisions as are necessary to prevent the Finance Act 2011, Schedule 18, paragraph 14 from ceasing to apply to that Fixed Protection 2012 Member. Entry into membership of, benefits provided under, contributions to, and transfers into and out of, the Scheme relating to or in respect of that Fixed Protection 2012 Member shall be restricted accordingly, and no new arrangements may be made under the Scheme in respect of the Fixed Protection 2012 Member except in the circumstances permitted by the Finance Act 2011 (under which new arrangements can be made without the loss of Fixed Protection 2012).

H7.3 Reliance on information provided by or on behalf of Member

- (1) For the purposes of Rule H7.2 above, the Trustees and the Company may rely on any information provided by or on behalf of the Fixed Protection 2012 Member in applying Rule H7.2 above.
- (2) Neither the Trustees, nor the Company (or anyone acting on behalf of the Trustees or the Company) shall incur any liability to a Fixed Protection 2012 Member (or any other person) who becomes subject to a Lifetime Allowance Charge (pursuant to section 214 of the Finance Act 2004) where any such person has, in good faith, acted in reliance on information provided by or on behalf of the Fixed Protection 2012 Member.

H7.4 Contracted-out employment

If, but for the application of this Rule H7, any Fixed Protection 2012 Member would be in contracted-out employment by reference to the Scheme, the employment of the Fixed Protection 2012 Member shall cease to be an employment which is contracted-out by reference to the Scheme with effect from the start of 6 April, 2012.

H7.4A Position where member has died

In this Rule H7, references to a person or to a Fixed Protection 2012 Member include that individual's personal representatives.

H7.5 Overriding effect of Rule H7

This Rule H7 overrides any other provision of the Rules which is inconsistent with it with the exception of Rules H5 and K7.

H8. Members electing for Fixed Protection 2014

H8.1 Application

- (1) Subject to H8.1(2) below, where notice of intention to rely on the Finance Act 2013, Schedule 22, paragraph 1 ("**Fixed Protection 2014**") is given by or on behalf of a person to HMRC in accordance with the regulations made by the Commissioners for HMRC within the time permitted by HMRC, the following provisions of this Rule H8 apply to that person (a "**Fixed Protection 2014 Member**") with effect from the start of 6 April, 2014.
- (2) A Fixed Protection 2014 Member may elect by notice in writing to the Trustees specifically referring to this Rule H8 that this Rule H8 shall not apply to him. Any such notice may have retrospective effect to the start of 6 April, 2014.

H8.2 Protective provision to prevent Fixed Protection 2014 being inadvertently lost

Unless otherwise agreed in writing by the Company, the Trustees and the Fixed Protection 2014 Member concerned, the Scheme shall include such provisions as are necessary to prevent the Finance Act 2013, Schedule 22, paragraph 1 from ceasing to apply to that Fixed Protection 2014 Member. Entry into membership of, benefits provided under, contributions to, and transfers into and out of, the Scheme relating to or in respect of that Fixed Protection 2014 Member shall be restricted accordingly, and no new arrangements may be made under the Scheme in respect of that Fixed Protection 2014 Member except in the circumstances permitted by the Finance Act 2013 (under which new arrangements can be made without loss of Fixed Protection 2014).

H8.3 Reliance on information provided by or on behalf of the Member

- (1) For the purposes of Rule H8.2 above, the Trustees and the Company may rely on any information provided by or on behalf of the Fixed Protection 2014 Member in applying Rule H8.2 above.

- (2) Neither the Trustees, nor the Company (or anyone acting on behalf of the Trustees or the Company) shall incur any liability to a Fixed Protection 2014 Member (or any other person) who becomes subject to Lifetime Allowance Charge (pursuant to section 214 of the Finance Act 2004) where any such person has, in good faith, acted in reliance on information provided by or on behalf of the Fixed Protection 2014 Member.

H8.4 Contracted-out employment

If, but for the application of this Rule H8, any Fixed Protection 2014 Member would be in contracted-out employment by reference to the Scheme, the employment of the Fixed Protection 2014 Member shall cease to be an employment which is contracted-out by reference to the Scheme with effect from the start of 6 April, 2014.

H8.5 Position where member has died

In this Rule H8, references to a person or to the Fixed Protection 2014 Member include that individual's personal representatives.

H8.5 Overriding effect of Rule H8

This Rule H8 overrides any other provision of the Rules which is inconsistent with it with the exception of Rules H5.1, H5.4 and K7.

CONTRACTING-OUT

II. 1993 Act - Earnings-related pension

II.1 General

This Rule applies if any employment becomes contracted-out employment by reference to the Scheme. Words used in this Rule shall have the same meanings as in the 1993 Act. This Rule I.1 overrides all other provisions of the Rules which are inconsistent with it, except Rules H5, H7 and K7.

Prior to 6 April 1997 the Scheme was contracted-out on a salary-related basis whereby GMPs accrued for and on behalf of Members in contracted-out employment. From 6 April 1997 the Scheme became contracted-out on a salary-related basis under section 12A of the 1993 Act.

- (a) Members' GMPs will be provided in accordance with this Rule I and with the requirements of the provisions of the 1993 Act, the Occupational Pension Schemes (Contracting-out) Regulations 1996, and the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015, and those provisions will override the provisions of the Rules where necessary in order for the Scheme to comply with those requirements.
- (b) In relation to benefits which accrue in respect of Pensionable Service after 5 April 1997 but before 1 April 2011, the Trustees will ensure that the benefits provided under the Scheme overall satisfy the statutory standard under the 1993 Act and that the Rules comply with those requirements of the 1993 Act, the Occupational Pension Schemes (Contracting-out) Regulations 1996 and the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 which apply to contracted-out or (from 6 April 2016) formerly contracted-out salary related schemes. That part of a Member's benefits which meets the statutory standard is referred to as his Section 9(2B) Rights. If these Rules fail to provide benefits which overall comply with that standard, or if the Rules fail to comply with those requirements, the Rules shall, unless the Company directs otherwise, be deemed to be amended to the extent which the Trustees, having considered the advice of the Actuary, consider is reasonable to ensure that they do comply.
- (c) In relation to benefits which accrue in respect of Pensionable Service and contracted-out employment (within the meaning of Section 8 (1) of the 1993 Act) on and after 1 April 2011 but before 6 April 2016, the Scheme shall:
 - (i) provide pensions to and in respect of each Member which will be no less than the pensions which would be provided under the

reference scheme as defined by and for the purposes of section 12B of the 1993 Act; and

- (ii) comply with those requirements of the 1993 Act, the Occupational Pension Schemes (Contracting-out) Regulations 1996 and the Occupational Pension Schemes (Schemes that were Contracted-out) (No 2) Regulations 2015 which apply to contracted-out or (from 6 April 2016) formerly contracted-out salary related schemes to the extent so required by such legislation or regulations from time to time.

11.2 Guaranteed Minimum Pensions

If a Member has a GMP in relation to any pension under the Scheme in accordance with Section 14 of the 1993 Act:

- (1) the Member will be entitled to receive a pension under the Scheme from State Pension Age in respect of Service prior to 6 April 1997 which shall be paid at a rate equivalent to a weekly rate of not less than the guaranteed minimum pension calculated in accordance with Section 14 of the 1993 Act. For this purpose, the GMP will be calculated, if this would produce a higher amount for the Member in question, on the basis that for any period falling on or after 1 April 2011 which is Pensionable Service and, in respect of any period prior to 6 April 2016, contracted-out employment, the Member is deemed to have become a deferred Member on 1 April 2011,
- (2) if the Member is male and dies at any time leaving a widow, she will be entitled to receive an immediate pension under the Scheme in respect of the Member's Service prior to 6 April 1997. That pension shall during any period such as is mentioned in section 17(5) of the 1993 Act be paid at a rate equivalent to a weekly rate of not less than half that of the Member's guaranteed minimum pension (including for the avoidance of doubt, where applicable, any higher amount arising under (1) above), and
- (3) if the Member dies on or after 6 April 1989 leaving a widow of the same sex, a widower or Civil Partner, he or she will receive an immediate pension under the Scheme in respect of the Member's Service prior to 6 April 1997 payable in the circumstances and for the period prescribed by regulations made under Section 17(6) of the 1993 Act at a rate equivalent to a weekly rate of not less than half of that part of the Member's guaranteed minimum pension (including for the avoidance of doubt, where applicable, any higher amount arising under (1) above) which is attributable to earnings for the Tax Year 1988/9 and subsequent Tax Years.

When a Member ceases to be in Pensionable Service or, in the case of a Member who ceases to be in contracted-out employment by reference to the Scheme prior

to 6 April 2016 and is not in Pensionable Service on 6 April 2016, contracted-out employment the part of the Member's GMP (if any) which relates to Pensionable Service completed or credited after 5 April 1988 will, at the time when Pensionable Service or contracted-out employment (as applicable) ceases ("Cessation Date"), be adjusted as follows:

- (1) it will be increased to the extent (if any) necessary for it to equal the amount of the GMP to which the Member would otherwise have been entitled (or prospectively entitled) in respect of that period of Pensionable Service at the Cessation Date, if he or she had been of the opposite sex; and
- (2) State Pension Age in relation to that part of the GMP will be deemed to be age 60.

All references in the Rules (other than in the paragraph above) to the GMP payable or prospectively payable to or in respect of a Member, or to the State Pension Age of that Member, shall be construed on the basis of the adjustments (if any) made in accordance with the paragraph above.

A pension payable to a Member, his spouse or Civil Partner under other Rules includes any GMP (as described above) and will be increased to the extent (if any) necessary for the total pension to be equal to the GMP.

The Trustees may delay the start of a Member's GMP beyond State Pension Age:

- (1) for up to 5 years whilst the Member remains in the employment to which the Scheme relates, or
- (2) for so long as the Member is in any employment and consents.

The GMP will then be increased to the extent (if any) stated in Section 15(1) to (4) of the 1993 Act.

11.3 Increases to GMPs in deferment

If a Member's Pensionable Service or, in the case of a Member who ceases to be in contracted-out employment for the purposes of the 1993 Act prior to 6 April 2016 and is not in Pensionable Service on 6 April 2016, contracted-out employment by reference to the Scheme terminates before State Pension Age, the GMP to which he or she will be entitled at State Pension Age (or which is payable on earlier death) will be calculated on the basis that the GMP which has accrued up to such termination may be increased:

- (a) by the percentage by which earnings factors for the Tax Year in which such termination occurred are increased by the last order under Section 148 of the Social Security Administration Act 1992 to come into force

before the Tax Year in which State Pension Age (or earlier death of the Member) occurs ("Section 148 Orders");

or otherwise shall be increased:

- (b) by such rate as may be prescribed under the 1993 Act at the time of such termination for each complete Tax Year between such termination and State Pension Age (or earlier death) ("Fixed Rate Revaluation").

During any period, only one of the above methods can apply and only that method will apply to a Member whose Pensionable Service or, in the case of a Member who ceases to be in contracted-out employment for the purposes of the 1993 Act prior to 6 April 2016 and is not in Pensionable Service on 6 April 2016, contracted-out employment by reference to the Scheme terminates during that period. The Trustees may change the method in force from any date with the Company's consent. Fixed rate revaluation continues to apply until such a change.

However, in respect of a Member who became an active member of the Gist Limited Pension Scheme on 1 April 2011, his or her Revalued GMP will be calculated, if this would produce a higher number for or in respect of the Member, as if any period as an active member of the Gist Limited Pension Scheme had been a period of Pensionable Service (and, prior to 6 April 2016, contracted-out employment) under the Scheme (which, for the avoidance of doubt, means that the Cessation Date for the purposes of Rule 11.2 was the date on which active membership of the Gist Limited Pension Scheme ceased).

11.4 Increases to GMPs in payment

The GMPs referred to in Rule 11.2 will, insofar as they are attributable to earnings in the Tax Years from and including 1988/9, be increased in accordance with the requirements of Sections 109 and 110 of the 1993 Act and to the extent of any order made under those Sections.

11.5 Anti-Franking

Part of a Member's, widow's or widower's or Civil Partner's pension may be used to frank an increase in the Member's, widow's or widower's or Civil Partner's GMP under Rule 11.3, 11.4 and (if payment of the GMP is delayed beyond State Pension Age) 11.2, but only to the extent allowed by Chapter III of Part IV of the 1993 Act.

