(3) The Trustees can reclaim any limited revaluation premium reclaimable under the Pension Schemes Act in respect of anyone to whom the transfer relates.

- transfers including protected rights

(F) The Trustees can accept protected rights only if permitted under regulation 4 of the Protected Rights (Transfer Payments) Regulations 1996.

The benefits provided in place of any protected rights relating to employment before 6 April 1997 will include Guaranteed Minimum Pensions for the transferee and his widow or widower. The Guaranteed Minimum Pensions will be equal to those to which they would have been treated as being entitled by section 48 of the Pension Schemes Act if the transfer had not been made.

The benefits provided in place of any protected rights relating to employment after 5 April 1997 will be of the same kind as would be provided in the Scheme for Members who are in Contracted-out Employment in respect of Service after 5 April 1997.

The Trustees will increase any Guaranteed Minimum Pension provided in place of protected rights for each complete Tax Year after the period that gave rise to the protected rights in accordance with Orders made under section 148 of the Social Security Administration Act 1992.

The Trustees can alternatively decide that the increases will be in accordance with section 16(2) of the Pension Schemes Act (fixed rate revaluation) as modified by regulation 6 of the Protected Rights (Transfer Payment) Regulations 1996.

- transfers including Section 9(2B) Rights

(G) The Trustees can accept Section 9(2B) Rights only if permitted under the Contracting-out (Transfer and Transfer Payment) Regulations 1996.

The benefits provided in place of those Section 9(2B) Rights will be of the same kind as would be provided in the Scheme for Members who are in Contracted-out Employment in respect of Service after 5 April 1997.

- no offsetting of GMP revaluation

(H) If a pension provided by a transfer is greater than a transferred GMP, the Trustees will not offset the difference against any increases in that transferred GMP under (E) or (F).

- transferees not becoming contracted-out

(I) This Sub-rule applies to any person who has a transferred GMP (except one arising from a personal pension scheme) but who does not (except for the transferred GMP) enter Contracted-out Employment under the Scheme.

The amounts, dates for payment and conditions attaching to payment of the transferred GMP will comply in all respects with those provisions of Schedule 1 to the Contracting-out (Transfer and Transfer Payment) Regulations 1996 that are relevant to the particular transfer.

- transfers from YMC Plan

(J) The Trustees, with the consent of the Principal Employer, accepted a transfer of assets from the YMC Plan on the terms set out in (A) to (I). The benefits for YMC Members who joined the Scheme o 1 September 2002 are set out in the Appendix to these Rules.

In consideration of the receipt of the transfer value, the Trustees, the Principal Employer and Sea Containers Limited undertook to honour in full, or procure that they are honoured in full, on any subsequent wind up of the Scheme, the benefits set out in the Appendix for a period of 5 years from 1 September 2002. In addition, the Trustees, the Principal Employer and Sea Containers Limited undertook to make appropriate arrangements, either through the Scheme or otherwise, should the Scheme terminate within 5 years of 1 September 2002, to honour the future accrual of those YMC Members who are in the Scheme at the date of termination, for the balance of the 5 year period from 1 September 2002 or until their employment with Yorkshire Marine Containers Limited (or any successor company) ceases, whichever is the earlier.

The Principal Employer undertook that it will not at any time seek to recover any surplus assets from the Scheme under Rule 63 (Winding up) until, as far as possible, any remaining transfer value (which is not required to fund YMC Members' benefits accrued or to be accrued after 1 September 2002) has been utilised to augment YMC Members' benefits to the maximum allowed by the Inland Revenue.

STATUTORY TRANSFER OPTION
- entitlement and exercise of option

37. (A) A Member who leaves the Scheme at least one year before Normal Retiring Date has the right given by Chapter IV of Part IV of the Pension Schemes Act ("the Statutory Transfer Option") to take the cash equivalent of part or all of his benefits under the Scheme. The Statutory Transfer Option is described for convenience in this Sub-rule.

A Member can exercise the Statutory Transfer Option by

(1) first applying to the Trustees for a statement of entitlement ("statement of entitlement") of the cash equivalent ("the guaranteed cash equivalent") of the benefits (other than money purchase benefits) that have accrued to or in respect of him under the Scheme, and

(2) then requiring the Trustees in writing to use the cash equivalent of any money purchase benefits and the guaranteed cash equivalent in one or more of the ways mentioned in (C) within the 3 month guarantee period described below. If the Member does not do this, his right to exercise the Statutory Transfer Option will lapse until he is able to apply to the Trustees for another statement of entitlement. A Member will not be able to do this until the end of the period of 12 months beginning on the date of his previous application for a statement of entitlement unless the Trustees and the Principal Employer agree otherwise.

The guaranteed cash equivalent will be guaranteed for 3 months from the date by reference to which it was calculated.

- availability of option

(B) Generally a Member's Statutory Transfer Option remains available until

(1) one year before his Normal Retiring Date, or

(2) 6 months after he leaves the Scheme, if later.

However, he may lose the Statutory Transfer Option earlier under the legislation.

- ways in which cash equivalent can be used

(C) A Member can require the Trustees under the Statutory Transfer Option to use his available cash equivalent in one or more of the following ways:

(1) to acquire benefits under another occupational pension scheme,

(2) to acquire benefits under a personal pension scheme,

(3) to purchase one or more Buy-out Policies, or

(4) to acquire benefits under an overseas arrangement (as defined in Section 181(1) of the Pension Schemes Act) and subject to any Inland Revenue requirements.

The Trustees must comply with the statutory requirements.

- calculation of guaranteed cash equivalent

(D) The Trustees will calculate any cash equivalent in a way certified by the Actuary as satisfying the statutory requirements. The amount of the cash equivalent is reduced in the circumstances set out in the relevant legislation.

- method of exercising option

(E) A Member can exercise his Statutory Transfer Option only in the way set out in the relevant legislation. An Ex-spouse Participant can exercise her Statutory Transfer Option only if she also exercises her right to transfer her Pension Credit Rights under paragraph (7) of Sub-rule 67(D) or paragraph (2) of Sub-rule 67(D).

NON- STATUTORY TRANSFERS TO ANOTHER SCHEME

- expressions used

38. (A) In this Rule:

receiving scheme means any fund, scheme or arrangement that is

(1) approved under Chapter 1 of Part XIV of the Taxes Act, or

(2) a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act, or

(3) approved for the purposes of this Rule by the Inland Revenue.

Transfer Regulations means the Contracting-out (Transfer and Transfer Payment) Regulations 1996.

- general

(B) The Trustees can, if the Principal Employer approves, transfer to any receiving scheme all or part of the assets of the Fund as, with the Actuary's advice, they think equitable.

If the Trustees make a transfer without the Member's consent, the circumstances of the transfer and the arrangements to be made in connection with it must comply with Regulation 12 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 and with the requirements of the Transfer Regulations.

- information to receiving scheme

(C) (1) The Trustees will supply to a receiving scheme a statement of the amount of a Member's Contributions included in any transfers under this Rule.

(2) The Trustees will, if requested by the administrators of a receiving scheme other than a personal pension scheme, supply a certificate for a Class B or C Member showing the maximum lump sum retirement benefits payable from the transfer.

(3) If the receiving scheme is a personal pension scheme, the Trustees will provide a certificate of the maximum lump sum retirement benefit payable from the transfer if:

1. the person to whom the transfer relates is aged 45 or more when the transfer is made, or

2. that person has at any time within the 10 years before the date on which the right to the transfer arose, been, in respect of any employment to which any part of the transfer relates, either

   A. a Controlling Director as defined in Sub-rule 65(A), (Guide to Inland Revenue limitations), or

   B. in receipt of annual remuneration of more than the allowable maximum as defined in section 640A of the Taxes Act for the Tax Year in which the date of the transfer falls, or

3. the transfer arose directly or indirectly from an occupational pension scheme under which his normal retirement age was 45 or less

(4) In paragraphs (2) and (3) "maximum lump sum" means at the date of transfer any amount (ignoring future increases) prospectively payable to the Member under Sub-rule 18(A) or such larger amount as the Trustees decide that does not exceed the maximum permissible under Sub-rule 43(A) (Inland Revenue limitations).

(5) The Trustees will give full details of the Pension Debit and a lump sum certificate specifying the maximum permissible lump sum to the receiving scheme or arrangement if the fund underlying the benefits for a Pension Debit Member is transferred to another scheme approved under Chapter I Part XIV of the Taxes Act or a scheme approved under Chapter IV Part XIV of the Taxes Act.

- benefits to be provided by receiving scheme

(D) The person for whom the transfer is being made will agree with the managers of the receiving scheme what benefits they will provide, before the Trustees make a transfer under this Sub-rule. If however the transfer is without that person's consent, the Trustees will agree the benefit under the receiving scheme with its managers.

- transfer of GMPs or Section 9(2B) Rights

(E) The Trustees will make a transfer that represents Guaranteed Minimum Pension or Section 9(2B) Rights only if the relevant requirements of the Transfer Regulations are satisfied.

- transfers without Member's consent

(F) The consent of a Member to a transfer under this Rule will be required only:

(1) if the transfer includes a Guaranteed Minimum Pension or Section 9(2B) Rights and the Transfer Regulations require the Member's consent, or

(2) when the transfer constitutes a complete or partial substitute for short service benefit under the Scheme in respect of the Member for the purposes of section 73 of the Pension Schemes Act, unless regulations made in accordance with that section allow the transfer without his consent.

- interaction with Statutory Transfer Option

(G) The Trustees can make a transfer under this Sub-rule with the Member's consent only to the extent that he has not exercised the Statutory Transfer Option.

- effect of transfer on Scheme benefits

(H) The Trustees can make a transfer under this Rule even though, following the transfer, one or more persons will cease to be entitled to benefits or become entitled to benefits of different amounts or on different terms.

No-one will have any claim on the Fund for any benefit that ceases to be payable or is altered in any way by the transfer.

The Trustees are not responsible for or required to enquire into the use and application of any assets transferred.

NON-STATUTORY BUY-OUTS

- buy-out options for

39. (A) A Member who is entitled to benefits on leaving the Scheme under Rule 17 but does not have the Statutory Transfer Option, can ask the Trustees to purchase or provide a Buy-out Policy for him instead of the benefits otherwise payable to or in respect of him under the Scheme.

Members

The Trustees can also let the Member have a Buy-out Policy instead of only a part of the benefits applicable to him but only if that would not

1. prejudice the Scheme's Approval, or

2. be contrary to the contracting-out requirements of the Pension Schemes Act.

option conditions

(B) If the Trustees let a Member choose the option under (1A) the following conditions will apply:

(1) An Insurance Company chosen by the Member will issue the Buy-out Policy.

(2) The Member will be able to choose different benefits under the Buy-out Policy from those that would have applied to him under the Rules. This option will be restricted to ensure that

(a) the pension for the Member or his or her widow or widower will not be less than the Guaranteed Minimum (if any),

(b) any other contracting-out requirements of the Pension Schemes Act are complied with, and

(c) the Scheme's Approval is not prejudiced.

A Member can choose the option for different benefits even if it results in a person having no benefit, or a benefit that is smaller or subject to different conditions.

(3) If they are going to purchase a Buy-out Policy, the Trustees will calculate the amount to apply as a premium for it. The Trustees will satisfy themselves that this amount is not less than the value of the benefits that had accrued to or in respect of the Member under the Scheme when the Buy-out Policy is purchased and which the Buy-out Policy will replace.

(4) No person will have any right to claim against the Fund in respect of any benefit instead of which a Buy-out Policy is purchased or provided.

(5) The Trustees can require any request under this Sub-rule to be in a specified form.

RIGHTS OF EMPLOYERS RELATING TO EMPLOYEES

40. Nothing in the Scheme will restrict the right of a Participating Employer to end or alter the terms of an employee's employment.

An employee or former employee cannot use any benefit under, or other provision of, the Scheme as a basis for a claim against a Participating Employer.

CLAIMS AGAINST TRUSTEES OR EMPLOYERS

41. No person will have any claim or right to any benefit except as far as the Scheme allows and in accordance with the Trust Instrument and the Rules.

DEDUCTIONS FROM BENEFITS
- lien on benefits

42. (A) This Rule applies if a Participant has a monetary obligation to a Participating Employer arising out of his criminal, negligent or fraudulent act or omission.

The Trustees may, if so requested by the Participating Employer deduct an amount from the Participant's benefits. These include any payable in respect of him. The amount will be the amount that that Participating Employer certifies is due to it.

The Trustees will pay a Participating Employer (whose receipt will be a complete discharge) any amount deducted under this Rule that arises from an obligation to that Participating Employer or, if they so decide, apply it to reduce the contributions of that Participating Employer under Rule 12 (Employer Contributions) in the next following Scheme Year.