11.6 Transfers

The making or receiving of transfer payments under Rules F4. and A5. involving accrued rights to GMPs or Section 9(2B) Rights must be on terms, including special terms of Membership and special benefits granted under the Scheme, which comply with the relevant requirements of the 1993 Act. Accordingly, a

GMP transferred to the Scheme prior to 6 April 2016 may be increased during the Member's Pensionable Service or, in the case of a Member who ceases to be in contracted-out employment for the purposes of the 1993 Act prior to 6 April 2016 and is not in Pensionable Service on 6 April 2016, contracted-out employment by reference to the Scheme otherwise than by reference to Section 148 Orders. If so, it will continue to be increased separately if such Pensionable Service or contracted-out employment (as applicable) terminates before State Pension Age.

If a transfer payment is received from another scheme prior to 6 April 2016 any widow's or widower's or Civil Partner's GMP under the Scheme will be increased to the amounts equal to the GMPs to which they would have been treated as entitled by reason of the Member's membership of the scheme from which the transfer payment is received, had the transfer payment not been made.

11.7 Contributions equivalent premiums

If a Member has accrued rights to a GMP or Section 9(2B) Rights and receives a refund of contributions, a contributions equivalent premium may be paid in accordance with the 1993 Act (unless it would be less than £17 or any other limit prescribed under that Act for this purpose). If an Employer pays the premium, the Employer may recover its amount from the Fund. The amount of the refund will be reduced by the certified amount when a premium is paid.

11.8 Commutation etc.

Arrangements which satisfy the requirements of the 1993 Act may be made for any GMP or Section 9(2B) Rights to be commuted for a lump sum, suspended, forfeited or otherwise terminated or varied.

12. Equivalent pension benefits

12.1 This Rule 12 relates to contracting-out of the State graduated pension scheme under the National Insurance Act 1965 ("the 1965 Act"). It applies if the Scheme is liable to pay equivalent pension benefits (as defined in the 1965 Act) to a Member who has been in non-participating employment (as defined in the 1965 Act).

12.2 Such a Member shall be entitled to a pension from State Pension Age equal to his equivalent pension benefits which may be commuted under Rules F1 and H5.4 but which may not otherwise be terminated, reduced, surrendered or assigned, except as permitted by the 1965 Act.

12.3 Pensions payable under other Rules shall be inclusive of any equivalent pension benefits and shall be increased to such extent (if any) as may be necessary for the total pension to be equal to the equivalent pension benefit.

I2.4 This Rule I.2 overrides all other provisions of the Rules which are inconsistent with it, except Rules H5, H7 and K7.

TRUSTEES

J1. **Fund held on trust**

The Fund is held by the Trustees upon the trusts of the Scheme.

J2. **Appointment and Removal of Trustees**

Except where Rule J3. applies, the Company may by deed appoint trustees of the Scheme and may remove any Trustee or Trustees. However, in exercising these powers, the Company and/or the Trustees, as appropriate, shall comply with whichever of:

- (1) the requirements of the 1995 Act and the terms of any arrangements adopted in accordance with that Act, or
- (2) the provisions in relation to member nominated trustees or trustee directors as set out in the Pensions Act 2004,

apply to the Scheme.

J3. **Appointment and Removal of Trustees (if 1995 Act and Pensions Act 2004 not applicable)**

In the event only that the requirements of the 1995 Act and the Pensions Act 2004 relating to the appointment of trustees cease to apply, and with the agreement of the Trustees and the Company, the arrangements for the appointment and removal of Trustees shall be as follows:

- (1) There shall be a corporate trustee of the Scheme ("the Corporate Trustee"). The office of Corporate Trustee shall be held by a body corporate appointed by the Company by deed. A body corporate shall be discharged from that office if it is replaced by another body corporate appointed by the Company in a deed. A body corporate holding office as Corporate Trustee may require the Company to replace it after giving at least 2 months' written notice to the Company.
- (2) Persons shall be appointed to and discharged from office as individual trustees of the Scheme ("Individual Trustees") as follows:
 - (a) The number of Individual Trustees shall be 8, of whom 4 shall be appointed trustees and 4 shall be elected trustees.
 - (b) The Company may by deed remove any person holding office as an appointed trustee.

- (c) If there is a vacancy in the office of an appointed trustee, the Company may fill that vacancy by appointing by deed any person who is a director or an employee of an Employer.
- (d) The Individual Trustees shall, with the approval of the Company and subject to these Rules, decide how a person may be removed from office as an elected trustee or appointed to fill any vacancy in such office. The Individual Trustees shall:
 - (i) require an elected trustee to be a Member in Service and to be resident in the United Kingdom
 - (ii) if a body is recognised by the Company and the Individual Trustees as the Pensions Advisory Council, provide for the elected trustees to have been members of that Council for at least 18 months prior to their first election as Individual Trustees and to be appointed and removed at the direction of that Council, and
 - (iii) if the Pensions Advisory Council does not exercise its powers within 6 months from the date on which a vacancy arises or if (ii) does not apply, provide for the appointment and removal of elected trustees to be made according to the outcome of an election in which all Members in Service are eligible to vote in such manner as the Individual Trustees shall decide.
- (e) A person elected or selected under (d) above to hold office as an elected trustee shall be formally appointed to that office by the Company by deed.
- (f) A person shall hold office as an Individual Trustee for a fixed term. A person appointed as a replacement before the end of that term shall hold office for the remainder of that same term. Otherwise, a replacement's term of office shall expire 3 years after that of his predecessor.
- (g) A person who has held office as an Individual Trustee may be reappointed.
- (h) An Individual Trustee shall be discharged from office if:
 - (i) his term of office expires, or
 - (ii) he is removed from office under (b) or (d) above, or
 - (iii) having been elected to hold office as an elected trustee, he ceases to be a Member in Service under Rule A6 or G2, or

- (iv) he ceases to be an employee or director of an Employer or ceases to be resident in the United Kingdom, or
- (v) he becomes unfit to act, or
- (vi) he is or becomes a director or officer of the Corporate Trustee, or
- (vii) he resigns by written notice to the Company.

J4. Trustees' meetings

J4.1 Where there is more than one Trustee:

- (1) the Trustees shall decide the manner in which their meetings shall be called and conducted, consistent with these Rules;
- (2) minutes shall be kept of decisions made at meetings of the Trustees. Any minutes signed by the chairman of the relevant meeting, or of the meeting at which they were presented, shall be sufficient evidence that the decisions recorded in them were duly made; and
- (3) a written resolution signed by all of the Trustees shall be as valid and effective as if it had been passed at a meeting and may consist of several documents in the same form, each signed by one or more of the Trustees.

J4.2 Where there is a sole corporate Trustee, the business of the board of directors of that company shall be conducted in accordance with the company's articles of association.

J5. Protection of Trustees

J5.1 Subject to Section 33 of the 1995 Act no person who is a Trustee (or a director or officer of a body corporate which is a Trustee) shall be personally liable for anything whatever except for a breach of trust which is an act done or omitted by him knowingly, intentionally and in bad faith.

J5.2 The Employers shall indemnify each person who is a Trustee (or a director or officer of a body corporate which is a Trustee) against all or any claims, costs, losses, damages and expenses which he may pay or incur or which may be made against him as a result of his holding that office (whether attributable to his own acts or omissions or those of any other Trustee or any Secretary, agent or delegate lawfully appointed by the Trustees) to the extent that he is unable to meet them out of the Fund because of its inadequacy or because of the provisions of the 1995 Act, and to the extent that they are not attributable to a breach of trust which is an act done or omitted by him knowingly, intentionally and in bad faith.

- J5.3 A Trustee or a director or officer of a body corporate which is a Trustee is entitled to receive any benefits from the Scheme payable in accordance with the Rules even though he or she is a Trustee or is such a director or officer, and even if he or she was a party to a decision or exercise of a discretion which gives rise to that benefit. Such a person will not be accountable for any such benefit.
- J5.4 No action or decision of the Trustees shall be invalidated by reason of any personal interest of a Trustee or of a director or officer of a body corporate which is a Trustee, or because any such person is entitled to benefits from the Scheme.
- J5.5 (a) This Rule J5.5 applies to any director or former director of a corporate Trustee in relation to whom any or all of the provisions of Rule J5.2 are rendered void or otherwise ineffective by sections 309A-309C Companies Act 1985, by section 235 Companies Act 2006 or by other legislation restricting the rights of company directors to be indemnified.
- (b) Rule J5.2 will not apply to any such director. However, under this Rule J5.5, provisions identical to the provisions of Rule J5.2 will apply to any such director or former director to the greatest extent permitted by law.
- (c) The Company will use all reasonable endeavours to pay insurance premiums to provide such insurance cover as is necessary to protect any such director against every liability against which he is not protected by (b) but against which he would have been protected by Rule J5.2 if the legislation mentioned in (a) had not been made.

J5.6 Duties of confidentiality owed to third parties

This Rule J5.6 applies if any of the Trustees is in possession (or comes into possession) of information which they are under a duty to the Company or any of its holding companies or its or such holding companies' subsidiaries (other than BOC Pension Scheme Trustees Limited) to keep confidential and not to disclose to other Trustees but which is (or becomes) relevant to a decision of the Trustees. Where this Rule J5.6 applies, then to the greatest extent permitted by law, the Trustee concerned shall not be under any duty (express or implied) which would or might otherwise have applied to them to disclose that information to other Trustees provided that, as soon as reasonably practicable after becoming aware that he possesses such information, (or, as the case may be, after becoming aware that such information already in his possession has become relevant to a decision of the Trustees), he:

- (a) declares to the Trustees (in such manner as the Trustees may decide from time to time) that because of a conflicting duty of confidentiality he shall take no part in the discussions or decisions to which that information might be relevant; and
- (b) he then takes no part in those discussions or decisions.

Nothing in this Rule J5.6 shall be taken to impose on any of the Trustees any greater duty to disclose any information, or any duty to disclose any information (or its existence) sooner than they would have been under in the absence of this Rule J5.5.

For the purposes of this Rule J5.6 if there is a corporate trustee, Trustees shall include directors of the corporate trustee.

J6. Administration

The Trustees shall be the Administrator of the Scheme for the purposes of the Finance Act 2004.

GENERAL OPERATION

K1. Employers

- K1.1 A company or firm may participate in the Scheme and so become an Employer if it agrees by deed to be bound by the Rules as an Employer. Participation shall start on the date specified in the deed. No company or firm shall participate without the written consent of the Company and the Trustees.
- K1.2 The company or firm which has the role of the Company may, with its and the Trustees' written consent, be replaced by any other company or firm which agrees by deed to be bound by the Rules in that role. The replacement shall take effect from the date specified in the deed. The company or firm which had been the Company and all other Employers shall then continue to participate subject to Rules L1. and L2.
- K1.3 Subject to the provisions of the 1995 Act the Trustees may release an Employer from its liabilities under the Scheme if they are undertaken by another Employer or if all Members which have been employed by it are no longer in Service. Any powers and discretions of such a released Employer relating to Members who had been employed by it shall then be vested in that other Employer (or, if none, in the Company).
- K1.4 The Scheme and these Rules shall not affect any right which an Employer otherwise has to terminate a Member's employment; nor shall they give rise to or increase any liability of an Employer to a Member in respect of the termination of his employment.

K2. Actuarial valuations

The Actuary shall assess the values of the Scheme's assets and liabilities as at dates fixed by the Trustees, but at least once in every three years. He shall report in writing to the Trustees and the Company. The Trustees shall secure the Scheme's compliance with Part 3 of the Pensions Act 2004, including as to Scheme Funding and (where applicable) a recovery plan and shall prepare, maintain and from time to time revise a schedule of contributions under Section 227 of the Pensions Act 2004.

K3. Investment

- K3.1 The Trustees have the following powers which they may exercise in such manner as they think fit (subject to Rule K3.2):
- (1) to invest in, acquire, dispose of, lend, exchange or otherwise deal in or undertake to deal in any property, securities, units, assets, rights, options, assurances, contracts, policies, pooling vehicles or interests;

- (2) to invest or apply any part of the Fund to, or in the acquisition of derivative transactions (including any futures, options and index or other swap transactions, in each case whether exchange-traded, over-the-counter or otherwise) and any other investments relating to all types of real and personal property and contractual or other rights and interests (whether or not secured);
- (3) to retain moneys of the Fund in cash of any currency or upon current account with any deposit taking institution (whether or not interest-bearing) without being liable for any gain forgone;
- (4) to enter into any partnership or limited partnership which engages in any of the activities referred to in (1) or (3) above, on such terms as the Trustees think fit (including as to any advance or capital contribution); and
- (5) all other powers relating to such property, securities, units, assets, rights, options, assurances, contracts, policies, pooling vehicles or interests forming part of the Fund as if the Trustees were absolutely and beneficially entitled to the Fund.

K3.2 (1) Except as mentioned in (2) below, the assets of the Fund shall not be invested in:

- (a) shares or other securities in the Company or any person (including any company) who is an associate of or connected with the Company;
- (b) land or other property which is owned, occupied or used by the Company or any such person (including any company); or
- (c) loans to the Company or any such person,

unless such investments are held by or under a collective investment scheme (as defined in the Financial Services and Markets Act 2000) which is operated by a person other than the Company, the Trustees, the trustee of any arrangement made under Rule K3.8 or an associate of or person connected with any of them. The restriction on employer-related investments under Section 40 of the 1995 Act must be observed in any event.

- (2) The requirement in (1) above does not apply to assets of the Fund to the extent that they are invested (under Rule K3.8) in a pooled fund which itself complies with that requirement.

K3.3 The Trustees may borrow and give any guarantee or indemnity, whether on the security of assets of the Fund or otherwise, subject to Section 36A of the 1995 Act.

- K3.4 The Trustees may apply moneys of the Fund in repairing, maintaining, demolishing, moving, storing or improving any assets of the Fund or in insuring the same for any amount up to their full replacement value against loss or damage from any risks.
- K3.5 The Trustees shall appoint investment managers who are authorised for the purposes of the Financial Services and Markets Act 2000 and will delegate to such investment managers the day to day decisions concerning the management of the assets of the Fund and such other powers and discretions conferred upon the Trustees by this Rule K3 (to be exercised with or without its consent) on such terms as to remuneration, sub-delegation, resignation and otherwise as they think fit, in accordance with the requirements of the 1995 Act. The investment managers shall not be associates of or connected with the Company.
- K3.6 Notwithstanding Rule K3.5, the Trustees shall not be obliged to delegate to an investment manager the day to day management of those assets of the Fund which are invested in pooled arrangements in accordance with Rule K3.8 or in cash or other assets to the extent required either to meet the ongoing liabilities of the Scheme as they arise or to pay the expenses incurred or to be incurred in the administration of the Scheme.
- K3.7 Those assets of the Fund which are managed by investment managers shall be held by a person or persons (other than the Trustees) approved in writing by the Trustees and shall where appropriate be registered in the name of the Trustees or in the name of such persons as nominee or bare trustee for the Trustees as the Trustees shall determine. The Trustees must comply with the requirements of Section 47 of the 1995 Act as to the appointment of any custodian.
- K3.8 (1) Subject to (2) and (3) below, the Trustees may make arrangements for the whole or any part of the Fund to be pooled for investment purposes with assets of other retirement benefit schemes of the Company or its associates or of persons connected with the Company, and may delegate their power of investment under Rule K3.1 to the administrators of that pool in accordance with their power of delegation under Rule K4.3. The arrangements may include such terms relating to such matters as the Trustees think fit.
- (2) Such arrangements may be made only with the consent of the Company. They must comply with the requirements of Rules K3.2(1) and K3.7 as if those requirements applied to the arrangement and to its trustee instead of to the Fund and to the Trustees respectively.
- (3) Such arrangements must also comply with Rule K3.5, except that the trustee of such an arrangement need not delegate to an investment manager the day to day management of cash or other assets held for the purposes of the arrangement to the extent required to meet the liabilities of the arrangement or to pay the expenses incurred or to be incurred in the administration of the arrangement.

K3.9 The Trustees must comply with the requirements of the 1995 Act covering the preparation, maintenance and revision of a statement of the principles governing decisions about investments. In exercising their powers under this Rule K3, the Trustees must also comply with the requirements of the 1995 Act concerning investments and the need to obtain proper advice about investments.

K3.10 In this Rule K3, "connected" and "associate" have the same meanings as in sections 249 and 435 of the Insolvency Act 1986.

K4. Administration

K4.1 The Trustees shall have all powers, rights and privileges necessary or helpful for operating the Scheme.

K4.2 The Trustees may use agents to transact any business.

K4.3 The Trustees may delegate to any person all or any of their powers, duties and discretions on such terms as to remuneration, sub-delegation and otherwise as they may think fit. The Trustees shall not be bound to supervise any delegate or sub-delegate.

K4.4 Each Employer shall give the Trustees such information as they may properly require for the operation of the Scheme, and the Trustees shall be entitled to treat that information as correct. If the Trustees require evidence on a matter but no satisfactory evidence is reasonably available to them, they may make such assumptions as they think fit.

K4.5 The Trustees shall decide all questions, disputes and matters arising under the Rules relating to the proper operation of the Scheme, unless they are expressly left for decision by another person. Notwithstanding this, a Member or other beneficiary (or other person claiming to have such an interest) may apply to have a complaint relating to the Scheme determined under the internal disputes resolution procedure maintained by the Trustees in accordance with the requirements of the 1995 Act.

K4.6 Powers may be exercised by the Trustees without the consent of an Employer or any other person, unless such consent is expressly required by the Rules.

K4.7 There shall, if either the Trustees or the Company so decides and at such intervals as either may determine, be a review of the internal controls and procedures relating to the management and administration of the Scheme and the Fund. The review shall be conducted by such person or persons and on such terms as the Trustees and the Company agree, who shall report their findings to the Trustees. The Trustees shall deliver a copy of any report delivered to them to the Company and to the internal audit department of any holding company (as defined in the Companies Act 2006) of the Company nominated by the Company for this purpose and shall provide such information and deliver such assistance as either or both of the Company's internal audit function and any

such holding company's internal audit department may from time to time reasonably require in order to allow each of them to carry out its functions.

K4.8 The Trustees shall keep moneys received by them in a separate account kept by them at an institution authorised under the Financial Services and Markets Act 2000, in accordance with the requirements of the 1995 Act.

K5. Expenses

K5.1 The Trustees may incur any costs or expenses that they consider necessary or desirable for the proper performance of their duties. These shall include their own (and, to the extent that they think fit, any other person's) costs in resolving any matter concerning the Fund or the Scheme by litigation.

K5.2 The Trustees shall recover from the Fund all costs and expenses relating to the investment of the Fund, dealings with the Fund's assets and all other matters mentioned in Rule K3.

K5.3 All other costs and expenses, including those of administering the Scheme, shall be recovered from the Fund except that they shall be met by the Employers to such extent (and in such proportions) as the Company may direct. The Employers may charge the Trustees for their costs in the carrying out of any functions of the Trustees which may have been delegated to them or their employees.

K5.4 Any Trustee who is a person engaged in any profession or business shall be entitled to charge and be paid all usual professional or other charges for business done by him or his firm in relation to the trusteeship or administration of the Scheme.

K6. Accounts and records

K6.1 The Trustees shall keep a complete record of all events and matters which should be recorded for the proper working of the Scheme (in particular, the books and records required under the 1995 Act) and they shall keep accounts.

K6.2 Accounts shall be drawn up for each accounting period. An accounting period shall be a year ending on a 31 March but may instead be a year (or a transitional period of more or less than a year as permitted by legislation from time to time) ending on such other date as the Trustees may choose.

K6.3 The accounts shall be given to the Auditor who shall report to the Scheme Members, and to the Trustees if required by the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 whether or not:

- (1) they comply with the requirements of those Regulations, in particular, Regulation 3 concerning the information to be included in the Scheme's audited accounts;
- (2) they correctly summarise the financial transactions of the Scheme during the accounting period;
- (3) the contributions payable to the Scheme during the accounting period have been paid in accordance with the Scheme Rules and with any recommendations of the Actuary;
- (4) interest has been charged under Rule L2.2 and if so whether such interest has been paid in full;
- (5) the nature and identity of the assets of the Fund are accurately identified in the Trustees' records;
- (6) any assets of the Fund are registered or deposited with any person other than the Trustees, their delegates under Rule K3.7 or the nominees of such delegates;
- (7) any assets of the Fund have been invested in any of the assets described in Rule K3.2; and
- (8) the fund managers have prepared and made available an audited report on the investment management systems and controls in place to safeguard client assets.

The Auditor shall be given and have access to such information and evidence as he may properly require.

K7. Amendments

Subject to section 67 of the 1995 Act, the Company may at any time and from time to time with the consent of the Trustees by deed executed by the Company and such Trustees alter any of the trusts powers and provisions of the Rules and any such alteration shall have effect from such time as is specified in the deed whereby the same is effected or any reasonable time previous or subsequent thereto so as to give the alteration retrospective or future effect.

K8. Printed, audio-visual or electronic communication

The Trustees may publish material on Scheme matters in printed, audio-visual, electronic (including intranet or internet) or any other form, including booklets, reports, course material, individual or circular letters or questionnaires and otherwise as it may decide. The disclosure of information may be by electronic means where the Member has indicated his willingness to receive notifications or documents in electronic form.

WINDING UP

L1. **Terminations**

L1.1 The following describes how an Employer's liability under the Scheme may be terminated for all of its employees, and the date ("the **Termination Date**") from which the termination takes effect:

- (1) The Employer may terminate by giving prior written notice to the Trustees specifying the Termination Date.
- (2) If the Employer is not a subsidiary or holding company (as defined in the Companies Act 2006) of the Company, the Trustees may terminate by giving prior written notice to the Employer specifying the Termination Date.
- (3) An Employer shall cease to participate in the Scheme upon the Company giving notice to the Employer and the Trustees. That Employer shall terminate on a Termination Date which is:
 - (a) agreed between the Trustees, the Company and the Employer, or
 - (b) failing such agreement, specified in a prior written notice from the Company to the Employer.
- (4) Termination shall take place on the same date that the Employer goes into liquidation or is dissolved.
- (5) If the Company's liability is terminated and the Company is not replaced under Rule K1.2, the liability of all other Employers shall terminate on the same Termination Date.

L1.2 An Employer may, by prior written notice to the Trustees, terminate its liability under the Scheme for any one or more of its employees without doing so for all of its employees, and the notice shall specify the date ("the Termination Date") from which the termination takes effect and the employees affected.

L1.3 If, in the opinion of the Trustees, all or a substantial number of a group or category of Members leave Service at the instigation or invitation of the Employer (whether simultaneously or over a short period), the Trustees may treat the Employer as having given a notice or notices under Rule L1.2 in such terms as they shall notify to the Employer in writing.

L2. **Employer's default**

L2.1 If an Employer fails to pay contributions as required by these Rules, the Trustees may treat that Employer as having given notice under Rule B4.3 or L1 at such time and in such terms as it shall notify to the Employer in writing.

L2.2 If a payment to the Fund is made by an Employer after it was due, the Trustees may require the Employer to pay interest on it at such reasonable rate and for such period of the delay as the Trustees think fit.

L3. Effect of termination

L3.1 If an Employer's liability is terminated for all or any one or more of its employees, the Trustees shall identify the following persons (called "Identified Beneficiaries"):

- (1) if the liability of all Employers is terminated for all employees, all Members living immediately after the Termination Date and all persons entitled to receive benefits as a result of the Membership of Members who died on or before the Termination Date, or
- (2) in any other case:
 - (a) Members in the Service of the Employer on the Termination Date (other than Members for whom, under Rule L1.2, the Employer's liability is not terminated or who, immediately after the Termination Date, are in the Service of another Employer whose liability for them is not terminated), and
 - (b) at the discretion of the Trustees, any one or more of:
 - (i) Members not in Service but still living on the Termination Date for whom, in the opinion of the Trustees, the Employer's liability would have terminated had they still been in Service, and
 - (ii) persons entitled to receive benefits as a result of the Membership of Members who, in the opinion of the Trustees, would have been Identified Beneficiaries had they still been living on the Termination Date.

A person may be an Identified Beneficiary for more than one termination only if each covers different benefit entitlements.

L3.2 The Trustees shall notify Identified Beneficiaries of the termination as soon as reasonably practicable after the event causing the termination.

L3.3 Subject to Rule L6, on any termination of an Employer's liability, the Trustees shall set up a Separate Fund in accordance with Rule L4 and then apply Rule L5. Identified Beneficiaries may not benefit from any part of the Fund other than the Separate Fund, except as mentioned in Rule L5.8.

L3.4 Any Identified Beneficiary who is a Member in Service on the Termination Date shall be treated as leaving Service on that date and so shall not pay contributions for any period after that date.

L3.5 An Employer's liability (whether to contribute, to pay expenses, to pay a debt arising by reason of the 1995 Act, to indemnify the Trustees or otherwise) shall not terminate in respect of amounts due, expenses incurred or claims made on or before the Termination Date. Interest may continue to accrue under Rule L2.2 despite termination.

L3.6 If an Employer's liability is terminated for all of its employees:

- (1) any powers or discretions of the Employer relating to benefits of persons who are not Identified Beneficiaries shall be transferred to any subsequent Employer of the Member or, if none, to the Company, and
- (2) the Employer shall not, without the consent of the Company, receive a payment under Rule L5.4 on any subsequent termination of another Employer's liability.