Any deduction under this Sub-rule will not apply to any benefit or part of it that arises under the provisions of the Transfer Rules unless the Pensions Act allows it.

The Trustees will not deduct an amount from any benefit

(1) that has operated to exclude the right to, or reduce the amount of, a redundancy payment to which the person would otherwise be entitled under the Employment Rights Act, or

(2) that represents Equivalent Pension Benefits or Guaranteed Minimum Pension.

If there is a dispute as to the amount of the deduction, no deduction will be made unless the monetary obligation has become enforceable under an order of a competent court or the award of an arbitrator.

The amount of any deduction under this Rule will not exceed the amount of the monetary obligation or, if less, the value (calculated by the Actuary) of the person's entitlement or accrued right under the Scheme.

The Trustees will give any person to whom this Rule applies a certificate showing the amount deducted and its effect on his benefits under the Scheme.

If the Trustees make a deduction under this Rule, the Participating Employer that certified the amount will indemnify the Trustees against all actions, claims, demands and expenses arising directly or indirectly from the deduction.

- divorce (reduction in benefits)

(B) For the purposes of this Sub-rule and Sub-rule (C), an earmarking order (an "Earmarking Order") is an order made either:

under section 23 of the Matrimonial Causes Act 1973 by virtue of one or both of sections 25B and 25C of the same Act or

under section 8(2) of the Family Law (Scotland) Act 1985 by virtue of section 12A of that Act.

If the Trustees receive a Pension Sharing Order or an Earmarking Order in respect of a Participant they will, after obtaining the Actuary's advice, reduce the Participant's benefits to comply with that order.

- charging for earmarking and pension sharing

(C) The Trustees can charge a Participant or prospective Participant for supplying information in connection with divorce or complying with an Earmarking Order or a Pension Sharing Order, subject to the terms of and by any of the methods allowed by the Pensions on Divorce etc. (Charging) Regulations 2000.

INLAND REVENUE LIMITATIONS

- limitation of benefits

43. (A) The Trustees will treat the amounts and terms of any benefit or contribution under the Scheme as altered to satisfy the limitations in Rule 65 (Guide to Inland Revenue limitations) and, for Ex-spouse Participants, Sub-rule 67(D) (Pension Sharing on Divorce – separate provisions and terms) or any

and contributions

other limitations or restrictions that the Inland Revenue generally or specifically require or agree.

- Inland Revenue requirements

(B) The Trustees will comply with any conditions or requirements of the Inland Revenue that they consider necessary to ensure that the Scheme's Approval is not prejudiced. Where appropriate they will treat the Rules as altered to give effect to those conditions or requirements.

- optional limits

(C) (1) With effect from 21 December 2000, a Class B Member can choose to become a Class A Member.

Unless the Trustees agree otherwise, the Member will remain a Class B Member for the purposes of paragraph (1) of Sub-rule 16(A) (Late Retirement Pension), paragraph (1)(b) of Sub-rule 17(B) (Benefits on leaving the Scheme – alternative date for payment of Deferred Pension permitted dates), exception (4) in Sub-rule 18(B) (Lump Sum instead of Pension – date to be regarded as date of becoming Member) and paragraph (2)(b) of Sub-rule 65(B) (Guide to Inland Revenue limitations – Member's pension).

(2) With effect from 21 December 2000, a Class C Member can, with the Trustees' consent, choose to become a Class A Member.

(3) With effect from 21 December 2000 and with the Trustees' consent, a Class A Member can choose to become a Class B Member for the purposes only of paragraph (1) of Sub-rule 16(A) (Late Retirement Pension), paragraph (1)(b) of Sub-rule 17(B) (Benefits on leaving the Scheme – alternative date for payment of Deferred Pension permitted dates), exception (4) in Sub-rule 18(B) (Lump Sum instead of Pension – date to be regarded as date of becoming Member) and paragraph 2(b) of Sub-rule 65(B) (Guide to Inland Revenue limitations – Member's pension).

(4) The following conditions apply to any choice made under this Sub-rule.

(a) When the Trustees have consented to a choice, the Member cannot reverse it.

(b) The Member must choose in writing in a form specified by the Trustees. For a choice under (1), the form must be consistent with Part II of Schedule 6 to the Finance Act 1989.

(c) The Member must choose before the earliest of the following:

1. when the Trustees first pay the Member,

2. when the Trustees make a transfer payment in respect of the Member to another scheme, arrangement, policy or contract,

3. the Member's 75th birthday

but the Member can choose later if that is acceptable to the Inland Revenue.

PART VI - ADMINISTRATION AND MANAGEMENT OF THE SCHEME

RESPONSIBILITY FOR ADMINISTRATION AND MANAGEMENT

44. The administrator of the Scheme will be responsible for its administration and management. The administrator will be

(a) the Trustees, or

(b) any person or corporate body appointed by the Trustees under this Rule to be the administrator.

The Trustees can from time to time appoint a person or corporate body resident in the United Kingdom to be the administrator and must do this if none of the Trustees is resident in the United Kingdom. The Trustees can also revoke any appointment.

Any appointment or its revocation will be effective only if it is in writing and notified to the Inland Revenue.

Under section 606 of the Taxes Act or any equivalent legislation in the Republic of Ireland, the Isle of Man or the Islands of Jersey or Guernsey, if the administrator has failed to discharge his duties or to pay any tax due from him by virtue of Chapter I of Part XIV of the Taxes Act or such other legislation, those responsibilities of the administrator may pass to one or more of the Trustees or Participating Employers.

APPOINTMENT AND REMOVAL OF TRUSTEES - general

45. (A) The Principal Employer has power by deed to

(1) appoint a new Trustee or Trustees in place of any of the Trustees and

(2) appoint an additional Trustee or Trustees.

The Principal Employer also has power by deed to remove from office any of the Trustees by giving the Trustee 7 days notice in writing.

The Principal Employer will comply with paragraph (2) of (F) when it exercises these powers.

A Trustee can resign as a Trustee by giving not less than one month's notice in writing to the Principal Employer.

- corporate trustee

(B) The Principal Employer can appoint a corporate body to act as sole Trustee or jointly with one or more other Trustees. Section 37(1)(c) of the Trustee Act 1925 will not apply. Accordingly, a Trustee who is replaced or removed on or subsequent to the appointment of a corporate body will be discharged even though there is not then either a trust corporation or two or more persons to act as Trustees to perform the trust.

- minimum number of trustees

(C) There will not be fewer than two Trustees unless one of them is a corporate body, but the Trustees are not prohibited from acting by a temporary vacancy in their number. There will not be more than seven Trustees.

- remuneration and terms of appointment

(D) A Trustee can be appointed and act on terms as to remuneration and generally in all respects as agreed between the Principal Employer and the Trustee. Any Trustee to whom remuneration is paid under this Rule can retain it beneficially.

- retention of benefits

(E) A Trustee, or a member (or alternate) of the board of a corporate Trustee, can retain for his own benefit any benefit to which he becomes entitled because of his, or another person's, membership of the Scheme.

- Pensions Act

(F) (1) Unless every Trustee is corporate, the Principal Employer will use its powers of appointment and removal of Trustees in a way that complies with the requirements of the Pensions Act relating to member-nominated Trustees or with alternative arrangements that have been approved for the time being in accordance with the Pensions Act for the selection of Trustees.

(2) If every Trustee is corporate, each Trustee undertakes to ensure that its directors are selected in a manner that complies with the requirements of the Pensions Act relating to member-nominated directors or with alternative arrangements that have been approved for the time being in accordance with the Pensions Act for the selection of its directors.

TRUSTEES GENERAL POWERS OF DETERMINATION
- general

46. (A) With the exception of any powers to be exercised by a Participating Employer under the Rules, the Trustees will have power to decide all questions and matters of doubt relating to the Scheme. In making their decision the Trustees can act on any advice, evidence or presumption (whether legal or not) as they think appropriate.

- resolution of disputes

(B) The Trustees will make the arrangements required under section 50 of the Pensions Act for the resolution of disagreements in relation to the Scheme. For this purpose, the Trustees will treat Ex-spouse Participants as though they were Members.

EXERCISE OF TRUSTEES' POWERS
- individual trustees

47. (A) Except when a corporate body is the sole Trustee, the following will apply:

(1) (a) The Trustees will meet when and where they decide but not less than once a year.

(b) The Trustees can make regulations for the conduct of their business, the calling of meetings, the appointment of a chairman, the recording of resolutions and all other matters connected with their work.

(c) Any one or more of the Trustees can call a special meeting.

(d) The quorum necessary for the transaction of business at a meeting will be a majority for the time being of the Trustees.

(e) Subject to (4), all business brought before a meeting of the Trustees will be decided by a majority of the votes of the Trustees present.

(2) (a) The Trustees will exercise their powers and carry out their duties under the Scheme by resolutions passed at meetings of the Trustees.

(b) A Trustee will be regarded as being present at a meeting if he attends in person or by means of a conference telephone or any communication equipment that allows all those participating in the meeting to hear each other.

(c) Subject to (4), a resolution signed by a majority of the Trustees will be binding and effective as if it had been passed at a Trustees' meeting. The resolution can be passed by the signing of copies, whether or not on the same date.

(3) Subject to (4), a majority of the Trustees can complete any document relating to the Scheme. Any document completed by a majority of the Trustees will be as valid as if they had all completed it.

(4) Notices of matters which are subject to this paragraph must comply with sub-section 32(2)(b) of the Pensions Act (which provides for notice to be given to each trustee to whom it is reasonably practicable to give notice).

- <u>corporate trustee</u>

(B) A copy resolution of the board of directors of a corporate trustee (or any relevant committee of it) will be sufficient evidence of the exercise of a power or trust of the Scheme other than a power exercisable by deed.

- <u>trustees' decisions</u>

(C) A Trustee (or any director, alternate director or officer of a corporate trustee) can make decisions and exercise powers in respect of benefits relating to his membership of the Scheme or in which he has a personal interest.

TRUSTEES' LIABILITY

48. (A) In the absence of personal conscious bad faith, the Trustees (and the directors and alternate directors of any corporate Trustee) will be indemnified out of the Fund in respect of all acts, matters and things done, permitted or omitted by them in connection with the Scheme.

However, no Trustee (or director of a corporate Trustee) will be indemnified under this Sub-rule in respect of

(1) a fine imposed as a penalty for a conviction,

(2) a penalty under section 10 of the Pensions Act or section 168(4) of the Pension Schemes Act, or

(3) any liability for breach of an obligation to take care or exercise skill in the performance of any investment functions if that liability cannot be excluded or restricted because of section 33 of the Pensions Act.

- indemnity insurance

(B) With the agreement of the Principal Employer, the Trustees can take out an insurance policy or contract to indemnify each and all of the Trustees (and any of their employees and any of the directors, alternate directors or officers of a corporate Trustee) against

(1) any actions, proceedings, claims, costs and liabilities, other than any fine or penalty mentioned in (1), (2), or (3) of (A), arising out of any acts or omissions of any Trustee (or any of the Trustees' employees or any of the directors, alternate directors or officers of a corporate Trustee) or any person acting on behalf of the Trustees, and

(2) any loss suffered by the Fund as a result of such an act or omission.

The premiums for any insurance taken out under this Sub-rule will be an expense of the Scheme under Rule 58 (Scheme Expenses).

EXERCISE OF EMPLOYER'S POWERS

49. The Trustees can call for evidence of the exercise of any power or right available to a Participating Employer under the Scheme. For this purpose, the Trustees can accept a copy of a resolution of the board of directors of that Participating Employer (or any relevant committee thereof) signed by the chairman of the meeting, unless the power was exercised by deed.

To avoid doubt, any provision for consent or power given to a Participating Employer under the Scheme is not fiduciary.

INVESTMENT OF FUND

- statement of investment principles

50. (A) Trustees will ensure that a written statement of the principles governing decisions about the Scheme's investments is prepared, maintained and revised from time to time as required by section 35 of the Pensions Act.

Before the statement is prepared or revised, the Trustees will take appropriate written advice and consult the Participating Employers or their representative, if required under section 35 of the Pensions Act. The Trustees are not liable for any interest in excess of any interest actually paid or credited on any money invested under this Rule.

- permitted investments (general)

(B) The Trustees can invest all or any part of the Fund in any way they think appropriate. They can also retain, sell, realise or in any other way deal with any money, investments, property or interests in property forming part of the Fund. The Trustees are not liable for any interest in excess of any interest actually paid or credited on any money invested under this Rule.