L4. **Separate Fund**

L4.1 If the liability of all Employers is terminated for all employees, the whole of the Fund on the Termination Date (excluding any other Separate Fund then already set up) shall be the Separate Fund.

L4.2 Subject to Rule L6, in the case of any other termination, the Trustees shall set up a Separate Fund within the Fund. The value of the Separate Fund shall be:

- (1) the Share of Fund, if that is less than the Basic Entitlements, or
- (2) subject to (1) above, the Basic Entitlements or, with the consent of the Company, such greater value as the Trustees may think fit after consulting the Actuary, not exceeding the Share of Fund.

For these purposes:

- (a) "Basic Entitlements" means the amount certified by the Actuary to be required to provide or secure the benefits described in Rule L5.2 without abatement,
- (b) "Share of Fund" means the value of that part of the Fund which relates to Identified Beneficiaries, calculated by the Actuary on a basis acceptable to the Trustees under which the whole of the Fund would have related to Identified Beneficiaries if the liability of all Employers had been terminated for all employees. For the purposes only of calculating a Share of Fund, the Actuary shall have regard to:

- (i) the values of benefits payable or prospectively payable to or in respect of Identified Beneficiaries and all other persons for Service before the Termination Date, including the value of prospective discretionary pension increases (if any) and the value (for Members still in Service on the Termination Date) of prospective increases in Earnings (or Pensionable Earnings, for the purposes of the Appendix, in the case of Level 3 Members), and when assessing all such values the Actuary shall make such assumptions as he thinks appropriate
- (ii) any special terms on which Identified Beneficiaries or other persons were admitted to Membership
- (iii) any special terms of transfers received under Rule A5 in respect of Identified Beneficiaries or other persons, and
- (iv) any other matters which the Actuary thinks relevant.

L4.3 Subject to Rule L6, the Trustees may set up a Separate Fund at any time after the event causing the termination. If the Trustees have not set up the Separate Fund by the Termination Date, they shall do so as soon as reasonably practicable after that date.

L4.4 Amounts paid or received by the Trustees after the Separate Fund has been set up which relate to Identified Beneficiaries shall, to the extent that the Trustees think fit, be deducted from or added to the Separate Fund.

L4.5 When setting up a Separate Fund as part of the Fund, it shall not be necessary to allocate particular assets to it. Instead, the Scheme's accounts may record the value of the Separate Fund and all payments, receipts and other transactions affecting that value. If particular assets are allocated to the Separate Fund, that shall also be recorded in the accounts and all receipts from and expenditure relating to those assets shall be added to or paid from the Separate Fund. The Trustees shall increase (or reduce) the value of any part of the Separate Fund which is not so represented by assets allocated to it as they think fit, which may be by addition of interest or by additions or deductions reflecting the investment performance of all or any part of the Fund.

L5. Winding Up

L5.1 The Separate Fund shall be used to pay costs and expenses which relate to the Separate Fund or Identified Beneficiaries and which can properly be recovered from the Fund. The Separate Fund may also be used to buy insurance or guarantees for the Trustees against claims being made by Identified Beneficiaries or others after all or part of the Separate Fund has already been spent.

L5.2 Subject to Rule L5.1, and to the requirements of the 1995 Act, the Separate Fund shall be used to provide the following benefits of Identified Beneficiaries (which are called the "Basic Entitlements")

- (1)
 - (a) Pensions and other benefits already in payment
 - (b) If a Member was in Service on the Termination Date and had then reached Retirement Age, the pension and other benefits he would have received if he had retired on that date, and
 - (c) In respect of each Member covered by (a) or (b) above, the pensions and other benefits to which his spouse, Civil Partner, Children or dependants will be entitled on his death (assuming for a Member in Service that he retired on the Termination Date)
- (2) Equivalent pension benefits payable under Rule I2
- (3) GMPs, accrued rights to GMPs and Section 9(2B) Rights, and
- (4) All other benefits to which any Identified Beneficiary is prospectively entitled (and the benefits payable on the death of any such person who is a Member). For this purpose, an Identified Beneficiary in Service on the Termination Date shall be treated as having left Service on that date entitled to a deferred pension under Rule D1, except that if:
 - (a) such a Member would have qualified for benefit under that Rule if his employment had been terminated by his Employer on the Termination Date by reason of Redundancy, and
 - (b) the Member's employment is in fact terminated by reason of Redundancy less than one year after the Termination Date,

the Trustees may in their absolute discretion decide that the Member shall instead be entitled to the benefits of Rule C5.1 as if the Redundancy had occurred on the Termination Date. The Trustees may set aside and wind up the Separate Fund without waiting to see whether a Member is made redundant after the Termination Date.

A benefit shall be included only in the first category which refers to it.

- L5.3 If the Separate Fund is insufficient to provide the Basic Entitlements, the Trustees shall abate all or any of them in such manner as they consider equitable after consulting the Actuary but they shall not abate any of the benefits in categories (1), (2) or (3) until they have entirely abated all of the benefits in each succeeding category.
- L5.4 Any balance of the Separate Fund after applying Rules L5.1 to L5.3 shall (subject to Rule L5.5) be paid, in accordance with the requirements of the 1995 Act, to those Employers who at any time employed any Identified Beneficiaries and in such shares between them as the Trustees think just and equitable, except that an Employer's share shall instead remain in the Fund (for the general purposes of the Scheme) if:
- (1) that Employer's liability was not terminated for all of its employees, or
 - (2) the liability of other Employers has not been terminated and the Company so directs.
- L5.5 With the agreement of the Company, the Trustees may, instead of applying Rule L5.4 to all or any part of any balance of the Separate Fund, use it instead to augment the Basic Entitlements and to provide other benefits which are "authorised member payments" as defined in section 164 of the Finance Act 2004 for or in respect of Members who are Identified Beneficiaries (or who would be Identified Beneficiaries if still living).
- L5.6 The Trustees shall decide how benefits are to be provided under Rules L5.2 and L5.5, and may:
- (1) make transfer payments under Rule F4
 - (2) make arrangements concerning any policy of assurance or indemnity which may be held in the Fund and which relates to Identified Beneficiaries
 - (3) pay contributions equivalent premiums in accordance with the 1993 Act
 - (4) until the winding up of the Separate Fund is complete, pay benefits from the Separate Fund in accordance with the Rules, and
 - (5) administer the Separate Fund as a closed fund in accordance with these Rules (except that no further contributions shall be required from the Employers) until such date as the Trustees decide for termination.
- L5.7 If assets from additional voluntary contributions paid under the Scheme's previous provisions form a separate part of the Fund and the benefits from those AVCs are of equal value to those AVCs (as invested), the Separate Fund shall include such of those assets as may relate to AVCs paid by Members who are Identified Beneficiaries (or who would have been Identified Beneficiaries if still

living). Rules L5.1 to L5.6 shall apply to those included assets on the basis that they shall be used only to provide the benefits from those Members' AVCs.

L5.8 The Trustees may transfer from the Separate Fund to the remainder of the Fund (or to any other Separate Fund, including one set up by the Trustees for this purpose) an amount or assets of such value as they shall, after consulting the Actuary, think appropriate so that benefits which would otherwise be provided from the Separate Fund shall instead be provided from the remainder of the Fund (or from the other Separate Fund to which the transfer was made).

L5.9 The Trustees may transfer the whole of the Separate Fund (or whatever remains of the Separate Fund) to another pension scheme as follows:

- (1) The transfer shall be made instead of applying Rules L5.2 to L5.7 but after any application of Rule L5.8.
- (2) The other scheme shall be one which all or some of the Identified Beneficiaries have joined as members and which accepts the liability to pay all GMPs, accrued rights to GMPs and Section 9(2B) Rights of Identified Beneficiaries.
- (3) The transfer shall not be made without the consent of the Company.
- (4) The transfer shall comply with Rule F4 (transfers out) except paragraphs (4) and (5) of that Rule.
- (5) The Trustees shall be discharged of liability to provide the benefits for Identified Beneficiaries which would otherwise have been provided from the Separate Fund and shall not be obliged to inquire into the use of the cash or other assets transferred to the other pension scheme.
- (6) The transfer may be subject to such terms and conditions as the Trustees think fit, which may include the giving of assurances or commitments (whether or not legally binding) by the trustees of the other scheme or by other persons.

L6. Scheme apportionment arrangements

L6.1 The Trustees may enter into a Scheme Apportionment Arrangement for the purposes of the Occupational Pension Scheme (Employer Debt) Regulations 2005 (the "**Employer Debt Regulations**") with the Company and/or any other Employer. In this case Rules L4 and L5 shall not apply and instead all liabilities of and benefits in respect of the departing Employer shall be dealt with in accordance with the Scheme Apportionment Arrangement.

L6.2 Without prejudice to the generality of the foregoing, if the Trustees should enter into a Scheme Apportionment Arrangement for the purposes of the Employer Debt Regulations, that arrangement shall for all purposes be deemed to have

been made under these Rules so that, among other things (but subject always to the terms of the arrangement):

- (1) for the purposes of Regulation 6(1) of the Employer Debt Regulations the Share of the Difference of any Employer all or part of whose Liability Share is apportioned by the Scheme Apportionment Arrangement to one or more of the remaining Employers will not be the Liability Share but will rather be the Scheme Apportionment Arrangement Share;
- (2) if and to the extent that the Scheme Apportionment Arrangement requires certain liabilities to be apportioned to one or more Employers in a particular way for the purposes of Regulation 6(4) of the Employer Debt Regulations, then those liabilities shall be so attributed; and
- (3) the Employer may receive a discharge from any liability under the Scheme on the terms of the Scheme Apportionment Arrangement.

L6.3 For the purposes of this Rule L6 only the following terms shall have the same meaning as in the Employer Debt Regulations:

- (1) Employer
- (2) Liability Share
- (3) Scheme Apportionment Arrangement
- (4) Scheme Apportionment Arrangement Share
- (5) Share of the Difference

INTERPRETATION

M1. Definitions

In these Rules:

"**1993 Act**" means the Pension Schemes Act 1993 and (to the extent that they are not consolidated in that Act) those provisions of the Social Security Administration Act 1992 which replaced, by way of consolidation or otherwise, the provisions of the Social Security Pensions Act 1975.

"**1995 Act**" means the Pensions Act 1995.

"**1997 Credit**" means, in relation to a person who is a Member on 1 April 1997, the annual amount (if any) of pension credited to the Member at the time when the Member's pension commences (or, if later, 1 April 1998), on the basis notified to the Member.

"**Active Member**" means a Member in Active Membership.

"**Active Membership**" of a Member means (except where a Rule expressly provides otherwise):

- (1) his only or last continuous period of Service whilst a Member, and
- (2) in the case of a person who became a Member on 6 April 1987 and who immediately before then was a member of the BOC No. 1 Pension Scheme, his only or last continuous period of service whilst a member of that scheme before that date,

except that Service after Retirement Age shall not count as Active Membership unless the Member pays contributions under Rule B1.1 (or contributions are paid in respect of him under Rule B5.1(2)) during that Service. No period of service shall be counted more than once.

"**the Actuary**" means a person or firm appointed for the time being by the Trustees, being a Fellow of the Faculty and Institute of Actuaries or a firm of such persons (of which at least 75% of the partners (or, in the case of a limited liability partnership, members) are such Fellows). The Trustees will appoint an individual actuary (being a Fellow of the Faculty and Institute of Actuaries) in accordance with the requirements of the 1995 Act to perform the tasks required of the Actuary under the 1995 Act.

"**the Auditor**" means an accountant who is permitted under the 1995 Act to give a report on the Scheme's accounts in accordance with Rule K6.3, and who is appointed by the Trustees in accordance with the requirements of the 1995 Act. Any person who is, or is a partner (or, in the case of a limited liability

partnership, a member) in a firm which is, the auditor of the Company shall not be appointed as the Auditor.

"Band Earnings" means that part of the Earnings of a Member in a pay period which exceeds the Lower Earnings Limit but not the Upper Accrual Point applicable at the end of the relevant pay period (or the Prescribed Equivalents if the Member is paid otherwise than weekly). Earnings shall be calculated for this purpose as if the section of the definition of Earnings which follows the heading "cap on increases to Earnings from 1 April 2011" was omitted from the definition. In the event that either or both of the Lower Earnings Limit or the Upper Accrual Point ceases to be available, Band Earnings shall be such amount as the Company reasonably notifies the Trustees it would have been had no changes to the relevant legislation been made (such that the Lower Earnings Limit and the Upper Accrual Point had continued to be available and adjusted from time to time in accordance with previous government policy).

"Basic GMP" means the annual amount of the guaranteed minimum which a Member has in relation to his pension or deferred pension as mentioned in Rule I1.2 calculated at the time he ceased to be in to be in Pensionable Service or, in the case of a Member who ceases to be in contracted-out employment by reference to the Scheme prior to 6 April 2016 and is not in Pensionable Service on 6 April 2016, contracted-out employment and before any increase to that guaranteed minimum in accordance with Rules I1.3, I1.4 or (if its start is delayed beyond State Pension Age) I1.2.

"BOC AVC Plan" means the plan (formerly known as the BOC No.3 (AVC) Pension Scheme) established by the Company with effect from 6 April 1985 for the receipt of additional voluntary contributions and other payments in respect of Members.

"BOC Retirement Savings Plan" means the plan established with effect from 13 June 2003 and governed as at 1 March 2011 by a set of Rules contained in a Deed of Variation dated 6 April 2006 (as amended).

"BOC Senior Executive Pension Scheme" means the occupational pension scheme established on 1 October 1968 and governed as at 1 May 2016 by a set of Rules contained in a Deed of Variation dated 8 April 2016.

"Calculation Date" means

- (1) subject to (2), the earlier of the Member's Retirement Age, date of death or the date he leaves Active Membership; or
- (2) where a Member remains in Service after Retirement Age and pays contributions after Retirement Age in accordance with Rule C3.1(2), the date his contributions cease in accordance with Rule C3.1(2),

Except that for the purposes of Rule E8, Calculation Date shall be the date specified in (1) and (2) shall not apply for the purposes of Rule E8.

"Child" of a Member means a person who:

- (1) was born or conceived before the Member's death, and
- (2) is a person who:
 - (a) is under the age of 16, or
 - (b) is under the age of 23, is (in the opinion of the Trustees) receiving full-time education and is a person who the Trustees, in their discretion, have for the time being agreed may qualify as a Child, or
 - (c) in the opinion of the Trustees, is suffering from such mental or physical incapacity that he cannot provide himself wholly or substantially with the ordinary necessities of life, and is a person who the Trustees, in their discretion, have for the time being agreed may qualify as a Child,

and

- (3) is:
 - (a) a legitimate, legitimated, step or adopted child of the Member, or
 - (b) a child who, in the opinion of the Trustees, was treated by the Member as if he were the Member's legitimate child, or
 - (c) an illegitimate child of the Member who, in the opinion of the Trustees, was wholly or substantially dependent upon the Member at the time of the Member's death for the provision of the ordinary necessities of life (or would have been so dependent if then born).

"Civil Partner" means, in relation to a Member, his civil partner within the meaning of the Civil Partnership Act 2004, and who was normally resident with the Member at the time of the Member's death, except that the Trustees may at their discretion waive this residency condition, with or without substituting any other conditions.

"the Company" means The BOC Group Limited (registered number 22096) or its replacement for the time being in accordance with Rule K1.2.

"Death Benefit Earnings" has the same meaning as the definition as "Earnings" except that the words after the sentence "Special provisions for part-time employees are contained in Rule A4" are disregarded.

"Death Benefit Final Earnings" has the same meaning as "Final Earnings" except that references to the Member's "Pensionable Earnings" and "Earnings" in the definition of "Final Earnings" are to be treated for this purpose as references to his "Death Benefit Pensionable Earnings" and his "Death Benefit Earnings" respectively.

"Death Benefit Pensionable Earnings" has the same meaning as "Pensionable Earnings" except that references to a Member's "Earnings" in the definition of "Pensionable Earnings" are to be treated for this purpose as references to his "Death Benefit Earnings".

"Earnings" of a Member during a period means the earnings receivable by him in that period from the Employers as calculated for the purpose of assessing income tax under the PAYE system, except that:

- (1) they shall not (unless and to the extent that the Company notifies the Trustees otherwise) include the cash equivalent of any emoluments in kind receivable by the Member which may from time to time fall to be calculated under the PAYE system for that purpose;
- (2) there shall be added back
 - (a) any deduction made in such calculation in respect of entitlement to State sickness, incapacity or invalidity benefits, and
 - (b) contributions to this Scheme, and
 - (c) any contributions to the BOC AVC Plan or the BOC Retirement Savings Plan;
- (3) they shall not include discretionary payments which are not regular. A discretionary payment shall be treated as regular unless the Employer advises the Member otherwise in writing at the time when a discretionary payment is made;
- (4) they shall not include any emolument or benefit in kind which the Employer pays or provides to the Member on the basis that it shall not be pensionable,
- (5) this paragraph shall not apply to the extent Rule B5 applies. In calculating Earnings, if the Employer notifies the Trustees that a salary sacrifice arrangement or a profit-related pay arrangement applies to the Member, the amount of the Member's basic salary or pay to be included as Earnings will be deemed to be the amount notified by the Employer to

the Trustees and the Member as being the Member's "reference salary" or "reference pay" respectively under the arrangement. For a profit-related pay arrangement no payments made to the Member by the Employer from the arrangement will be treated as Earnings.

For the avoidance of doubt, the said earnings shall include overtime payments, sick pay and regular discretionary payments.

If a Member's earnings are reduced or suspended under Rule G by reason of absence from work, the Employer may increase his Earnings for such purposes and to such amount as it may think fit, but they shall not exceed the Earnings which, in the Employer's opinion, the Member would have had but for the reduction or suspension.

The Earnings of a Member who was as at 5 April 2006 subject to the permitted maximum as defined in s590C(2) of the Income and Corporation Taxes Act 1988 are, for the purposes of the Scheme, restricted in each Tax Year to the Permitted Maximum, except that for the purposes of lump sum benefits payable under Rule E1.1(1) Earnings shall not be so restricted so the Permitted Maximum shall not apply.

Earnings not in pounds sterling shall be converted into sterling at rates agreed between the Company and the Member or, failing agreement, at rates decided by the Trustees.

Special provisions for part-time employees are contained in Rule A4.

Cap on increases to Earnings from 1 April 2011

The Earnings of a Member during any period falling on or after 1 April 2011 shall be calculated as above but subject to the following modifications:

- (a) subject to (b) and (c) below, during any period of 12 months, starting on 1 April and ending on the following 31 March, the Earnings of a Member shall not increase by more than 2.5% (annualised on a basis agreed between the Company and the Trustees from time to time) of the Earnings of that Member during the immediately preceding 12 month period.
- (b) an increase to (a) shall be applied if and to the extent that, in accordance with the methodology agreed by the Company and the Trustees from time to time, a credit applies due to any annual increase to the Member's Earnings paid during a relevant period falling wholly after 31 March 2011 being less than 2.5% on a rolling five year basis (such rolling five year basis to be agreed between the Company and the Trustees from time to time).

- (c) in the case of a Member other than a Level 3 Member, if greater than (a) (as increased by any application of (b)), the Member's Earnings shall be his Pensionable Earnings calculated as at 31 March 2011, increased by the Relevant Percentage.
- (i) The "**Relevant Percentage**" for any period starting on 1 April 2011 and ending on or before 31 March 2012 will be 2.5% per annum.
- (ii) Subject to (i) above, the "**Relevant Percentage**" for periods starting on and after 1 April 2012 is calculated by reference to the period on and from 1 April 2011 to and including the 31 March falling immediately preceding the relevant period (the "**Reference Period**") and is equal to the aggregate over the Reference Period of the lesser in each twelve month period starting on 1 April and ending on the following 31 March during the Reference Period of:
- 2.5%; and
 - the increase to the Member's basic pay, expressed as a percentage.

PROVIDED THAT:

- (i) For the purposes of Rule B1.1, "Earnings" only includes the modifications made by paragraphs (b) or (c) above relating to any period falling on or after 1 April 2011 to the extent that the Member's "Earnings" are increased by the applications of those paragraphs.
- (ii) "Earnings" may have different meanings for the purposes of different Rules.
- (iii) For the avoidance of doubt, nothing in the section of the definition of Earnings which follows the heading "cap on increases to Earnings from 1 April 2011" shall increase the amount of a Member's Earnings to more than if that whole section was omitted from the definition.
- (iv) For the purposes of calculating a Level 3 Member's Earnings, the increase under (a) and (b) above (if any) shall be applied to the Member's Earnings for the purposes of the BOC Senior Executive Pension Scheme during the period 1 April 2010 to 31 March 2011, and thereafter.

"**Employee**" means an employee or director of an Employer, other than an employee (1) who is eligible to join another pension scheme of the Employers (other than the BOC AVC Plan and disregarding any right they may have to join the BOC Retirement Savings Plan for the sole purpose of making additional voluntary contributions), or (2) whose contract of employment does not permit the employee to join any pension scheme of the Employers. A person who works

outside the United Kingdom shall be an Employee only if the Employer, with the approval of the Trustees, so directs and his Membership shall be subject to such conditions as the Trustees may consider appropriate and as shall be notified to him.

The decision of the Employer shall be final as to whether a person is an Employee.

"Employers" means the Company and such other firms and companies as may have become Employers in accordance with Rule K1. In relation to an individual in an employment, the Employer shall be the company or firm which employs him in that employment or which so employed him at the relevant time.

"Equivalent Pension Benefits" means such benefits as are excluded by Section 13(6) of the 1993 Act from earners' guaranteed minimum pensions (as defined in the 1993 Act).

"Ex-Spouse" has the meaning set out at Rule F5.1

"Final Earnings" of a Member are calculated as follows:

- (1) If the Member has at least one year's Active Membership, his Final Earnings are calculated by reference to the 2 consecutive Tax Years of which the second, called Tax Year A, is the Tax Year in which Active Membership ended and the first is called Tax Year B. Final Earnings are then:
 - (a) Earnings during Active Membership in Tax Year A, plus
 - (b) Earnings during Active Membership in Tax Year B multiplied by the number of days in Tax Year A which are not part of Active Membership and divided by the number of days of Active Membership in Tax Year B.
- (2) If the Member has less than one year's Active Membership, his Final Earnings are his Earnings (other than any Earnings deriving from overtime or regular discretionary payments) during Active Membership multiplied by 365 and divided by the number of days of Active Membership, plus any Earnings deriving from overtime or regular discretionary payments during Active Membership.
- (3) If the Member's Pensionable Earnings are greater than the amount calculated under (1) or (2) above, they shall be his Final Earnings.

"the Fund" means all contributions, monies, property, rights, options, interests and other assets held by the Trustees for the purposes of the Scheme.

"**Gist**" means Gist Limited (Company Number 00502669) whose registered office is at The Priestley Centre, 10 Priestley Road, Surrey Research Park, Guildford, Surrey, GU2 7XY.

"**Gist Limited Pension Scheme**" means the occupational pension scheme established by Gist with effect from 1 April 2011 and includes, where appropriate, the trustees from time to time of that scheme.

"**Gist Member**" means a person who:

- (i) was an Active Member of the Scheme on 31 March 2011;
- (ii) became an active member of the Gist Limited Pension Scheme on 1 April 2011; and
- (iii) has neither started to draw his benefits from the Scheme nor commuted his benefits from the Scheme.

In order to determine whether a person is a Gist Member, the Trustees shall be entitled to rely on any information supplied by Gist, the Company, the Gist Limited Pension Scheme administrator, the Gist Member or the Scheme administrator.

Any decision as to whether a Member is or is not a Gist Member and the date such Member ceases to be a Gist Member shall be made by the Trustees in their absolute unfettered discretion.

"**GMP**" means the whole of a guaranteed minimum pension payable or prospectively payable under the Scheme by reason of a Member having been in contracted-out employment before 6 April 1997, as described in Rule I1.

"**Identified Beneficiary**" has the meaning given in Rule L3.

"**Ill-Health**" means physical or mental impairment which is sufficiently serious to prevent the Member from carrying on his or her occupation, as to which the Trustees have received evidence from a registered medical practitioner. The decision of the Trustees shall be final as to whether a Member is suffering from Ill-Health.

"**Ill-Health Condition**" has the meaning given to it by Schedule 28 of the Finance Act 2004.

"**Incapacity**" means physical or mental impairment which is sufficiently serious to prevent the Member from following any gainful occupation, from which the Member is unlikely to recover to any substantial degree, as to which the Trustees have received evidence from a registered medical practitioner. The decision of the Trustees shall be final as to whether a Member is suffering from Incapacity.

"Insurance Company" has the meaning given to it in Section 275(1) of the Finance Act 2004.