The Trustees can exercise their powers under this Sub-rule in any part of the world and whether or not

(1) involving liability, or

(2) producing income, or

(3) authorised by law for the investment of trust money.

- permitted investments (specific)

(C) In addition to the general powers under this Rule, the Trustees can

(1) invest or apply all or part of the Fund in or upon the security of

(a) any stocks, shares, debentures, debenture stocks, bearer securities,

(b) units in unit trusts or mutual or managed funds,

(c) any interest in land, or

(d) any annuity policies and policies of assurance issued by any United Kingdom office or branch of any Insurance Company,

(2) underwrite, sub-underwrite or guarantee the subscription of any funds, securities, bonds, debentures, debenture stocks and stocks and shares of any kind,

(3) invest any part of the Fund in or deal in

(a) financial futures,

(b) any currency,

(c) the purchase or sale of any assets or property for receipt or delivery at a future date, or

(d) traded options,

(4) place or retain any money:

(a) on deposit or in a current account with, or on loan to, any financial institution or local authority, or

(b) on deposit with, or loan to, any company or undertaking excluding any Participating Employer unless allowed by the Occupational Pension Schemes (Investment) Regulations 1996.

- additional powers, land and buildings

(D) In relation to any real property or any interest in that property forming part of the Fund the Trustees can:

(1) keep any building insured against such risks and for any amounts as they think appropriate,

(2) develop, improve, enlarge, demolish or rebuild any building,

(3) sell, exchange, convey, lease, charge, agree to let or in any other way conduct the management of the property as if the Trustees were absolutely entitled to it beneficially.

This power is in addition to the powers of management conferred by law on trustees holding land upon trust for sale.

- additional powers: personal property

(E) The Trustees can take any steps they think proper for the insurance, repair, protection, removal, custody, carriage and general maintenance of any personal property.

- participation in common investment fund

(F) Trustees can participate in a common investment fund if the Inland Revenue approves. For this purpose, a common investment fund is an arrangement operated by trustees for the pooling of the assets of retirement benefit schemes approved under the Taxes Act. Participation will be on the basis that, in exchange for a share in the common investment fund on its terms, all or part of the Fund will be transferred to the trustees of the common investment fund to be invested or dealt with on its terms. The basis of participation can include the transfer to the common investment fund of part or all of any future contributions to the Scheme.

Following the transfer, the Trustees will have no responsibility for the safe keeping or investment of the assets transferred nor will they be liable for any loss arising. However, this does not absolve the Trustees from their duty of care as to their initial and continued participation in the common investment fund.

- indemnity by Trustees in connection with investments

(G) The Trustees can give any indemnity in connection with the exercise of their powers under this Rule and can bind the Fund to give effect to that indemnity.

- fund manager

(H) The Trustees will appoint in writing a fund manager with appropriate knowledge and experience to make all or some of the investment decisions in relation to the Fund where this is required under section 47 of the Pensions Act. They can also do so in any other case. Any appointment will be made on terms as to duration of appointment, duties, liabilities and remuneration as the Trustees decide. The Trustees can, subject to the terms of any agreement with a fund manager, end any appointment.

The Trustees can authorise the fund manager conditionally or unconditionally

(1) to exercise all or any of their powers under (B) to (E), and

(2) to delegate and authorise the sub-delegation of any power or discretion given to that fund manager.

Any investments of the Fund can be made in the name of or transferred or delivered to or otherwise vested in that fund manager or a corporate body acting as his nominee and can be left for any period or periods in the name or possession of or vested in that fund manager or nominee.

The Trustees will exercise their powers of appointment and termination of appointment of a fund manager and their power to delegate and authorise the sub-delegation of any power or discretion given to a fund manager in a way that complies with the requirements of the Pensions Act. The Trustees will take reasonable steps to ensure that any fund manager whom they appoint under this Sub-rule carries out his work competently and complies with the provisions of the Pensions Act relating to the need for diversification of investments and the suitability of particular investments to the Scheme.

- nominee to hold investments

(I) The Trustees can appoint any corporate body to act as their nominee for the purposes of this Rule, and can revoke or vary any appointment.

Any investments of the Fund can be made in the name of or transferred to the corporate body appointed who will hold them as nominee for the Trustees.

The Trustees can, for this purpose, enter into any agreement with the corporate body and bind the Fund to give effect to the agreement.

- employer-related investments

(J) The Trustees will carry out their duties under this Rule in a way that complies with the restrictions on investments of the Scheme's resources in employer- related investments referred to in section 40 of the Pensions Act and any related regulations.

POWER TO RAISE OR BORROW MONEY

51. The Trustees can borrow or raise money for any purpose of the Scheme on any terms and conditions they think fit.

The Trustees can charge or mortgage all or any part of the Fund for borrowing or raising money for any purpose of the Scheme.

DONATIONS AND BEQUESTS

52. The Trustees can accept donations or bequests from any person or body to be applied for the purposes of the Scheme.

SCHEME BANK ACCOUNT, RECORDS AND ACCOUNTS

- bank account

53. (A) The Trustees will keep any Scheme money that they receive in a separate bank account unless one of the exemptions allowed under the Pensions Act applies.

- books and records

(B) The Trustees will keep

(1) the books and records required under the Pensions Act together with any other information or data required for the proper administration of the Scheme for a period of 6 years from the end of the Scheme Year to which they relate or such longer period as the Trustees think is appropriate for the proper administration of the Scheme, and

(2) written records of their meetings (including meetings of any committee to which the Trustees have delegated powers, duties or discretions under Rule 57) where required under the Pensions Act.

- Scheme accounts

(C) The Trustees will ensure that the accounts for each Scheme Year are audited not more than seven months after the end of that Scheme Year by the auditor appointed under Sub-rule 56(A).

The auditor will audit the accounts and make and sign a report on the accounts in accordance with the Disclosure Requirements.

The Trustees will make the accounts and report available to the Participating Employers.

FINANCIAL INFORMATION TO EMPLOYER

54. The Trustees will obtain and make available to the Principal Employer any information about the Scheme that the Principal Employer at any time requires. The Principal Employer can use the information in any way it thinks fit.

ACTUARIAL INVESTIGATION AND STATEMENT

55. The Trustees will direct the Actuary to value the assets and liabilities of the Scheme and deliver a report on its financial position at intervals of not more than 3 years and at such other times as may be required under the provisions of the Pensions Act relating to the minimum funding requirement.

Each valuation report will satisfy the relevant requirements of the Pensions Act and the Disclosure Requirements.

The Trustees will direct the Actuary to prepare a certificate (relating to the adequacy of contributions for the minimum funding requirement and any relevant changes since the last valuation report was prepared) when this is required under section 57 of the Pensions Act.

The Trustees will also make each valuation report or certificate available to the Participating Employers or their representatives within seven days of receiving it.

ASSISTANCE TO TRUSTEES
- appointment and removal of professional

56. (A) The Trustees will appoint an actuary to the Scheme and an individual or firm as auditor to the Scheme. The actuary must be a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland. In addition to the auditor and actuary and any fund manager appointed under Sub-rule 50(H), the Trustees can appoint any other professional advisers (as defined in section 47(4) of the

advisers

Pensions Act). Appointments under this Sub-rule will be on terms agreed by the Trustees.

- other advisers and officers

(B) The Trustees can also appoint any advisers not defined in section 47(4) of the Pensions Act and any officers and other persons they consider necessary for the proper administration and management of the Scheme, if the Principal Employer agrees. The Trustees will make appointments under this Sub-rule on terms agreed with the Principal Employer. The Trustees can end any appointment under this Sub-rule with the agreement of the Principal Employer.

- actuarial and other advice

(C) The Trustees will consult and act on the Actuary's advice as required under the Trust Instrument or the Rules or by legislation, or when they consider it necessary or advisable so to do. In relation to any other matters the Trustees can consult and act on the advice of any company, firm or individual who the Trustees and the Principal Employer consider is qualified by experience or in any other way to advise them.

DELEGATION OF TRUSTEES' POWERS

57. The Trustees can delegate all or any of their powers, duties and discretions as they think appropriate.

Any delegation can be made for any period to any person or persons (whether incorporated or not) except where the delegation would not be permitted under the Pensions Act. Such persons can include one or more of the Trustees.

To the extent permitted by law, the Trustees will not be responsible for any loss arising from any delegation.

Without prejudice to the above, the Trustees can authorise any person or persons (whether incorporated or not) as they think fit, to carry out the duties described in this paragraph. Such persons can include one or more of the Trustees. The duties will be to draw cheques on any banking account or to give receipts or discharges for any money or other property payable, transferable or deliverable to the Trustees or any of them. Every receipt or discharge will be as valid and effective as if it were given by the Trustees.

The Trustees can also at their sole discretion cancel any delegation made in accordance with this Rule.

Written authority from the Trustees will be a sufficient protection to any debtor or other person taking any receipt or discharge above. Unless the debtor or other person has received express notice of the cancellation of the Trustees' authority, he can assume that the authority is still in force.

SCHEME EXPENSES

58. Except as provided in Sub-rule 8(D) (Voluntary Contributions Fund), the Trustees will pay from the Fund:

(a) all investment expenses and

(b) (except to the extent that the Principal Employer decides otherwise) all other expenses in connection with the administration and management of the Scheme including professional expenses.

CHANGE OF PRINCIPAL EMPLOYER

59. Any corporation, company, firm or undertaking that, upon amalgamation, reconstruction, sale or otherwise of the previous Principal Employer may be carrying on the business thereof and any Participating Employer which in any event shall have agreed to undertake the liabilities of the Principal Employer shall become the Principal Employer under the Scheme unless this would prejudice the Scheme's Approval. The consent of the previous Principal Employer will be necessary unless it has been dissolved. Any change of Principal Employer will be made by deed.

PARTICIPATION OF QUALIFYING EMPLOYERS

60. At the request of the Principal Employer, the Trustees will subject as provided below admit a Qualifying Employer to participation in the Scheme. A Qualifying Employer must enter into a covenant with the Trustees to comply with the provisions of the Scheme. The agreement will be in a form specified by the Trustees. The agreement of a majority of the Trustees for the time being will be sufficient for the purposes of establishing the form of the covenant above and the nature and extent of any restrictions on a Qualifying Employer's admission to be imposed by the Trustees below under this Rule.

A Qualifying Employer cannot participate in the Scheme if that would prejudice the Scheme's Approval. However, this will not prevent a Qualifying Employer's participation if the Principal Employer agrees and if the Inland Revenue will treat the Scheme in so far as it relates to that Qualifying Employer as a separate scheme under section 611(3) of the Taxes Act.

A Qualifying Employer's admission to the Scheme will be subject to any restrictions that the Principal Employer or the Trustees may specify. In particular, but without limitation, the Trustees may refuse to admit a Qualifying Employer if such an admission would, in the opinion of the Trustees be prejudicial to the interests of the existing Members of the Scheme. The Principal Employer can also make the continued participation of a Qualifying Employer subject to restrictions if it ceases to be associated in business with, or directly or indirectly controlled by, the Principal Employer.

The Trustees will not operate any specified restriction in a way that

1. would reduce the amount of any benefit that accrued in respect of a Member before the date from which the participation of the Qualifying Employer was made subject to the restriction,

2. would prejudice the Scheme's Approval, or

3. is inconsistent with the contracting-out requirements of the Pension Schemes Act.

RIGHT TO INFORMATION

61. Any person who is or may become entitled to benefits under the Scheme and any independent trade union recognised to any extent for the purposes of collective bargaining in relation to Members and prospective Members is entitled to information under the Disclosure Requirements. The Trustees will make this information available in a manner and on a basis that satisfies those requirements.

PART VII – TERMINATION AND WIND UP

PARTICIPATING EMPLOYER STOPPING CONTRIBUTIONS

62. A Participating Employer

(a) can stop contributing in respect of all or some of its employees by giving written notice to the Trustees

(b) will stop contributing

(1) if it stops being a Qualifying Employer, from a date 12 months after it stops being a Qualifying Employer, unless the Inland Revenue has agreed that it can contribute after that date,

(2) if it stops carrying on business because of liquidation or otherwise,

(3) if it fails to observe and perform all or any of its obligations under the Scheme and the Trustees give written notice to the Participating Employer that its participation in the Scheme is to end, or

(4) if the Principal Employer gives notice in writing to the Trustees and the Participating Employer that the Participating Employer is to terminate its participation in the Scheme for the date specified in that notice

and, as soon as that happens, Member's Contributions in respect of any Members affected will stop.

If a Participating Employer stops contributing and Rule 63 (Winding up) does not apply, the provisions of Rule 17 (Benefits on leaving the Scheme) will apply to each Member then in that Participating Employer's service and for whom contributions have been stopped.