"Interest" means an amount added to a refund of contributions calculated as follows:

- (1) The Company shall fix a percentage ("the fixed percentage") which shall be used for calculating Interest on all refunds made whilst that fixed percentage is in force. The Company may change the fixed percentage after consulting the Actuary, and the new fixed percentage shall come into force from such date as the Company shall notify to the Trustees. The fixed percentage for refunds under Rule D4.2 may be different from that for refunds under Rule E1.
- (2) The way in which an amount of Interest is calculated using the fixed percentage shall be decided from time to time by the Company after consulting the Actuary. The Company may decide that interest:
 - (a) shall not be added for periods of less than a year,
 - (b) shall be applied to an average of the contributions paid at any time during a period, and
 - (c) shall be compounded at such times (if any) as the Company may decide.

"Level 1 Member" means a Member treated as a Level 1 Member in accordance with Rule A3.

"Level 2 Member" means a Member treated as a Level 2 Member in accordance with Rule A3.

"Level 3 Member" means a Member treated as a Level 3 Member in accordance with Rule A3. The Rules are modified as they apply to a Level 3 Member as set out in the Appendix to the Rules.

"Level A Member" means a Member treated as a Level A Member in accordance with Rule A3.

"Level B Member" means a Member treated as a Level B Member in accordance with Rule A3.

"Level C Member" means a Member treated as a Level C Member in accordance with Rule A3.

"Lifetime Allowance" has the meaning as set out at Chapter 5 of Part IV of the Finance Act 2004.

"Lower Earnings Limit" is to be construed in accordance with section 5 of the Social Security Contributions and Benefits Act 1992.

"Member" means a person admitted to membership of the Scheme. A Member shall remain a Member of the Scheme for so long as any benefits are or may be payable for him. **"Membership"** shall have a corresponding meaning.

"New Final Earnings" are a Member's Final Earnings calculated in accordance with the definition of Final Earnings save that only Earnings during the period on or after 6 April 2011 are counted and periods of Active Membership prior to 6 April 2011 are disregarded.

"New Pensionable Earnings" are a Member's Pensionable Earnings calculated in accordance with the definition of Pensionable Earnings save that only Earnings during the period on or after 6 April 2011 are counted and periods of Active Membership prior to 6 April 2011 are disregarded except for the purposes of applying the provisions under the heading "cap on increases to Earnings from 1 April 2011" in the definition of Earnings.

"New Pensionable Service" of a Member means:

- (1) his Active Membership after 31 March 2011, and
- (2) any additional period credited after 31 March 2011 under Rule A5 (transfers in) or Rule H2 (special benefits).

No period of service shall be counted more than once. See also Rule A4 (part-time employees).

"Old Pensionable Earnings" are a Member's Pensionable Earnings calculated as if his Active Membership had terminated on 31 March 2011 and:

- (1) then increased between 1 April 2011 and the earlier of the date on which the Member's Active Membership actually terminates and Retirement Age by the revaluation percentage specified in the Revaluation Requirements applicable to a Type B Leaver (as set out in Rule M1 and not, for the avoidance of doubt, as it would actually have applied if the Member had left Active Membership on 31 March 2011). For these purposes, where the Member's Active Membership terminates before Retirement Age, such increase will be calculated as if the member had reached Retirement Age but no account shall be taken of any period after the Calculation Date; and
- (2) if the Member remains in Active Membership after Retirement Age, (1) shall be increased in respect of the period between Retirement Age and the date on which the Member's Active Membership actually terminates, such increase calculated in a manner consistent with the way in which a deferred pension which did not include any Basic GMP would be

increased under Rule D3 to take account of postponement after Retirement Age.

For the avoidance of doubt, no account shall be taken of any period after the Calculation Date when calculating the increases under (1) or (2) above.

"Old Pensionable Service" of a Member means:

- (1) his Active Membership prior to 1 April 2011, and
- (2) any additional period credited prior to 1 April 2011 under Rule A5 (transfers in) or Rule H2 (special benefits) or under comparable rules of the BOC No. 1 Pension Scheme.

No period of service shall be counted more than once. See also Rule A4 (part-time employees).

"Overseas Secondment" means a period not exceeding ten years during which an Employee is not in active employment of an Employer but by arrangement between the Employer and another non-United Kingdom resident employer (not being an Employer) the services of the Employee are made available to that other employer and during which (unless Rule A7.2 applies) there is a definite expectation that the Employee will come to the United Kingdom to resume making his services available to an Employer or to retire.

"Pay" means the gross earnings received by the Member from the Employers.

"Pensionable Earnings" of a Member are calculated as follows:

- (1) If the Member has at least 3 years' Active Membership, his Pensionable Earnings are calculated by reference to the 4 consecutive Tax Years of which the last, called Tax Year A, is the Tax Year in which Active Membership ended, and the first, second and third are called Tax Years D, C and B respectively. Pensionable Earnings are then one-third of the sum of:
 - (a) Earnings during Active Membership in Tax Year A, plus
 - (b) Earnings during Tax Years B and C, plus
 - (c) Earnings during Active Membership in Tax Year D multiplied by the number of days in Tax Year A which are not part of Active Membership and divided by the number of days of Active Membership in Tax Year D.

If the Member has less than 3 years' Active Membership, his Pensionable Earnings are one-third of his Earnings during his Active Membership

multiplied by 1095 and divided by the number of days of Active Membership.

- (2) If greater than the amount calculated under (1) above or (3) below, the Member's Pensionable Earnings are one-third of his highest total Earnings in any period of 3 consecutive Tax Years, being Tax Years all or part of which form part of the Member's Active Membership and which are included in the 13 consecutive Tax Years ending with Tax Year A.
- (3) If greater than the amount calculated under (1) or (2) above, the Member's Pensionable Earnings is the Member's revalued career average Earnings ("the Career Revalued Average"). The Career Revalued Average is calculated as follows:
 - (a) By calculating as at each 6 April during the Member's Active Membership (apart from the last 6 April before the Member leaves Active Membership) the average of the Member's Earnings for the period of three complete Tax Years ending immediately before that 6 April (but ignoring any such period which would start before 1 April 1974); then
 - (b) by increasing the amount of each such three-year average in line with the Retail Prices Index from the end of the relevant three-year period to the date two months before the month in which the Member leaves Active Membership; to the extent that increase period falls on or after 1 April 2011, the increase shall be limited to 2.5% per annum; then
 - (c) by aggregating together all the three-year averages which have been increased in accordance with (b) above; then
 - (d) by adding to the sum of the averages in (c) above, the amount of the Member's Pensionable Earnings, as if Pensionable Earnings were calculated in accordance with method (1) above; and finally
 - (e) by dividing the amount mentioned in (d) above by the number of Tax Years of the Member's Active Membership since last becoming a Member of the Scheme.

If, on 6 April in any year, the Member has been an Active Member for less than three complete Tax Years, this Paragraph (3) shall not apply.

"Active Membership" for the purpose of this definition shall, if the Company so decides, include any period of service by a Member under a pension scheme of a previous employer.

If, in the opinion of the Trustees, a Member's Earnings have been reduced or suspended by reason of ill-health at any time during the last 10 years of his

Active Membership, the Trustees may increase his Pensionable Earnings for such purposes and to such amount as they shall think fit, but they shall not exceed the Pensionable Earnings he would have had but for the reduction or suspension.

"Pensionable Service" of a Member means:

- (1) his Old Pensionable Service, and
- (2) his New Pensionable Service.

No period of service shall be counted more than once. See also Rule A4 (part-time employees).

"Permitted Maximum" means, for the Tax Year 2005-2006 £105,600. For subsequent Tax Years the Permitted Maximum shall increase on the first day of the Tax Year:

- (a) in relation to Tax Years ending on or before 5 April 2011, by the percentage increase in the Retail Prices Index for the twelve months ended in the preceding September, rounded-up to the nearest amount which is a multiple of £600; and
- (b) in relation to Tax Years starting on or after 6 April 2011, by the lesser of the percentage increase in the Retail Prices Index for the twelve months ended in the preceding September and 2.5%, rounded-up to the nearest amount which is a multiple of £600,

or such greater amount as the Company may direct.

"Prescribed Equivalents"

- (a) in the context of the Lower Earnings Limit, means the equivalent prescribed under section 5(4) of the Social Security Contributions and Benefits Act 1992, and
- (b) in the context of the Upper Accrual Point, means the equivalent prescribed under section 122(6A) of Social Security Contributions and Benefits Act 1992.

"Preservation Requirements" means the requirements of Chapter I of Part IV of the 1993 Act.

"Previous Scheme" means such schemes as the Trustees may determine and notify to Members from time to time, the assets and liabilities of which have been transferred to the Scheme (whether directly or, through another Previous Scheme, indirectly).

"Potential Pensionable Service" means actual Pensionable Service plus (if the Member ceased to be in Service before Retirement Age) the additional Active Membership which would have been served if the Member had remained in Service until Retirement Age or, if earlier, reached the end of the term specified in his contract of employment (unless the Trustees determine otherwise); and it shall be assumed that during such continued Service the Member would not have transferred between Levels of Membership.

"Qualifying Service" includes "pensionable service", service in "contracted-out employment" by reference to the Scheme and "linked qualifying service" under another scheme. These expressions and "2 years' Qualifying Service" have the meanings given in the 1993 Act for the purposes of the Preservation Requirements, as modified by the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991.

"Recognised Dependant" means, in relation to a Member,

- (1) the Member's Spouse or Civil Partner; or, if there is no Spouse or Civil Partner,
- (2) a person other than a Child who, in the opinion of the Trustees, had been normally resident with the Member for a period of at least the 24 months prior to the Member's death (unless the Trustees allow otherwise), and was considered by the Trustees to show inter-dependency on the Member at the time of the Member's death.

"Reduced Salary Member" has the meaning set out at Rule B5.

"Redundancy" means circumstances under which the Employer is liable to make a redundancy payment to the Member under the Employment Rights Act 1996 or would be so liable but for an exemption or exclusion under section 157 of that Act.

"Reference Death Benefit Earnings" has the meaning set out at Rule B5.

"Reference Earnings" has the meaning set out at Rule B5.

"Reference Pay" has the meaning set out at Rule B5.

"Relevant Period" means, subject to Rule H1.(2):

- in relation to a pension or allowance which was in payment at 1 April 1991, the period between 31 December 1990 and 31 December in the year preceding the 1 April on which the increase is made;

- in relation to a pension or allowance which commenced after 1 April 1991 and on a date between 1 April and 31 December, the period between 31 December

following (or coincident with) the commencement date and 31 December in the year before the 1 April on which the increase is made;

- in relation to a pension which commenced after 1 April 1991, and on a date between 1 January and 31 March, the period between 31 December preceding the commencement date and 31 December in the year before the 1 April on which the increase is made.

"Retail Prices Index" means the General Index of Retail Prices published by the Office for National Statistics or any replacement adopted by the Trustees. Where an amount is to be increased "in line with the Retail Prices Index" over a period, the increase as a percentage of the original amount shall be equal to the percentage increase between the figures in the Retail Prices Index for the months in which the period began and ended, with an appropriate restatement of the later figure if the Retail Prices Index has been replaced or re-based during the period.

"Retirement Age" of a Member or Employee means that person's 65th birthday or such other age as is notified by the relevant Employer to the Trustees and the Member in respect of an individual Member or group of Members.

"Revaluation Requirements" means:

- (i) subject to Rules H7 and H8 and also subject to (iii) below, in the case of a Type A Leaver, the requirements of Chapter II of Part IV to the 1993 Act provided however, that
 - (a) any accrual of pension or other benefit accrued during Old Pensionable Service shall be treated as if such pension or such other benefit had accrued prior to 6 April 2009 for the purposes of revaluation;
 - (b) in the case of a Member who became an active member of the Gist Limited Pension Scheme on 1 April 2011, these requirements are (if they would produce a higher amount for or in respect of the Member) applied separately:
 - (1) in respect of the period between 31 March 2011 and the date on which his active membership of the Gist Limited Pension Scheme ceases (but not in relation to any period following that date) as if the Secretary of State determined the percentage increases in the general level of prices in Great Britain by reference to the Retail Prices Index; and
 - (2) in respect of the period from the date on which his active membership of the Gist Limited Pension Scheme ceases, on the amount as calculated after applying (1) above as if for the purposes of applying these requirements he had

first become a deferred member of the Scheme from that date; and

- (c) for the avoidance of doubt, the deemed revaluation required by the defined term "Old Pensionable Earnings", proviso (i)(b) to Rule C1 and Rule E8 which is applied during the period of Active Membership until the Calculation Date shall be calculated as if he were a Type B Leaver.
- (ii) subject to Rules H7 and H8 and also subject to (iii) below, in the case of a Type B Leaver the requirements of Chapter II of Part IV to the 1993 Act but calculated as follows:
- (a) in relation to the pension or other benefit accrued during New Pensionable Service (excluding, for the avoidance of doubt, any increase made to the GMP in accordance with the second sentence of Rule I1.2(1)) these requirements are applied as if the Secretary of State determined the percentage increases in the general level of prices in Great Britain by reference to the Retail Prices Index; and
 - (b) in relation to the pension or other benefit accrued during Old Pensionable Service these requirements are applied as if the Secretary of State determined the percentage increases in the general level of prices in Great Britain by reference to the Retail Prices Index provided, however, that any pension or other benefit accrued on or after 6 April 2009 up to and including 31 March 2011 shall be treated as if such pension or such other benefit had accrued prior to 6 April 2009 for the purposes of revaluation; and
- (iii) if a Member gives notice of intention to rely on the Finance Act 2011, Schedule 18, paragraph 14 (lifetime allowance transitional protection) to HMRC in accordance with the regulations made by the Commissioners for HMRC within the time permitted by HMRC he may elect, by written notice to the Trustees received before 6 April 2012, that the requirements set out in (i) and (ii) are not to apply to him, and that benefits for and in respect of him under the Scheme will instead be revalued on and from his cessation of Pensionable Service only in accordance with the requirements of the 1993 Act (a "**2012 Revaluation Election**").

"**Revalued GMP**" means the Basic GMP with increase up to State Pension Age (or earlier death) under Rule I1.3.

"**Rules**" means the provisions governing the Scheme at the relevant time. A reference to a particular Rule shall include a reference to any corresponding or comparable provision which it has replaced.

"**Salary Exchange Arrangement**" has the meaning set out at Rule B5.

"Scale Contributions" of a Member means the contributions paid by him under Rule B1 (or the contribution provisions setting out the Member's compulsory contributions under the Scheme's previous provisions) but not any additional voluntary contributions paid under the Scheme's previous provisions. If a transfer has been accepted under Rule A5, the Trustees may decide that part of the amount transferred may be treated as Scale Contributions, for such purposes and on such terms as they may decide.

"Scale Pension" means a pension calculated as in Rule C1.

"Scheme" means the BOC Pension Scheme governed by these Rules. Until 5 April 1987 it was known as the BOC No. 2 Pension Scheme and, on that date, the BOC No. 1 Pension Scheme was terminated and its assets and liabilities were transferred to this Scheme.

"Section 9(2B) Rights" of a Member has the meaning set out in Rule I1.1.

"Separate Fund" has the meaning given in Rule L4.

"SEPS Active Deferred Member" means an Employee who opted out of active membership of the BOC Senior Executive Pension Scheme with effect from the end of 31 May 2016.

"Service" means any service as an Employee. Any period after a Member has opted out under Rule A6 and before he opts back in again shall not count as Service. See also Rules G1 and G2 for maternity leave and other absences.

"Spouse" means a person who:

- (1) is the Member's widow or widower (whether of the same or opposite sex), and
- (2) was normally resident with the Member at the time of his death,

except that the Trustees may at their discretion waive the conditions of (2) above, with or without substituting any other conditions. If a Member leaves two or more widows or widowers, only one may be treated as the Spouse, being the person recognised for State benefit purposes.

"State Pension Age" of a Member or Employee means age 60 (females) or 65 (males) or such other ages as may be prescribed under the 1993 Act for the commencement of GMPs.

"Tax Year" means a year beginning on a 6 April and ending on the next 5 April.

"Termination Date" has the meaning given in Rule L1.

"Trustees" means the trustee or trustees of the Scheme for the time being. In circumstances where Rule J3 applies, it includes any Individual Trustees and Corporate Trustee appointed in accordance with that Rule.

"Type A Leaver" means a Member whose Active Membership (or, in the case of a Member who became an active member of the Gist Limited Pension Scheme on 1 April 2011, his active membership of the Gist Limited Pension Scheme) ceases for one of the following reasons:

- (i) his resignation from employment with an Employer (or an employer in relation to the Gist Limited Pension Scheme);
- (ii) where he is dismissed on the grounds of his conduct including, without limitation, where the provisions of section 98(2)(b) of the Employment Rights Act 1996 apply;
- (iii) where he is dismissed on performance or capability grounds including, without limitation, where the provisions of section 98(2)(a) of the Employment Rights Act 1996;
- (iv) where he is dismissed for breach of contract.

In the case of a Member who became an active member of the Gist Limited Pension Scheme on 1 April 2011, if his active membership of the Gist Limited Pension Scheme ceases at or after Retirement Age, he will be a Type B Leaver and not a Type A Leaver.

"Type B Leaver" means a Member whose Active Membership (or, in the case of a Member who became an active member of the Gist Limited Pension Scheme on 1 April 2011, his active membership of the Gist Limited Pension Scheme) ceases and who is not a Type A Leaver.

"Unreduced Salary Member" means an Active Member who does not participate in a Salary Exchange Arrangement.

"Upper Accrual Point" has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992.

M2. Interpretation

M2.1 In these Rules, where the context allows:

- (1) words in the singular shall include the plural (and vice versa),
- (2) words of one gender or in the neuter (except "male", "female", "widow" and "widower") shall include the masculine, feminine and neuter,
- (3) references to legislation shall include modifications, pre-enactments and re-enactments of and regulations made under that legislation, and
- (4) benefits payable "for" a Member shall include benefits payable to the Member and benefits payable by reason of his Membership to his family, dependants and other persons after his death.

M2.2 Sections and headings are for convenience only and shall not affect the interpretation of these Rules.

M2.3 The Scheme is established under and governed by the law of England and Wales.

THE APPENDIX

Level 3 Members

For Level 3 Members and their dependants, benefits will be calculated in accordance with the Rules with the variations set out in this Appendix.

Rule A4 shall be replaced with the following:

- "A4. If a Member is a part-time Employee when joining the Scheme or at any time during his Service, the following shall apply when calculating benefits (but not contributions), except for the purposes of Rule E1.1(1) (lump sum on death in Service) and for the purposes of calculating the lump sum payable under Rule A9.1:
- (1) The Member's Earnings and Pensionable Earnings shall be deemed to be those he would have received if he had been a full-time Employee.
 - (2) Except in the calculation of Final Earnings and Pensionable Earnings, each relevant period of Active Membership shall be multiplied by the fraction A/B where:
 - A. is the number of hours the Member was required to work during that relevant period by his contract of employment
 - B. is the number of hours the Member would have been required to work during the relevant period by his contract of employment had he been a full-time Employee.
 - (3) A relevant period for the purposes of (2) above begins on the first day of Active Membership and on each subsequent date that the fraction A/B changes. A relevant period ends on the day before the next relevant period or, if earlier, the last day of Active Membership.
 - (4) If a benefit is calculated by reference to the Potential Scale Pension, the fraction A/B which applied on the last day of Active Membership shall apply also to the calculation of that part of the Potential Scale Pension which is not attributable to the Member's Pensionable Service. The Trustees may, however, with the consent of the Company, decide that a higher fraction shall apply.
 - (5) The Employer's decision shall be final as to the deemed Earnings and Pensionable Earnings in (1) above and the amounts of A and B in (2) above."

A new Rule A9 shall be inserted after Rule A8 as follows:

"A9. Life Cover for non-Members

- A9.1 If an Employee who is a Level 3 Member but has elected to stop accruing retirement benefits under the Scheme in accordance with Rule A6.1, dies a lump sum shall be paid equal to four times Final Earnings. The Trustees may however reduce the benefit in accordance with Rule H6 to any extent necessary. Any lump sum under this Rule shall be in addition to any benefits payable under Rules E2 or E3.
- A9.2 An Employee's Final Earnings shall be calculated as if he had not opted out under Rule A6. However, for this purpose "Final Earnings" shall be calculated as if paragraph (3) contained in the definition of the term did not apply.
- A9.3 An Employee shall also be deemed to be a Member for the purposes of Rules A2.1(2) (giving information), E7.1 (payment of lump sums) and H4.8 (debts to Employers). A person shall be treated as an employee whilst absent from work due to pregnancy if she has a right to return (either by law or by agreement with her Employer) which she has not lost or during periods of Paid Maternity Leave."

Rule B1.2 shall be replaced with the following:

- "B1.2 A Level 3 Member shall stop paying contributions under Rule B1.1 on the date before Retirement Age when he would have stopped paying contributions to the Scheme, had he become or had he remained a Level 2 Member until 31 March 2016 and a Level A Member from 1 April 2016 of the Scheme (and for the avoidance of doubt the date when a Member would have stopped paying contributions to the Scheme shall be determined by reference to the provisions of the Scheme as they may be amended from time to time). Once a Member has stopped paying contributions as a result of this Rule B1.2, he shall not again pay contributions under Rule B1.1."

Rule C1 shall be replaced with the following:

"The Scale Pension is equal to:

(New Pensionable Service (with additional complete months counting in appropriate proportion) x Accrual Rate) x Pensionable Earnings, and

PROVIDED THAT:

the annual amount of the Scale Pension (when aggregated with the benefits payable to him by the BOC Senior Executive Pension Scheme at the date of calculation) shall be not more than two-thirds of the Member's BOC SEPS Maximum Pensionable Earnings and for this purpose:

- (a) BOC SEPS Maximum Pensionable Earnings are to be calculated as if the Member's Active Membership had terminated at Retirement Age if he is in Active Membership at Retirement Age (and, for the avoidance of doubt, at the date the Member's Active Membership actually terminated in any other case); and
- (b) in the case of a Member who was an active member of the BOC Senior Executive Pension Scheme on 31 May 2016 and who joined the Scheme on 1 June 2016, the benefits payable to him by the BOC Senior Executive Pension Scheme at the date of calculation are to be calculated as the deferred pension payable to him from the BOC Senior Executive Pension Scheme as if that date was the Member's "normal pension age" for the purposes of the 1993 Act in relation to the BOC Senior Executive Pension Scheme and no account is to be taken of any additional increase which may be expected to have been made between the date of calculation and Retirement Age to that deferred pension, and such a member is assumed to have retained a vested BOC Senior Executive Pension Scheme deferred pension (and is assumed not to have taken payment, transferred, commuted, surrendered, forfeited all or part of, or otherwise reduced the value of, such BOC Senior Executive Pension Scheme deferred pension)."

In Rule C3, Rule C3(2) shall be replaced with the following:

- "(2) If (1) does not apply, he shall pay contributions in accordance with Rule B1.1 until the earliest of:
- (a) the date he ceases to be in Service
 - (b) the date on which a cash sum is payable to him under Rule F1 (commutation)
 - (c) the date on which the Member would have stopped paying contributions to the Scheme, had he become or had he remained a Level 2 Member until 31 March 2016 and a Level A Member from 1 April 2016 of the Scheme, and for the avoidance of doubt the date when a Member would have stopped paying contributions to the Scheme shall be determined by reference to the provisions of the Scheme as they may be amended from time to time, and
 - (d) a date on or after Retirement Age chosen by the Member

and his Active Membership shall then end."

In Rule C3, Rule C3(4) shall be replaced with:

"(4) The pension referred to in Rule C3(3) (before commutation or surrender under Rules F1 and F2) shall be the greater of:

- (1) the pension to which the Member would have been entitled under Rule C2 if he had retired at Retirement Age but increased to take account of any postponement of payment after Retirement Age; and
- (2) a pension calculated in the same way as the Scale Pension, but calculated as at, and using the Member's Active Membership completed on the day before, the date on which he stopped paying contributions under Rule B (or on which contributions ceased to be paid in respect of him under Rule B5), and then increased to take account of any postponement of payment beyond that date.

Rule H3.2 describes how increases are made to take account of postponement."

Rule C4.1 shall be replaced with the following:

"C4.1 If a Member ceases to be in Service before Retirement Age with the consent of the Employer due to Ill-Health the Member shall be entitled to an immediate pension equal to the Potential Scale Pension.

Such a pension may be reduced or suspended under Rule H3.5 (recovery of health)."

Rule C5.1 shall be replaced with the following:

"C5.1 If a Member's Service is terminated by the Employer by reason of Redundancy the Member shall on retirement when the Member leaves Service or, if later, attains age 55 be entitled to an immediate pension equal to the Scale Pension.

If the Member left Service before age 55, the pension shall be increased for the period of deferment up to that age under Rule D1.2 as if the Member's Retirement Age were 55."

Rule C6 shall be replaced with the following:

"C6. Early Retirement at the request of the Company

If a Member ceases to be in Service before Retirement Age:

- (i) at the request of the Company other than by reason of Redundancy or Ill-Health; and
- (ii) at the time of leaving the Member has attained age 55,

the Member shall be entitled to an immediate pension equal to the Scale Pension."