If the Scheme's Approval would not be prejudiced, the Trustees can transfer part of the Fund to another fund, scheme or arrangement that has approval or is approved for this purpose by the Inland Revenue. The Trustees can do this only if the transfer would comply with Regulation 12 of the Occupational Pension Schemes (Preservation of Benefits) Regulations 1991.

If the Principal Employer approves, the Trustees can apply part of the Fund to the purchase of annuities from one or more Insurance Companies in respect of the persons to whom the liability relates. Where required by regulation 9 of the Occupational pension Schemes (Preservation of Benefits) Regulations 1991, the Trustees must be satisfied that the amount to be applied as a premium to purchase each annuity is at least equal to the value of the benefits under the scheme that the annuity will replace.

The Trustees will decide on the part to be transferred, paid or applied, taking into account the Actuary's advice and the assets and liabilities of the Scheme.

WINDING UP
- <u>when</u>

63. (A) Subject to their alternative powers under Rule 64 (Alternative powers on termination of contributions), the Trustees will wind the Scheme up if

(i) the Principal Employer gives notice under Rule 62 (Participating Employer stopping contributions) to stop contributing, or

(ii) the Trustees consider that the Principal Employer has failed to comply with any provisions of the Scheme that apply to it as Principal Employer and fails, within a period that the Trustees specify in a written notice to the Principal Employer, to comply with the action required to remedy the position as decided by the Trustees after consulting the Actuary, or

(iii) the Principal Employer becomes insolvent and an insolvency practitioner or the official receiver is appointed to act for the Principal Employer or the Principal Employer ceases for any other reason (except reconstruction or amalgamation) to carry on business or ceases to exist and no other company or undertaking succeeds it for the purposes of the Scheme within a period the Trustees decide is appropriate or

(iv) it appears to the Trustees that the Scheme is insolvent or if they have received advice from the Actuary to the effect that there is a likelihood of the Scheme becoming insolvent, or

(v) if when called upon by the Trustees to pay contribution to the Fund in accordance with Rule 12 of the Rules not later than a date determined by the Trustees the Participating Employers shall fail to make such contribution or if any of the Participating Employers shall fail to observe and perform any other obligations under the Rules or in the Trust Instrument, or

(vi) the Perpetuity Period expires.

- <u>expression used</u>

(B) In this Rule, **winding up regulations** mean the Occupational Pension Schemes (Winding up) Regulations 1996.

- <u>benefits</u>

(C) If the Scheme is wound up no person will be entitled to any benefit under the Scheme other than under this Rule or Rule 64 (Alternative powers on termination of contributions). Nevertheless, any option that would have been available if the Scheme was not winding up, will be available under this Rule to the extent that the Trustees consider that it is practicable.

- <u>preferential liabilities on wind up</u>

(D) The Trustees will apply the Fund to meet the costs, charges and expenses of winding up that they cannot recover from the Participating Employers. The Trustees will apply the rest of the Fund towards satisfying the Scheme's liabilities in respect of pension and other benefits in the way and to the extent required by section 73(1) to (3) of the Pensions Act as modified by the winding up regulations, including the provisions for money purchase benefits.

- <u>remaining balance</u>

(E) The Trustees will apply any part of the Fund left after they have satisfied the liabilities mentioned in (D) towards satisfying the liabilities mentioned in paragraphs (1) to (3) in descending order of priority but only to the extent that these liabilities have not already been satisfied under (D).

If any balance still remains, the Trustees will deal with it under paragraphs (4) and (5).

pensioners

(1) (a) Any liability under any of the Rules for benefits already in payment or to which entitlement has arisen including any related pension benefits payable on death.

Members who have reached Normal Retiring Date but whose pension has not commenced

(b) Any liability under any of the Rules for benefits in respect of Members not included in (a) who have reached Normal Retiring Date and whose pensions under the Scheme are not in payment and any benefits payable on their subsequent death. These benefits will be calculated as if the Member had retired from Service on the date winding up began.

Members who have left with Deferred Pensions

(2) (a) Any liability under any of the Rules for Deferred Pensions for Members who left the Scheme and any benefits payable on their later death.

Members in Service

(b) Any liability under any of the Rules for Deferred Pensions for Members in the service of a before Normal Retiring Date

Participating Employer who are not included in (a) and have not reached their Normal Retiring Date, plus any benefits payable on their later death.

The Trustees will calculate the Deferred Pensions and any benefits payable on later death as though the Member left the Scheme as a Qualifying Member at the date winding up began.

other persons

(3) Any liability under any of the Rules for benefits for any other persons who are or will be entitled to benefits under the Scheme calculated, if they are in Service, as though they had left Service at the date winding up began.

application of surplus assets

(4) The Trustees will use one half of the Fund left after making provision for the benefits above to augment in their sole discretions all or any of the benefits set out above in this Sub-rule E, other than Pension Credit Benefits or Pension Credit Rights.

refund of residual surplus to employers

(5) The Trustees will pay the balance of the Fund after they have exercised their power under paragraph (4) to the Participating Employers in any proportions the Trustees decide which would not prejudice the Scheme's Approval but only if the requirements of section 76 of the Pensions Act and any other requirements prescribed under the Pensions Act have been satisfied.

The amounts of the liabilities mentioned in paragraphs (1) to (3) will be the cost, as the Trustees decide on the Actuary's advice, of securing the benefits mentioned in these paragraphs by means of insurance contracts on terms and conditions that are as near as is practical to those that would have applied under the Scheme.

- <u>offsetting benefits under one paragraph against benefits under another</u>

(F) In calculating the extent to which a liability arises in respect of a person under (D) or (E), the Trustees will take account of any liability in respect of the same person under any preceding provision of this Rule.

- <u>order of priority of benefits</u>

(G) Liabilities under each sub-paragraph within paragraph (1) of (E) will have equal priority with each other and liabilities under each sub-paragraph within paragraph (2) of (E) will have equal priority with each other.

If there are sufficient assets to satisfy some but not all of the liabilities given priority under (D) or (E), the Trustees will satisfy the liabilities in the specified order of priority as far as possible. They will then satisfy liabilities affected by the deficiency in proportion.

To achieve equality of treatment among persons to whom paragraph (2) of (E) applies, the Trustees can satisfy the liabilities in (a) and (b) of that paragraph in any order and to such extent as the Trustees decide on the Actuary's advice.

- date when Scheme begins to be wound up

(H) For the purposes of this Rule, the Trustees will decide in accordance with the winding up regulations the date on which the Scheme begins to wind up.

- ways in which liabilities can be satisfied

(I) The Trustees can satisfy the liabilities mentioned in this Rule in one or more of the following ways:

(1) When there is a liability for a lump sum (except to the extent that the Trustees have decided to apply all or any of the sum to provide a pension), by paying the sum in accordance with the Rule under which it would have been payable if the Scheme had not been winding up.

(2) By the purchase of annuities that satisfy the requirements of section 74 of the Pensions Act from one or more insurance companies (as defined in section 659B of the Taxes Act) that are willing to accept payment from the Trustees in respect of the persons to whom the liability relates.

(3) By making a transfer under Rule 38 (Non-statutory transfers to another scheme) to another fund, scheme or arrangement that satisfies the requirements of section 74 of the Pensions Act of such part of the Fund as the Trustees decide on the Actuary's advice.

(4) By subscribing to other pension arrangements that satisfy the requirements of section 74 of the Pensions Act.

For the purpose of (3), the provisions of Rule 38 (Non-statutory transfers to another scheme) requiring the Principal Employer's approval to a transfer do not apply.

Any liability to or in respect of a Member will be discharged if it is satisfied in one or more of the above ways.

- alternative lump sum in certain circumstances

(J) If any pension for which there is a liability under this Rule would be a Trivial Pension or a Member is in exceptional circumstances of serious ill health and his pension had not begun, the Trustees can, instead of satisfying the liability for that pension in one of the ways mentioned in (1), convert the pension into a lump sum.

The Trustees can also convert any benefits payable on that person's death into a lump sum if they think it appropriate.

The Trustees will calculate the lump sum in a way that the Actuary has confirmed is reasonable. They will deduct tax under Rule 27 before paying it.

If a Member is in serious ill health, this Sub-rule will not apply to the Member's, or his widow's or widower's, Guaranteed Minimum.

A person will cease to be entitled to any pension in respect of which the lump sum has been paid.

- continuation of death benefits

(K) When the Scheme is to be wound up, the Trustees can, if a Participating Employer asks them, continue to provide benefits on the death of those Members whom it employs. The amount and type of any benefit under this sub-rule and the period for which it will be provided will be as agreed between the Participating Employer and the Trustees, but only if the Scheme's Approval will not be prejudiced.

ALTERNATIVE POWERS ON TERMINATION OF CONTRIBUTIONS
- power to defer winding up

64. (A) Instead of winding up the Scheme under Rule 63, the Trustees can continue the Scheme but not after the end of the Perpetuity Period.

If the Trustees decide to continue the Scheme, the following conditions will apply:

(1) Continuing the Scheme will be subject to any conditions that the Trustees decide.

(2) Benefits will continue to be paid but no further benefits will accrue in respect of any period after the Scheme would have begun to wind up in accordance with Rule 63 if the Trustees had not decided to continue it under this Rule except to the extent required by law or decided by the Trustees.

(3) If contributions to the Scheme have not already stopped under Rule 62, the Trustees can decide that no further contributions will be paid to the Scheme.

(4) The Trustees can reduce or discontinue benefits payable on death.

(5) The Trustees will continue the Scheme only if it is consistent with the contracting out requirements of the Pension Schemes Act and it would not prejudice the Scheme's Approval.

- <u>transfers to another scheme</u>

(B) The Trustees can decide to transfer all or part of the assets of the Fund under Rule 38 (Non-statutory transfers to another scheme) instead of satisfying the liability for benefits for any person or persons under Rule 63.

The provisions of Rule 38 will apply to a transfer under this Sub-rule except that the Principal Employer's approval will not be required. The Trustees will decide on the Actuary's advice what proportion of the Fund's assets to transfer.

PART VIII - STATUTORY PROVISIONS

GUIDE TO INLAND REVENUE LIMITATIONS
- expressions used

65. (A) For the purpose of this Rule, the following terms have the meanings given to them and the term "Member", where appropriate, includes a Life Assurance Member:

Aggregate Retirement Benefit means the aggregate of:

(1) the Member's pension under the Scheme and any Associated Scheme including any amount surrendered to provide a pension for a Dependant, and

(2) the pension equivalent of the Member's Lump Sum Retirement Benefit.

A Pension Debit Member's Aggregate Retirement Benefit will be calculated as above and then reduced by the sum of the Negative Deferred Pension in this Scheme, the negative deferred pension in any Associated Scheme and, in the case of a Class A Member, the negative deferred pension in any Connected Scheme.

Associated Employer: An employer is associated with another employer if one is controlled by the other, or both are controlled by a third party. **Control** has the meaning in section 840 of the Taxes Act or, in the case of a close company, section 416 of that Act.

Associated Scheme means any Relevant Scheme providing benefits in respect of Relevant Employment.

Class A Member means:

(a) any Member who joined the Scheme on or after 1st June 1989, other than a Member who is a Class B or Class C Member because of paragraph (b) of the definition of Class B Member or paragraph (b) of the definition of Class C Member, or

(b) any Member who was previously a Class B or C Member but who is treated as a Class A Member because of an election under Sub-rule 43(C) (Inland Revenue limitations - optional limits) except that a Class B Member who makes such an election can remain a Class B

Member to the limited extent referred to in paragraph (1) of Sub-rule 43(C).

Class B Member means:

(a) any Member who joined the Scheme on or after 17th March 1987 and before 1st June 1989, or

(b) any Member for whom paragraphs 20 and 22 to 26 of Schedule 6 to the Finance Act 1989 do not apply because of regulations made under paragraph 19(2) of that Schedule or who is treated in the same manner in accordance with conditions prescribed by the Inland Revenue,

but who in either case is not a Member who is a Class C Member or treated as a Class A Member because of an election under Sub-rule 43(C) (Inland Revenue limitations - optional limits) except that such a Member can remain a Class B Member to the limited extent referred to in paragraph (1) of Sub-rule 43(C),

(c) any Member who is a Class B Member to the limited extent referred to in paragraph (3) of Sub-rule 43(C) (Inland Revenue limitations - optional limits) following an election under that paragraph.