Rule C7 shall be replaced with the following:

"C7. Other early retirement

C7.1 If a Member ceases to be in Service before Retirement Age and;

- (i) he has attained age 55, and
- (ii) the Company agrees that this Rule may apply,

the Member shall, at his request, be entitled to an immediate pension in accordance with whichever of Rule C7.2 or C7.3 applies to him.

C7.2 The pension payable to a Member who has at least 20 years' Qualifying Membership shall be equal to the Scale Pension.

C7.3 The pension payable to a Member who has less than 20 years' Qualifying Membership but at least 10 years' Qualifying Membership shall be of such amount as the Trustees may decide not being more than the pension under Rule C7.2 or less than the pension under Rule D3.1 (Early Payment).

Rule D2 shall be replaced with the following:

"D2.1 A Member entitled to a deferred pension under Rule D1 may elect instead to receive a reduced pension from an earlier date. The earlier date may not be before age 55 unless the Member has retired from employment due to ill-health (within the meaning of paragraph 1 of Schedule 28 of the Finance Act 2004) or the Company and the Trustees agree. The reduced pension shall, subject to Rule D2.2, have the same overall value as the deferred pension otherwise payable under Rule D1.

D2.2 If the Member elects for early payment under Rule D2.1 the Trustees may, with the Company's consent, decide that the amount of pension shall not be reduced or shall be reduced by a lesser amount than would otherwise apply. Such an enhanced pension may later be reduced (but not such that the pension ceases to be a "scheme pension" within the meaning of the Finance Act 2004) but such reduction shall not result in the Member's pension being less than the pension the Member would otherwise have been entitled to under Rule D2.1."

Rule E1 shall be replaced with the following:

"If a Member dies in Service there shall be paid the benefits set out in (1), (2) and (3) below except this Rule E1.1 shall not apply (and instead Rule E3 shall apply) if the Member dies in Service after Retirement Age when any benefits payable under the Scheme (whether pension or lump sum benefits) have been paid in accordance with Rule C3.

- (1) A lump sum equal to (a) 4 x Final Earnings, plus (b) the Member's Scale Contributions to the Scheme with Interest. The Trustees may however reduce the benefit in accordance with Rule H5 to any extent necessary.
- (2) An immediate pension to his Recognised Dependant equal 1/2 of the Potential Scale Pension (subject, in the case of a former Level 2 Member of the Scheme, to the pension not being less than the pension that would have been payable under Rule E1.1(2) of the Scheme in respect of what would have been his pensionable service on and after 1 April 2011 only had the Member continued to be in pensionable service as a Level 2 Member until 31 March 2016 and a Level A Member from 1 April 2016 under the Scheme until the date of his death (by reference to the provisions of the Scheme as they may be amended from time to time).
- (3) A Children's allowance under Rule E4."

Rule E2 shall be replaced with the following:

"E2.1 If a Member dies after leaving Service entitled to a pension under Rule C5, D1 or D3 which has not come into payment, there shall be paid:

- (1) An immediate pension to his Recognised Dependant equal to 1/2 of the Member's deferred pension. For this purpose:
 - (a) in the case of a Member entitled to a pension under Rule D1 the deferred pension shall include increases under that Rule up to the date of death;

- (b) in the case of a Member entitled to a pension under Rule D3 the deferred pension is that which would have been payable had he elected to have payment from the date of his death;
 - (c) in the case of a Member entitled to a pension under Rule C5 who has not postponed receipt of that pension beyond age 55 the deferred pension shall include increases under Rule D1.2 up to the date of death; and
 - (d) in the case of a Member entitled to a pension under Rule C5
 - (i) if the Member has postponed receipt of that pension beyond age 55 and dies before Retirement Age, the deferred pension shall include increases under D1.2 up to age 55 and the increases under Rules H and I which would have been applied during the period from age 55 or the date of termination of Active Membership (if later) until death had the pension not been postponed;
 - (ii) if the Member has postponed receipt beyond Retirement Age and then dies before requesting payment of his pension, the Recognised Dependent's pension will be increased as set out in (i) in respect of the period up to Retirement Age and then further increased in respect of the period between Retirement Age and the Member's death by the same percentage as the Member's pension would have been increased under Rule C5.2 over the same period if he had started to draw his pension immediately before his death;
- (2) a Children's allowance under Rule E4.
- (3) on the first date that no pensions are payable to a Recognised Dependant or a dependant in respect of the Member, a lump sum equal to the amount (if any) by which:
- (a) 5 times the pension he would have received had he started to receive it immediately before his death, calculated under (i) or (ii) below:
 - (i) (A) where the Member elected under Rule D3 to receive a pension from a date after Retirement Age, under Rule D3; or
 - (B) in the case of a Member entitled to a pension under Rule C5.1 who died after postponing payment of his pension under Rule C5.1 until after age 55 (and before receiving a pension), under Rule C5.2; or

- (ii) in any other case, the Member's deferred pension calculated with increases under Rule D1.2 up to the date of his death,

exceeds

- (b) any instalments of pension (but not Children's allowance) paid in respect of the Member.

E2.2 If a Member entitled to a pension under Rule C5.1 dies, before choosing in writing under Rule C5.2 to request the commencement of pension, at a later date than that specified in Rule C5.1 the Trustees may, in their absolute discretion, direct that Rule F1.2 shall apply as well as Rule E2.1, as if the Member had retired from Service immediately before death."

Rule E3 shall be replaced with the following:

"If a Member dies while in receipt of a pension under the Scheme (or if he would have been receiving such a pension if he had not given up pension for a lump sum under Rule F1), there shall be paid:

- (1) An immediate pension to his Recognised Dependant equal to 1/2 of the pension the Member was entitled to receive from the Scheme at the date of his death or which would have been payable before any commutation or surrender under Rules F1 and F2 and ignoring any reduction for early payment under Rule D3 and if the pension arose under Rule C7 as if it had been calculated in accordance with Rule C7.2.
- (2) A Children's allowance under Rule E4.
- (3) On the first date that no pensions are payable to a Recognised Dependant or a dependant in respect of the Member, a lump sum equal to the amount (if any) by which:
 - (a) 5 times the pension payable to the Member when it came into payment (after any commutation or surrender under Rules F1 and F2),

exceeds

- (b) any instalments of pension (but not Children's allowance) paid to or in respect of the Member.

A payment under this paragraph shall, as far as possible, constitute a Defined Benefits Lump Sum Death Benefit (as defined in paragraph 13 of Schedule 29 of the Finance Act 2004)."

In Rule G1 (Family Leave), references to Pensionable Earnings and New Pensionable Earnings shall be treated as referring instead to "the Member's remuneration (and all elements of that remuneration)"

In Rule G2, references to Earnings shall be treated as referring instead to basic salary.

The following definitions shall be inserted in Rule M at the appropriate places:

the "**Accrual Rate**" of a Member is:

- (1) $1/45$, where his Accrual Membership is 30 years or less; or
- (2) $1/45$ or, if less, the product of $2/3$ divided by the number of years (with additional complete months and days counting in appropriate proportion) of the Member's Accrual Membership in any other case,

where a Member's "**Accrual Membership**" is the sum of his Active Membership (not counting any Active Membership after Retirement Age), his Previous Scheme Membership and the additional Active Membership which he could complete if he were to remain in service to Retirement Age (such sum being subject to a maximum of 40 years).

"**BOC SEPS Maximum Pensionable Earnings**" has the same meaning as the defined term "Maximum Pensionable Salary" at Rule M of the BOC Senior Executive Pension Scheme as in force on 1 May 2016 as set out in the Rules scheduled to a Deed of Variation of the BOC Senior Executive Pension Scheme dated 8 April 2016 as if, for the avoidance of doubt, references in that defined term to "the date on which the Active Member's Active Membership actually terminates" were to the date on which Active Membership of the Scheme actually terminates.

"**Category A Member**" means a Member who is not a Category B Member.

"**Category B Member**" means a Member who last joined the BOC Senior Executive Pension Scheme before 1 October 1990 or otherwise for whom the Company has determined should enter or continue in Membership of the BOC Senior Executive Pension Scheme or the Scheme as a Category B Member.

"**Pensionable Earnings**" means the basic salary paid to a Level 3 Member by the Employers during the period of 12 months immediately preceding the date on which he ceases to be in or is deemed to have left Service or, if greater, the annual average of the Member's basic salary received during those three consecutive Tax Years when it was highest out of the 10 years preceding the date on which he ceases to be in or is deemed to have left Service.

For the purpose of calculating the Pensionable Earnings of a Member who as at 5 April 2006 was in relation to the BOC Senior Executive Pension Scheme subject to the permitted maximum as defined in section 590C(2) of the Income and Corporation Taxes Act 1988, his basic salary is restricted to the Permitted Maximum unless the Company shall otherwise direct.

If, in the opinion of the Trustees, a Member's Pensionable Earnings has been reduced or suspended by reason of Ill-health at any time during the preceding 10 years, the Trustees may increase his Pensionable Earnings for such purposes and to such amount as they

shall think fit, but they shall not exceed the Pensionable Earnings he would have had but for the reduction or suspension.

The amount of the basic salary and other earnings of a Member whose ordinary place of employment is outside the United Kingdom shall be such amount as is determined by agreement between the Company and the Member or in default of agreement by the Trustees (not being greater than that which in the opinion of the Trustees would be the earnings of the Member if he were instead employed in an appropriate capacity in the United Kingdom).

This paragraph of the definition shall not apply to the extent that Rule B5 applies. In calculating Pensionable Earnings, if the Employer notifies the Trustees that a salary sacrifice arrangement or profit-related pay arrangement applies to the Member, the amount of the Member's basic salary to be included in his Pensionable Earnings will be deemed to be the amount notified by the Employer to the Trustees and the Member as being the Member's "reference salary" under the arrangement. For a profit-related pay arrangement no payments made to the Member by the Employer from the arrangement will be treated as Pensionable Earnings. In the case of any Member who was a Member of the BOC Senior Executive Pension Scheme or the Scheme on 31 March 2005, such a Member's "reference salary" under the relevant salary sacrifice or profit-related pay arrangement will not be less than his Pensionable Earnings on 31 March 2005.

During any 12-month period falling after 31 March 2011 which starts on a 1 April and ends on the next 31 March:

- (a) subject to (b) below, the Pensionable Earnings of a Member shall not increase by more than 2.5% (annualised on a basis to be agreed between the Company and the Trustees from time to time) of the Pensionable Earnings of that Member during the immediately preceding 12 month period, and
- (b) an increase to (a) shall be applied if and to the extent that, in accordance with the methodology agreed by the Company and the Trustees from time to time, a credit applies due to any annual increase to the Member's Pensionable Earnings paid during a relevant period falling wholly after 31 March 2011 being less than 2.5% on a rolling five year basis (such rolling five year basis to be agreed between the Company and the Trustees from time to time).

"Potential Scale Pension" of a Member at a given date means the Scale Pension at that date, but calculated (where the given date is before Retirement Age) as if he had completed all the years and complete months of Active Membership that he could have completed had he remained in Service until Retirement Age or, if earlier, reached the end of the term specified in his contract of employment (unless the Trustees determine otherwise) but in either case using the Member's Pensionable Earnings at the date of leaving, retirement or death.

"Previous Scheme Membership" of a Member means the sum of:

- (a) any and every part of the last continuous period of Service whilst a member of the BOC Senior Executive Pension Scheme, the BOC Pension Scheme, and the previously terminated BOC No. 1 Pension Scheme, BOC Staff Pension Scheme and BOC Works Pension Scheme; and
- (b) any further period arising from membership of any other retirement benefit scheme which the Company and the Trustees agree shall count as Previous Scheme Membership for the purposes of the Scheme.

A period shall only count once towards a Member's Previous Scheme Membership. A Member will be notified of his Previous Scheme Membership when he joins the Scheme.

"Qualifying Membership" means the aggregate of a Member's Active Membership, his Previous Scheme Membership and any further period arising from membership of any other retirement benefit scheme which the Company and the Trustees agree shall count as Qualifying Membership for the purposes of the Scheme. A period shall only count once towards a Member's Qualifying Membership.

"Retirement Age" of a Category A Member means age 62 and of a Category B Member means age 60.

"Scale Pension" means a pension calculated as in Rule C1 or, for the purposes of Rule E1 only, where a Member dies in Service after Retirement Age and no benefits payable under the Scheme (whether pension or lump sum benefits) have been paid in accordance with Rule C3 means a pension calculated in accordance with Rule C3 as if he had started to draw his pension immediately before his death.