Class C Member means:

(a) any Member who joined the Scheme before 17 March 1987, or

(b) any Member for whom paragraphs 2, 3, 4 and 6 of Schedule 23 to the Taxes Act do not apply because of regulations made under paragraph 1(2) of that Schedule or who is treated in the same manner in accordance with conditions prescribed by the Inland Revenue

but who, in either case, is not a Member who is treated as a Class A Member because of an election under Sub-rule 43(C) (Inland Revenue limitations).

Connected Scheme means any Relevant Scheme that is connected with the Scheme in relation to the Member. For this purpose a Relevant Scheme is connected with the Scheme if:

(1) there is a period during which the Member has been the employee of two Associated Employers, and

(2) that period counts under both schemes as a period in respect of which benefits are payable, and

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

Controlling Director means a Member who, at any time after 16 March 1987 and in the last 10 years before the Relevant Date has been a director within the definitions of a director in both section 612 of the Taxes Act and paragraph (b) of section 417(5) of that Act in relation to the Participating Employer.

Final Remuneration means:

(1) In relation to the retirement, leaving Relevant Service or death of a Member the greater of

(a) the highest remuneration for any period of 12 months in the 5 years preceding the Relevant Date being the aggregate of

A. the basic pay for the year in question, and

B. the yearly average over 3 or more consecutive years ending with the expiry of the corresponding basic pay year, of any Fluctuating Emoluments, but Fluctuating Emoluments of a year other than the basic pay year can be increased in proportion to any increase in the Index of Retail Prices from the last day of that year up to the last day of the basic pay year. Remuneration received after the Relevant Date on which the tax liability has been determined will be treated as a Fluctuating Emolument (if it was earned or qualified for before the Relevant Date). In these circumstances it can be included if the yearly average of 3 or more consecutive years begins no later than the commencement of the basic pay year, and

(b) the yearly average of the total emoluments for any 3 or more consecutive years ending not earlier than 10 years before the Relevant Date.

When a Member receives these emoluments after the Relevant Date but earned or qualified for them before that date, the Trustees will include them only if the yearly average of 3 or more consecutive years begins no later than the commencement of the year ending with the Relevant Date.

(2) For the purposes of (1) of this definition:

(a) except for the purposes of calculating the maximum lump sum death benefit in accordance with (D), remuneration and total emoluments will not include either

A. any amounts that arise from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares except any amount that is assessed on the Member under Schedule E of the Taxes Act in respect of any acquisition or disposal, interest or right that arose from an entitlement or option created or granted before 17 March 1987, or

B. any amount in respect of which tax is chargeable by virtue of section 148 of the Taxes Act,

(b) except for the purposes of calculating the maximum lump sum death benefit in accordance with (D), the Final Remuneration of a Controlling Director will be the amount ascertained in accordance with sub-paragraph (1)(b) and sub-paragraph (1)(a) will not apply,

(c) Subject to sub-paragraph (d) in the case of a Member whose remuneration received from the Participating Employers in any year after 5th April 1987 has exceeded £100,000 (or such other sum as may be prescribed in an order made by the Treasury), sub-paragraph 1(a) will not apply and the amount under sub-paragraph 1(b) will be increased to the lesser of £100,000 (where it would otherwise fall below that figure) and the amount which would otherwise have been calculated under sub-paragraph (1)(a),

(d) where Final Remuneration is computed by reference to any year other than the last complete year ending on the Relevant Date, the Member's remuneration (as calculated in sub-paragraph (1)(a)) or total emoluments (for the purposes of sub-paragraph (1)(b)) of any year can be increased in proportion to any increase in the Index of Retail Prices from the last day of that year up to the Relevant Date. However in the case of a Class C Member, this sub-paragraph does not apply to the calculation of the maximum Lump Sum Retirement Benefit in accordance with (C) unless the Member's Aggregate Retirement Benefit is similarly increased beyond the maximum amount which could have been paid but for this paragraph and the proviso to sub-paragraph (1)(a)(B) and then only to the same proportionate extent,

(e) for the purpose of calculating the maximum Lump Sum Retirement Benefit for a Class B Member in accordance with (C), Final Remuneration will not in any event exceed £100,000 or such other sum as the Treasury specifies in an order,

(f) remuneration and total emoluments will include any amounts on which the Member has been assessed under Schedule E of the Taxes Act in respect of any benefits in kind other than any amount excluded by sub-paragraph (a),

(g) in the case of a Class A Member, Final Remuneration will not exceed the Earnings Cap,

(h) for an employee who remains, or is treated as remaining, in Service but by reason of incapacity receives a reduced remuneration for more than 10 years up to the Relevant Date, the Trustees will calculate Final Remuneration under sub-paragraph (1)(a) or (b) at the date of cessation of normal pay and increase it in accordance with the Index of Retail Prices, in the manner referred to in sub-paragraph (2)(d),

(i) the Trustees will classify the total amount of any profit related pay (whether relieved from income tax or not) as remuneration and treat it as a Fluctuating Emolument,

(j) an early retirement pension in payment from a Participating Employer cannot be included in Final Remuneration,

(k) for the purposes of providing immediate benefits at the Relevant Date, the Trustees will calculate Final Remuneration on the appropriate basis using remuneration under Case 1 or 11 of Schedule E on which tax liability has not been determined. On determination of this liability, the Trustees will recalculate Final Remuneration. If this results in a lower Final

Remuneration, the Trustees will reduce benefits in payment if necessary to ensure that they do not exceed the maximum approvable based on the lower Final Remuneration. If Final Remuneration is greater, the Trustees will augment benefits in payment but such augmentation must take the form of a non- commutable pension.

When the Trustees are not providing immediate benefits or when they are making a transfer payment in respect of accrued pension benefits, they will calculate Final Remuneration using only remuneration on which tax liability has been determined.

Fluctuating Emoluments means the part of an employee's earnings that is not paid on a fixed basis and is additional to the basic wage or salary. They include overtime, commission, bonuses or benefits in kind and profit related pay. Directors' fees can rank as fluctuating emoluments according to the basis on which they are voted.

Lump Sum Retirement Benefit means the total value of all retirement benefits payable in any form other than pension under this and any Associated Schemes.

Negative Deferred Pension means the amount by which a Member's pension or deferred pension under the Scheme which arose or arises from Service with the Participating Employers, is reduced at the Relevant Date by section 31 of the Welfare Act, following a Pension Sharing Order. For this purpose, Service with the Participating Employers includes all periods of service with other employers which have been treated as if they were Service with the Participating Employers where a transfer payment has been made to the Scheme in respect of that other service.

Pension Debit Member means any Member except that one, whose pension has not started on or before the date on which the marriage was dissolved or annulled, is a Pension Debit Member only if either:

(i) he is a controlling director of a company which is his employer if he is a director of the company to whom paragraph (b) of section 417(5) of the Taxes Act applies either at the date on which the marriage was dissolved or annulled, or at any time within the period of 10 years before that date or,

(ii) his earnings at the date at which his marriage was dissolved or annulled exceeded ¼ of the Earnings Cap for the year of assessment in which the dissolution or annulment occurred. Earnings for these purposes shall be taken to be the total emoluments -

(a) which were paid to the Member in respect of Pensionable Service during the year of assessment before the year of assessment in which the marriage was dissolved or annulled, and

(b) from which tax was deducted in accordance with the Income Tax (Employments) Regulations 1993.

Relevant Date means the date of a Member's retirement from Service, leaving Relevant Service or death as the case may be.

Relevant Employment means employment with a Participating Employer or an Associated Employer or, except in relation to a Class A Member who is a Controlling Director of either employer, an employer who is associated with a Participating Employer only through a permanent community of interest.

Relevant Scheme means any other scheme approved or seeking approval under Chapter I of Part XIV of the Taxes Act and, in respect of a Class A Member who is a Controlling Director, includes any retirement annuity contract or trust scheme approved under Chapter III of Part XIV or any personal pension scheme as approved under Chapter IV of Part XIV of the Taxes Act insofar as it provides benefits secured by contributions in respect of Relevant Employment.

Relevant Service has the meaning given to pensionable service by section 70 of the Pension Schemes Act.

Remuneration in relation to any year means the aggregate of the total emoluments for the year in question from a Participating Employer but excluding

A any amounts that arise from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares, B any amount in respect of which tax is chargeable by virtue of section 148 of the Taxes Act,

C for a Class A Member any emoluments in excess of the Earnings Cap.

Retained Death Benefits means any lump sum benefit (other than a refund of his own contributions and interest on them) payable on the Member's death in respect of previous employment or periods of self-employment (whether alone or in partnership) and arising from:

(a) retirement benefits schemes approved or seeking approval under Chapter I of Part XIV of the Taxes Act or relevant statutory schemes as defined in section 611A of that Act,

(b) funds to which section 608 of the Taxes Act applies,

(c) retirement benefits schemes that the Inland Revenue have accepted as "corresponding" in respect of a claim made on behalf of the Member for the purposes of section 596(2)(b) of the Taxes Act,

(d) any lump sum life assurance benefit under retirement annuity contracts or trust schemes approved under Chapter III of Part XIV of the Taxes Act,

(e) term life provisions under personal pension schemes approved under Chapter IV of Part XIV of the Taxes Act,

(f) transfer payments from overseas schemes held in a type of arrangement referred to in (a), (d) or (e).

The Trustees will also include in Retained Death Benefits any lump sum of the type referred to in (d) or (e) which is payable in respect of the current employment.

If the Retained Death Benefits do not exceed £2,500 in total, the Trustees will ignore them.

If the Member is not a Controlling Director and his total remuneration for the twelve months beginning on the date of joining the Scheme (including for this purpose any other Relevant Scheme providing benefits in respect of service with the Participating Employer) is not more than one-quarter of the Earnings Cap in force at the date of joining the Scheme, the Trustees will not class benefits arising from the types of arrangements referred to in (a) to (e) (other than those transferred into the Scheme) as Retained Death Benefits.

- <u>Member's pension</u>

(B) The Member's Aggregate Retirement Benefit will not exceed:

Class A Members

(1) for a Class A Member

(a) on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retiring Date on grounds of Incapacity, a pension of 1/60th of Final Remuneration for each year of Relevant Employment (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval,

(b) on retirement at any time before Normal Retiring Date on grounds of Incapacity, a pension of the amount that could have been provided at Normal Retiring Date in accordance with (1)(a), Final Remuneration being computed as at the actual date of retirement,

(c) on leaving Relevant Service before attaining age 75, a pension of 1/60th of Final Remuneration for each year of Relevant Employment before leaving Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval. This amount will increase at the rate of 5% a year compound or, if greater, in proportion to any increase in the Index of Retail Prices between the date of termination of Relevant Service and the date on which the pension begins to be payable. The Trustees will make any further increase necessary to comply with Social Security legislation.

(d) the Trustees will further restrict benefits for a Class A Member to ensure that his total retirement benefit from the Scheme and from an Associated Scheme or Connected Scheme does not exceed a pension of 1/30th of the Earnings Cap for each year of service, subject to a maximum of 20/30ths. For the purpose of this limit, service is the aggregate of Relevant Employment and any period of service that gives rise to benefits under a Connected Scheme provided that no period is to be counted more than once,

(e) for the purpose of calculating the Aggregate Retirement Benefit or the total retirement benefit in (a) to (d), the pension equivalent of any Lump Sum Retirement Benefit is one twelfth of its total cash value.

Class B and C Members

(2) for a Class B Member and a Class C Member,

(a) on retirement at or before Normal Retiring Date, a pension of 1/60th of Final Remuneration for each year of Relevant Employment (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval. When retirement is due to Incapacity, Relevant Employment will include the period between the date of retirement and Normal Retiring Date,

(b) on retirement after Normal Retiring Date, a pension of the greatest of:

A. the amount calculated in accordance with (2)(a) on the basis that the actual date of retirement was the Member's Normal Retiring Date,

B. the amount that the Trustees could have provided at Normal Retiring Date in accordance with (2)(a) increased either actuarially in respect of the period of deferment or in proportion to any increase in the Index of Retail Prices during that period, and

C. where the Member's total Relevant Employment has exceeded 40 years, the aggregate of 1/60th of Final Remuneration for each year of Relevant Employment before Normal Retiring Date (not exceeding 40 years) and of a further 1/60th of Final Remuneration for each year of Relevant Employment after Normal Retiring Date, with an overall maximum of 45 reckonable years,

Final Remuneration being calculated for the purposes of sub-paragraphs A. and C. As at the actual date of retirement, but subject always to (G),

(c) on leaving Relevant Service before Normal Retiring Date, a pension of 1/60th of Final Remuneration for each year of Relevant Employment before leaving Relevant Service (not exceeding 40 years) or of such greater amount as will not prejudice the Scheme's

Approval. The Trustees can increase this amount at the rate of 5% a year compound or, if greater, in proportion to any increase in the Index of Retail Prices between the date of termination of Relevant Service and the date on which the pension begins to be payable. The Trustees will make any further increase necessary to comply with Social Security legislation.

- <u>lump sum on retirement</u>

(C) The Member's Lump Sum Retirement Benefit will not be more than whichever is appropriate of the amount calculated under (1) or (2), subject to the further restriction under Sub-rule (I) if the Member is a Pension Debit Member.

Class A Members

(1) for a Class A Member, the Lump Sum Retirement Benefit will not be more than:

(a) on retirement at any time between attaining age 50 and attaining age 75, except before Normal Retiring Date on grounds of Incapacity, 3/80ths of Final Remuneration for each year of Relevant Employment (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval,

(b) on retirement at any time before Normal Retiring Date on grounds of Incapacity, the amount that the Trustees could have provided at Normal Retiring Date in accordance with (1)(a), Final Remuneration being calculated as at the actual date of retirement,

(c) on leaving Relevant Service before attaining age 75, a lump sum of 3/80ths of Final Remuneration for each year of Relevant Employment before leaving Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval. The Trustees can increase this amount in proportion to any increase in the Index of Retail Prices between the date of termination of Relevant Service and the date on which the benefit is first paid.

Class B and C Members

(2) for a Class B Member and a Class C Member, the Lump Sum Retirement Benefit will not be more than:

(a) on retirement at or before Normal Retiring Date, 3/80ths of Final Remuneration for each year of Relevant Employment (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval. Where retirement is due to Incapacity, Relevant

Employment will include the period between the date of retirement and Normal Retiring Date,

(b) on retirement after Normal Retiring Date, the greatest of:

A. the amount calculated in accordance with (2)(a) on the basis that the actual date of retirement was the Normal Retiring Date, and

B. the amount that the Trustees could have provided at Normal Retiring Date in accordance with (2)(a) together with an amount representing interest, and

C. where the Member's total Relevant Employment has exceeded 40 years, the aggregate of 3/80ths of Final Remuneration for each year of Relevant Employment before Normal Retiring Date (not exceeding 40 years) and of a further 3/80ths of Final Remuneration for each year of Relevant Employment after Normal Retiring Date, with an overall maximum of 45 reckonable years,

Final Remuneration being calculated for the purposes of sub-paragraphs A. and C. as at the actual date of retirement, but subject always to (G),

(c) on leaving Relevant Service before Normal Retiring Date, a lump sum of 3/80ths of Final Remuneration for each year of Relevant Employment before leaving Relevant Service (not exceeding 40 years) or such greater amount as will not prejudice the Scheme's Approval. The Trustees can increase this amount in proportion to any increase in the Index of Retail Prices that has occurred between the date of termination of Relevant Service and the date on which the benefit is first paid.

The limitations above will not apply to any lump sum payable as a refund of Member's Contributions and interest on them, by conversion of pension into a lump sum in exceptional circumstances of serious ill-health or when the pension is a Trivial Pension.

- <u>lump sum death benefits</u>

(D) The lump sum benefit (exclusive of any refund of the Member's own contributions and interest on them) payable on the death of a Member while in Relevant Employment or (having left Relevant Employment with a deferred pension) before the commencement of his pension will not, when aggregated with all like benefits under Associated Schemes, exceed the greater of:

(1) £5,000, and

(2) four times the greatest of

(a) the annual rate of the Member's basic salary or wages at the date of death or leaving Relevant Service together with the yearly average of Fluctuating Emoluments in the 3 years (or the whole period of Relevant Employment if less) up to the date of death or leaving Relevant Service (but in the case of a Class A Member not exceeding the permitted maximum as defined in section 590 C(2) of the Taxes Act), and

(b) the Member's total emoluments (but in the case of a Class A Member not exceeding the permitted maximum as defined in section 590C(2) of the Taxes Act) in any selected period of 12 months ending not earlier than 36 months before the date of death, and

(c) Final Remuneration

less Retained Death Benefits.

- dependant's pension

(E) Any pension for a Dependant (other than a pension provided by surrender of the Member's own pension), when aggregated with the pensions, other than those provided by surrender of the Member's own pension, payable to that Dependant under all Associated Schemes will not exceed an amount equal to 2/3rds of the maximum Aggregate Retirement Benefit that could have been payable to the Member immediately before his death calculated as if he was not entitled to any benefit arising from any previous employments and calculated in the case of a Member who was in Service at the date of his death as if he had retired on the grounds of Incapacity immediately before his death or such greater amount as will not prejudice the Scheme's Approval.

If the pensions are payable to more than one person in respect of a Member, the aggregate of all pensions payable in respect of him under this and all Associated Schemes will not exceed the full amount of the maximum Aggregate Retirement Benefit calculated as described in this paragraph or such greater sum as will not prejudice the Scheme's Approval.

- pension increases

(F) The maximum amount of a pension in accordance with this Rule less any pension that has been commuted for a lump sum or the pension equivalent of any benefits in lump sum form or surrendered to provide a pension for the Member's Dependant can be increased at the rate of 3% a year compound or, if greater, in proportion to the increase in the Index of Retail Prices since the pension began.

- late retirement

(G) If a Class B Member or Class C Member elects under Rule 16 (Late Retirement Pension) to take any part of his benefits under the Scheme in advance of actual retirement, the limits set out in (B) and (C) will apply as if he had retired at the date of the election as provided above, no account being taken of subsequent Relevant Employment, except that the Trustees can increase the maximum amount of any uncommuted pension not beginning immediately either actuarially in respect of the period of deferment or in proportion to any increase in the Index of Retail Prices during that period.

- Controlling Directors

(H) The preceding provisions of this Rule are modified in their application to a Class B or Class C Member who is a Controlling Director as follows:

(1) The Trustees will reduce the amount of the maximum Aggregate Retirement Benefit in (B) and of the maximum Lump Sum Retirement Benefit in (C), when necessary for the Scheme's Approval, to take account of any corresponding benefits under either a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act or a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act.

(2) If he is a Controlling Director at his Normal Retiring Date:

(a) when retirement takes place after Normal Retiring Date but not later than the Member's 70th birthday, sub-paragraphs (2)(b)B. and C. of (B) and sub-paragraphs (2)(b)B. and C. of (C) will not apply and, if retirement is later than his 70th birthday, these sub-paragraphs will apply as if his 70th birthday had been specified in the Rules as his Normal Retiring Date, so as not to treat as Relevant Employment after Normal Retiring Date any Relevant Employment before the Member reaches age 70,

(b) if (G) applies to him, the rate of the actuarial increase referred to in that Sub-rule in relation to any period of deferment before age 70, will not exceed the percentage increase in the Index of Retail Prices during that period.

- Pension Debit Members

(I) The benefits for a Pension Debit Member are additionally subject to the limits set out in the rest of this Sub-rule to the extent that social security legislation allows.

(1) The lump sum from this and any Associated Scheme will not be more than:

(a) for a Pension Debit Member who is a Class A Member or Class B Member, an amount equal to 2.25 x the initial annual pension payable;

(b) for a Pension Debit Member who is a Class C Member, an amount equal to the greater of:

A. 2.25 x the initial annual pension payable and,

B. an amount determined in accordance with Sub-rule (C) as if there had been no Pension Debit, less 2.25 x the Negative Deferred Pension.

(2) For the purposes of paragraph (1), the initial annual pension will be calculated on the following bases:

(a) If the pension payable for the year changes, the Trustees will take the initial pension payable.

(b) The Trustees will assume that the Pension Debit Member will survive for a year.

(c) the Trustees will ignore the effect of commutation.

(3) On the death of the Pension Debit Member, any pension for a Dependant will not be more than 2/3 x the residual amount. When more than one pension is to be paid, the total of all the pensions will not be more than 100% of the residual amount. The residual amount for this purpose is an amount determined in accordance with Sub-rule (B) as if there had been no Pension Debit.

- maximum yearly contributions

(J) The total contributions paid by a Member in a Tax Year to this and any Relevant Scheme providing benefits because of Relevant Employment will not exceed 15% of his Remuneration for that Tax Year in respect of that Relevant Employment.

- restriction applying to voluntary contributions

(K) Where the application of the limits set out in this Rule requires the Trustees to restrict the amount of any benefit payable to or in respect of a Member and the Member has paid Voluntary Contributions, the Trustees will apply the restriction first to the benefits attributable to the Voluntary Contributions so as to permit the repayment of surplus funds subject to the provisions of section 599A of the Taxes Act.

CONTRACTING- OUT OF THE STATE EARNINGS RELATED PENSION SCHEME BEFORE 6 APRIL 1997
- application

66. (A) The provisions of this Rule will apply if any Member has completed a period of Contracted-out Employment before 6 April 1997 and these provisions will override all other provisions of the Scheme except any that are in accordance with the provisions of the Pension Schemes Act.

- operation

(B) The Trustees will operate the Scheme in all respects in accordance with the contracting-out requirements of the Pension Schemes Act.

- Guaranteed Minimum Pension (GMP)

(C) (1) If a Member has a guaranteed minimum in relation to the pension for him under the Scheme in accordance with section 14 of the Pension Schemes Act by reference to Contracted-out Employment completed before 6 April 1997

(a) the weekly rate of the Member's pension under the Scheme from GMP Age will not be less than that guaranteed minimum, and

(b) if the Member is male and dies leaving a widow, the weekly rate of her pension under the Scheme will not be less than her guaranteed minimum (if any) (which is half the Member's guaranteed minimum including any increases arising from increases in the Member's guaranteed minimum under (D)), and

(c) if the Member is female and dies leaving a widower, the weekly rate of his pension under the Scheme will not be less than his guaranteed minimum (if any) (which is half of that part of the Member's guaranteed minimum which is attributable to earnings for the Tax Year 1988-89 and later Tax Years, including any increases arising from increases in the

Member's guaranteed minimum under (D)).

(2) The Trustees will increase the guaranteed minimum pensions referred to in (1) to the extent that they are attributable to earnings factors for the Tax Year 1988-89 and later Tax Years, in accordance with the requirements of section 109 of the Pension Schemes Act and to the extent of any orders made under that section.

(3) In deciding whether the weekly rate of the pension payable under the Scheme to the Member or the widow or widower is less than the amount specified in (a), (b) or (c) of (1), the Trustees will ignore any part of that pension that

(a) arises from Member's Voluntary Contributions,

or

(b) represents Equivalent Pension Benefits

- <u>retirement after GMP Age</u>

(D) If the commencement of the Member's Guaranteed Minimum Pension is postponed for any period after GMP Age his guaranteed minimum will be increased to the extent, if any, specified in section 15 of the Pension Schemes Act.

- <u>revaluation of GMP for early leavers</u>

(E) If any Member's service in Contracted-out Employment terminates before GMP Age, the Trustees will increase the guaranteed minimum that has accrued up to termination

(1) in respect of each Tax Year after that in which Contracted-out Employment terminated up to and including the last complete Tax Year before GMP Age or the earlier death of the Member, by such rate as is prescribed for the purposes of section 16(3) of the Pension Schemes Act as being relevant to the date of termination, or

(2) by the percentage by which earnings factors for the Tax Year in which Contracted-out Employment terminated are increased by the last Order made under section 148 of the Social Security Administration Act 1992 coming into force before the earlier of the Tax Year in which the Member attains GMP Age and the Tax Year in which the Member dies. In this case, the Trustees will decide (having regard to the Actuary's advice) the amount of, and the terms and

conditions appropriate to, any benefit that becomes payable during the lifetime of the Member before GMP Age.

The Trustees will calculate these increases on the basis set out in paragraph (1) except that,

(a) if the Trustees have decided under Rule 36 that any part of the guaranteed minimum will increase on a basis other than that of orders made under section 148 of the Social Security Administration Act 1992, that basis will continue to apply to that part, subject to sub-paragraph (b),

(b) if the Trustees transfer liability for the guaranteed minimum to another fund, scheme or arrangement under Rule 37, 38 or 39, they can decide that the guaranteed minimum (and, in the circumstances permitted by regulations 65 and 66 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 and notwithstanding (a), any part of it to which the provisions of Sub-rule 36(E) (Transfers from another scheme - revaluation of GMP) apply) will increase by reference to the basis set out in paragraph (2),

(c) unless sub-paragraph (d) applies, the Trustees will use the basis set out in paragraph (2) if they and the Principal Employer decide so to do for all Members whose Contracted-out Employment ends on and after the date of their decision,

(d) if the Scheme ceases to be a contracted-out scheme on the ending of contributions by all Participating Employers, the Trustees can use the basis set out in paragraph (2) for all Members whose Contracted-out Employment ends.

- anti-franking

(F) The Trustees will operate the Scheme in accordance with the provisions of Chapter III of Part IV of the Pension Schemes Act and any other statutory requirements relating to anti-franking.

- payment of state scheme premiums and corresponding reduction of Scheme benefits

(G) (1) If the Trustees can pay a contributions equivalent premium in respect of a Member under section 55(2) of the Pension Schemes Act and Part VI of the Occupational Pension Schemes (Contracting-out) Regulations 1996, they will be entitled to pay the premium out of the Fund and (2) will apply.

(2) If a state scheme premium is paid or credited as paid under the Pension Schemes Act in respect of a Member or the widow or widower of a Member,

(a) (C),(D),(E) and (F) will cease to apply in respect of the Member and his widow or widower, and

(b) the Trustees will adjust or extinguish any benefit payable or prospectively payable under the Scheme to or in respect of the Member or his widow or widower as a result of the payment or crediting of the premium. The Trustees will decide the amount of the benefit and any change in its terms and conditions, having regard to the Actuary's advice. Any reduction in the amount of the pension payable to the Member or his widow or widower under this Sub-rule will be on a basis that satisfies the requirements of section 60 of the Pension Schemes Act.

- Scheme ceasing to be contracted-out

(H) (1) If the Scheme ceases to be a contracted-out scheme other than on the termination of contributions by all Participating Employers, the Principal Employer can direct the Trustees in writing within three months after the date of the cessation, subject to the Rules,

(a) to preserve Guaranteed Minimum Pensions under the Scheme, to secure Guaranteed Minimum Pensions by insurance policies or annuity contracts that satisfy the requirements of section 19 of the Pension Schemes Act or to transfer Guaranteed Minimum Pensions as specified in the notice, and

(b) to change the basis on which Guaranteed Minimum Pensions will increase if and as specified in the notice.

The Trustees will do everything necessary to give effect to any direction given by the Principal Employer under this paragraph and will seek approval under section 50(1) of the Pension Schemes Act to any arrangements to be made in respect of Guaranteed Minimum Pensions in accordance with that notice.

(2) Subject to paragraph (1), if the Scheme ceases to be a contracted-out scheme, the Trustees will seek approval under section 50(1) of the Pension Schemes Act to any arrangements made or to be made in respect of Guaranteed Minimum Pensions.

PENSION SHARING ON DIVORCE
- Ex-spouse's participation

67. (A) The Trustees can allow a Participant's Ex-spouse to participate in the Scheme with the status of an Ex-spouse Participant in relation to her Pension Credit Benefit. This is subject to sub-paragraph 1(2) of Schedule 5 to the Welfare Act.

- separate provision and terms

(B) The Trustees will treat Pension Credit Benefits as provided separately from any other benefits for the same person. The Trustees will, after obtaining the Actuary's advice, grant to the Ex-spouse Participant such rights and benefits as they decide, consistent with the Scheme's Approval, subject to Rule 42 (deductions from benefits) and subject to the rest of this Sub-rule. They will tell the Ex-spouse Participant in writing of the rights and benefits that are being granted and the terms that will apply.

(1) The Trustees can start to pay a pension at the Ex-spouse Participant's request at any time between her attaining age 50 and 75 or earlier because of incapacity if she is simultaneously taking benefits on incapacity grounds arising from Service as a Member. The Trustees can convert an Ex-spouse Participant's pension not yet in payment into a lump sum (calculated in accordance with Sub-rule 18(G) and subject to any deduction under Rule 27 for tax) at any time on the grounds of exceptional circumstances of serious ill health. The Ex-spouse Participant cannot defer commencement of the pension beyond her 75th birthday. If she is aged 75 or over when the Pension Sharing Order is implemented, the pension must come into payment immediately. There is no limit on the amount of the pension. Such a pension cannot be commuted, surrendered or assigned except in accordance with the Rules. Such a pension must be payable for life (although it can carry a guarantee), unless it is exchanged for a cash sum under paragraph (6).

(2) If the Member who was formerly married to the Ex-spouse Participant has already received a lump sum retirement benefit from the Scheme before the date of implementation of the Pension Sharing Order, or all the Ex-spouse Participant's Pension Credit Rights were transferred into the Scheme with a lump sum nil certificate, no lump sum can be paid to the Ex-spouse Participant. Otherwise, the Ex-spouse Participant can choose to take a lump sum (calculated in accordance with Sub-rule 18(G)) instead of part of the pension, when it is first payable. However, the Ex-spouse Participant cannot choose to take a lump sum before her 50th birthday unless she is also a Member in Pensionable Service and has chosen to take a lump sum as a Member. The lump

sum will not be more than 2.25 x the initial annual pension. For this purpose, the Trustees will calculate the initial annual pension on the following bases:

(a) if the pension payable for the year changes, the Trustees will take the initial pension payable;

(b) the Trustees will assume that the Ex-spouse Participant will survive for a year;

(c) the Trustees will ignore the effect of any exchange of pension for a lump sum.

(3) If the terms of the Ex-spouse Participant's benefits include a lump sum payment on her death before she receives any benefit, the Trustees will pay the lump sum to her estate unless a lump sum is also payable in respect of her death as a Member. In that case, the sum payable on her death as an Ex-spouse Participant will be payable in the same way as the sum payable on her death as a Member.

Unless Sub-rule 18(F) applies, the lump sum will not be more than 25% of what would have been the cash equivalent of the Pension Credit Rights at the Ex-spouse Participant's date of death. The Trustees will use the balance of the said cash equivalent to provide non-commutable pensions for the Ex-spouse Participant's Dependent Relatives. The amount of each such pension will not be more than 2/3rds of the amount of the pension that could have been paid to the Ex-spouse Participant at the date of death had the whole of the cash equivalent of the Pension Credit Rights been used to purchase an annuity at an available market rate. If the Ex-spouse Participant dies before the age of 50, the Trustees will assume that she died at age 50 for the purpose of determining the pension that could have been paid to her. When more than one pension is to be paid, the total of all the pensions cannot exceed the amount of the pension that could have been paid to the Ex-spouse Participant. If the Trustees cannot trace a Dependant, Sub-rule (F) will apply.

Such pensions will be payable for life, except that pensions paid to children must, subject to the next sentence, stop on the attainment of age 18 or at any later date decided by the Trustees that is not later than the date when full time education ends. The Trustees can continue to pay the pension after a child reaches age 18 if they consider that he is mentally or physically disabled and they can treat a break of not more than one academic year between school and taking up a confirmed place in full-time education or vocational training as such education or training.

Any pension payable under (3) of this Sub-rule will be non-commutable except under Sub-rule 18(F).

(4) If the Ex-spouse Participant dies after her pension has started, a pension can be paid to her Dependant. This will be non-commutable except under Sub-rule 18(F).

The amount of pension payable to a Dependant will not be more than 2/3rds of the initial annual pension which was paid to the Ex-spouse Participant as increased by any rise in the Index of Retail Prices since the Ex-spouse Participant's pension started.

If more than one pension is to be paid, the total of all the pensions will not be more than the amount of the initial annual pension which was payable to the Ex-spouse Participant, as increased by any rise in the Index of Retail Prices since the Ex-spouse Participant's pension started. For the purposes of this, and the preceding paragraph, the Trustees will calculate the initial annual pension on the same basis as for paragraph (2).

Such pensions will be payable for life, except that pensions paid to children must, subject to the next sentence, stop on the attainment of age 18 or at any later date decided by the Trustees that is not later than the date when full time education ends. The Trustees can continue to pay the pension after a child reaches age 18 if they consider that he is mentally or physically disabled and they can treat a break of not more than one academic year between school and taking up a confirmed place in full-time education or vocational training as such education or training.

If a person's pension as an Ex-spouse Participant is guaranteed for not more than 5 years, this paragraph will apply to any lump sum payable on her death before the guaranteed period ends. If a lump sum is also payable in respect of her death as a Member, the sum payable on her death as an Ex-spouse Participant will be payable in the same way as the sum payable on her death as a Member. Otherwise, it will be payable to her estate.

If a person's pension as an Ex-spouse Participant is guaranteed for more than 5 years, and she dies before the guaranteed period ends, the Trustees will pay the remaining balance of the pension instalments in pension form to her Dependant.

(5) When the Ex-spouse Participant's pension becomes payable (but not if it is paid in the form of income drawdown), she can surrender part of it to secure on her death a pension payable to a Dependant. The amount surrendered must not exceed the reduced pension that the Ex-spouse Participant retains.

(6) The Trustees can convert the Pension Credit Rights into a lump sum (calculated in accordance with Sub-rule 18(G) and subject to any deduction under Rule 27 for tax) in exceptional circumstances of serious ill-health, subject to regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations 2000, when the pension first becomes payable.

(7) If the Ex-spouse Participant is a participant in another scheme approved under Chapter I Part XIV of the Taxes Act or a scheme approved under Chapter IV Part XIV of the Taxes Act and if she asks, the Trustees will transfer her Pension Credit Rights to that other scheme. If she asks and if the Inland Revenue's requirements are satisfied, the Trustees will transfer an Ex-spouse Participant's Pension Credit Rights to any other scheme or arrangement. The Trustees will confirm to the receiving scheme or arrangement that the transfer value consists wholly or partly of Pension Credit Rights for the benefit of an Ex-spouse Participant. Any transfer under this paragraph is subject to the other scheme or arrangement being willing and able to accept the transfer.

(8) If an Ex-spouse Participant to whom paragraph (7) applies is also a Member, the Trustees will transfer her Pension Credit Rights only if she exercises her statutory transfer option described in Rule 37.

(9) At the request of an Ex-spouse Participant when her pension becomes payable, the Trustees will buy an annuity from an Insurance Company of her choice.

- <u>transfers by ex-spouse participants of other schemes</u>

(C) If the Trustees accept a transfer payment for a person under Sub-rule 36(B) (Transfers from another Scheme - acceptance) and are told by the transferor that the transfer value consists wholly or partly of pension credit rights in the former scheme or arrangement, then the Trustees will separately identify the transfer payment relating to the pension credit rights from any funds held for the benefit of that person as a Member or as a dependant of a Member. Furthermore the Trustees will comply with the requirements of (B) in respect of the transferred-in pension credit rights. The person will participate in the scheme with the status of an Ex-spouse Participant in relation to her Pension Credit Benefit arising from her transferred-in pension credit rights. Such Pension Credit Benefit will not count towards any limit on benefits for that person.

- Ex-spouse dies before Trustees act on a Pension Sharing Order

(D) If the Ex-spouse dies after a Pension Sharing Order is made but before the Trustees act upon it, the Trustees can provide benefits up to the value of the cash equivalent of the fund that would have provided the Pension Credit Rights for the Ex-spouse.

These benefits can, at the Trustees' discretion, be in the form of a pension for the Ex-spouse's Dependant (which will be non-commutable unless Sub-rule 18(F) applies) or a lump sum death benefit or a combination of both.

If the Trustees pay a lump sum under this Sub-rule, they will pay it to the Ex-spouse's estate unless a lump sum is also payable in respect of her death as a Member. In that case, the Trustees will pay any lump sum benefit on her death as an Ex-spouse in the same way as the sum payable on her death as a Member.

Any lump sum will not be more than 25% of what would have been the cash equivalent of the fund which would have provided the Pension Credit Rights for the Ex-spouse. The Trustees can use all or any of the balance of that fund to provide a non-commutable pension for the Ex-spouse's Dependant.

The amount of this pension will not be more than 2/3rds of the amount of the pension that could have been paid to the Ex-spouse at the date of death if the whole of what would have been the cash equivalent of the fund which would have provided the Pension Credit Rights had been used to purchase an annuity at an available market rate. Where more than one pension is to be paid, the total of all the pensions will not be more than the amount of the pension that could have been paid to the Ex-spouse.

Such pensions will be payable for life, except that a pension paid to a child must, subject to the next sentence, stop not later than the attainment of age 18 or at any later date decided by the Trustees that is not later than the date when full time education ends. The Trustees can continue to pay the pension after the child reaches age 18 if the Trustees consider that he is mentally or physically disabled and they can treat a break of not more than one academic year between school and taking up a confirmed place in full-time education or vocational training as such education or training.

Any provision under this Sub-rule or any application under Sub-rule (F) of an amount available on the death of an Ex-spouse before the Trustees have acted on a Pension Sharing Order or any combination of such provision or application will discharge the Trustees' liability in respect of the Ex-spouse's Pension Credit in accordance with regulation 6 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000.

- securing benefits

(E) (1) Instead of allowing an Ex-spouse to participate in the Scheme as an Ex-spouse Participant under (A), the Trustees can discharge their liability to her by paying the amount of her Pension Credit to a qualifying arrangement, as defined in paragraph 6 of Schedule 5 to the Welfare Act. The payment must comply with sub-paragraph 1(3) of that schedule.

(2) The Trustees can discharge their liability for any right or benefit payable under (B) by complying with Part IVA of the Pension Schemes Act in respect of it. If an Ex-spouse Participant is also a Member, the Trustees will not transfer her Pension Credit Rights at her request under this paragraph unless she also exercises her statutory transfer option described in Rule 37.

(3) The Trustees can secure any pension payable under (D) by entering into an annuity contract or taking out an insurance policy. The contract or policy must comply with regulation 6(3) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000.

- surplus assets

(F) If the Trustees do not apply any part of a Pension Credit (or its equivalent if the Ex-spouse has died) under any other Sub-rule of this Rule, they will use it for the general purposes of the Scheme.

- payments not to be made to the Crown etc

(G) This Sub-rule applies whenever, but for this Sub-rule, any sum payable under this Rule would be payable to the Crown, the Duchy of Lancaster or the Duke of Cornwall. When this Sub-rule applies, the Trustees will use the sum for the general purposes of the Scheme.

- Safeguarded Rights

(H) The Trustees will comply with the Pension Sharing (Safeguarded Rights) Regulations 2000 with regard to Safeguarded Rights.

- <u>no Ex-spouse Participant's Contributions</u>

(I) No Ex-spouse Participant will be required to or be able to make any contributions to the Scheme. Neither may any Participating Employer make any contributions to the Scheme in respect of an Ex-spouse Participant, unless required under legislation.

- <u>discretionary benefits</u>

(J) Any discretionary power under the Rules to grant or increase any benefit or to admit a person into membership of the Scheme on special terms may not be exercised in respect of an Ex-spouse or Ex-spouse Participant.

- <u>periodic review of pensions</u>

(K) The Principal Employer, as a result of a review of pensions in payment, cannot direct the Trustees to increase the amount of any Pension Credit Benefit.

Appendix

SPECIAL RULES FOR YMC MEMBERS

PART I - APPLICATION AND DEFINITIONS

APPLICABILITY OF THIS APPENDIX

1. **This Appendix applies only to Members who joined the Scheme on 1 September 2002 and who consented in writing to transfer their benefits from the YMC Plan ("YMC Members") and who are listed in Schedule D of the Transfer Deed dated 1 September 2002.**

Except as set out below, the provisions of the Rules apply to YMC Members and expressions defined in the Rules have the same meanings in this Appendix as in Rule 2.

DEFINITIONS

2. **Rule 2 applies to YMC Members except that the following definitions also apply to YMC Members. Where a defined term appears both in Rule 2 and in Rule 2 of this Appendix, the latter will prevail for a YMC Member.**

Child
For a person, any child, or legally adopted child .

Provided that:

(1) a Member shall qualify as a Child only until the age of 18 years,

(2) the expression "Child" does not, unless the Trustees so decide, include any child conceived after the deceased Member's death or born after contributions by the relevant Employer stop under Rule 62, and

(3) the Trustees can decide that any Child (not being his only Child) who the Trustees consider was not dependent on the Member at the time of his death will be disregarded.

Employer
Yorkshire Marine Containers Limited.

Final Scheme Salary
The Member's Scheme Salary for the Scheme Year in which the earlier of the date he leaves the Scheme and Normal Retiring Date occurs except that where bonuses are included in Salary, Final Scheme Salary will include the average annual amount of these payments over the 3 consecutive Scheme Years before the date at which Final Scheme Salary is to be calculated or any shorter period for which they have been payable.

If a Member's Pensionable Service is less than any period referred to above, that shorter period will be substituted.

Any remuneration from the Employer payable to an employee for part-time employment during any period referred to above will be multiplied by the number of the normal working hours that a full-time employee doing similar work would have completed in that period (as decided by the Employer) and divided by the number of the normal working hours actually completed by the Member in that period.

Incapacity
Physical or mental deterioration of health to a degree which in the opinion of the Trustees prevents the Member permanently from following his normal employment and seriously impairs his earning capacity.

Nominated Dependant
does not apply to YMC Members.

Pensionable Service
For a Member, the number of complete years and months (counted as a fraction of a year) of his Service as a Member up to and including the date he leaves the Scheme but before Normal Retiring Date. In addition, any period which counted as pensionable service under the YMC Plan and under the Lex Service Group Limited Pension Scheme after 25 September 1970 will be included as Pensionable Service. No period shall be counted twice.

If the Member has been at any time a Part-time Member, the period to be recognised for the purposes of this definition shall be based on the period calculated as set out above multiplied by the Part-time Adjustment Factor except that no such adjustment shall apply in deciding whether the Member is a Qualifying Member.

Qualifying Spouse
The person (if any) to whom the Member was married at the date of his death unless

(1) the marriage took place after the Member's pension began,

(2) the person remarries or cohabits after the Spouse's pension began, or

(3) the person was cohabiting with a person other than the Member at the date of the Member's death.

Salary
For a Member and any Scheme Year means his annual rate of basic salary or wages on the later of the first day of that Scheme Year and the day he became a Member plus bonuses from the Participating Employers in the immediately preceding Scheme Year.

Scheme Salary
For a Member and each Scheme Year, his Salary for that Scheme Year less the annual rate of the Lower Earnings Limit on the later of the first day of that Scheme Year and the day he became a Member.

3. Rule 7 is replaced with the following:

MEMBER'S ORDINARY CONTRIBUTIONS

7. Members do not have to pay ordinary contributions.

4. Sub-rules 14(B) and (C) are replaced with the following:

NORMAL RETIREMENT PENSION - calculation

14. (B) Subject to Rule 42 (Deductions from benefits), the Normal Retirement Pension will be 1/60th of Final Scheme Salary multiplied by Pensionable Service.

- annual increases

(C) This Sub-rule does not apply to any pension that is converted into a lump sum under Rule 18 (Lump sum instead of pension) or surrendered to provide dependant's pension under Rule 24 (surrender of a participant's pension to provide dependant's pension) or to the GMP Deduction. Any other part of the Normal Retirement Pension which relates to Pensionable Service completed after 5 April 1997 will increase on each 6 April at the rate required by section 51 of the Pensions Act. If the Member's

Normal Retirement Pension has been payable for less than a year, the first increase will be proportionately reduced by reference to the actual period of payment and the Trustees can calculate that proportion on any approximate basis they consider appropriate.

5. Sub-rule 15(B) is replaced with the following:

- calculation of Early Retirement Pension

(B) The Trustees will calculate the Early Retirement Pension as follows:

(1) If the Member is leaving because of Incapacity, the Trustees will calculate the Early Retirement Pension as set out in Sub-rule 14(B) (Calculation of Normal Retirement Pension) but as if the Member's Pensionable Service is the period it would have been if he had stayed in the Scheme until Normal Retiring Date,

(2) If the Member is not retiring because of Incapacity an amount equal to 1/60th of Final Scheme Salary multiplied by Pensionable Service reduced by an amount calculated by a method agreed with the Actuary to be reasonable because the pension starts before Normal Retiring Date.

The Trustees will, if necessary, increase the Early Retirement Pension calculated as set out above so that its value (including the value of any future increases as specified below) is not less than the value of the Deferred Pension from Normal Retiring Date (including the value at that date of the GMP Increase and the Revaluation Increase) to which the Member would have been entitled if he had not chosen an Early Retirement Pension.

6. The first sentence of Sub-rule 16(A) is replaced with the following:

LATE RETIREMENT PENSION
- qualification and payment

16. (A) If a Member leaves Service after Normal Retiring Date, he will be entitled to an immediate pension (the "Late Retirement Pension").

7. Sub-rule 18(C) is replaced with the following:

LUMP SUM INSTEAD OF PENSION
- normal basis amount of lump sum

18. (C) The lump sum will apply to that part of the pension in excess of the Guaranteed Minimum. Unless the Trustees and the Principal Employer agree, it will not exceed 3/80ths of the Member's Final Scheme Salary multiplied by his Pensionable Service, subject to a maximum of 40 years.

8. The first two sentences of Sub-rule 19(A) are replaced with the following:

LUMP SUM DEATH BENEFITS
- lump sum on death in Service before Normal Retiring Date

19. The Trustees will pay the benefits under this Rule in accordance with Rule 20.

(A) If a Member dies in Service before Normal Retiring Date and before leaving the Scheme, the lump sum benefit will be the total of

(1) the Member's Voluntary Contributions (if any), and

(2) the Scheme Death Benefit which will be equal to the Member's Salary for the Scheme Year in which he dies.

- lump sum on death after leaving the Scheme with a Deferred Pension

(B) If the Member dies after leaving the Scheme before his yearly pension under Rule 17 (Benefits on leaving the Scheme) begins, the lump sum benefit will be equal to the Member's Voluntary Contributions (if any).

9. Rule 21 is replaced with the following:

SPOUSE'S PENSIONS

21. (A) If a married Member dies, the Trustees will pay a yearly pension ("the Spouse's Pension") in accordance with Rule 26 to his Qualifying Spouse. The Spouse's Pension will be payable for the rest of the Qualifying Spouse's life.

The amount of the Spouse's Pension (including any increases therein made up to the date it commences) will be, subject to (B):

death while a Member before Normal Retiring Date

(1) if the Member died in Service before his Normal Retiring Date and before leaving the Scheme, equal to 2/3rds of what would have been his Normal Retirement Pension if he had stayed a Member until Normal Retiring Date but based on his Final Scheme Salary at the date of his death,

death in Service after Normal Retiring Date

(2) if the Member died in Service on or after his Normal Retiring Date but before his pension under the Scheme began, equal to 2/3rds of the amount calculated in accordance with Rule 16 (Late Retirement Pension) as if he had retired immediately before his death.

death after leaving Scheme but before pension begins

(3) If the Qualifying Member died after leaving the Scheme but before his pension under Rule 17 (Benefits on leaving the Scheme) began, equal to the greater of the Qualifying Spouse's Guaranteed Minimum and 1/160th of Final Scheme Salary multiplied by Contracted-out Employment.

death after pension begins

(4) If the Member died after becoming entitled to a Normal Retirement Pension, Early Retirement Pension or a Late Retirement Pension and was married to his Qualifying Spouse when his pension began, equal to 2/3rds of what would have been the amount of that pension when the Member died if he had not converted any of his pension into a lump sum under Rule 18 (Lump sum instead of pension) or surrendered any of his pension to provide a dependant's pension under Rule 24 (surrender of a participant's pension to provide dependant's pension).

death after Deferred Pension begins

(5) (a) If the Member was a Qualifying Member and died while receiving a Deferred Pension under Sub-rule 17(A) (Deferred Pension), the sum of

(1) 2/3rds of an amount calculated in accordance with Sub-rule 14(B) (Normal Retirement Pension), and

(2) the Revaluation Increase.

- <u>additional provisions relating to Spouse's Pension</u>

(B) (1) If the Member was more than 10 years older than his Qualifying Spouse, the Trustees can reduce the amount calculated under paragraphs (1) to (5)(a)(1) of (A) as appropriate by 2.5% for each year by which the Member was more than 10 years older than his Qualifying Spouse.

(2) If the Spouse's Pension is payable on the death of a Member while receiving a pension under Rule 17 (Benefits on leaving the Scheme), the Trustees will increase it in accordance with this paragraph (2) for any period between the Member's Normal Retiring Date and his death as though it had begun on the Member's Normal Retiring Date.

(3) Any part of the Spouse's Pension that exceeds the GMP Deduction and which relates to the Member's Pensionable Service completed after 5 April 1997 will increase on each 6 April at the rate required by section 51 of the Pensions Act. If the Spouse's pension has been payable for less than a complete year, the first increase will be proportionately reduced by reference to the actual period of payment and the Trustees can calculate that proportion on any approximate basis they consider appropriate.

(4) The Trustees will if necessary, increase the Spouse's Pension so it is not less than the Qualifying Spouse's Anti-franking Minimum.

(5) The Spouse's payable on the death of a Member before the earlier of his Normal Retiring Date and the date his pension commenced will be subject to any special conditions or restrictions that the Trustees and the Principal Employer agree with each other.

The Trustees will tell the Member in writing of any conditions or restrictions applying to the Spouse's or Nominated Dependant's Pension but will not apply any condition or restriction in a way that conflicts with the requirements of the Disability Discrimination Act 1995.

10. Rule 22 is replaced with the following:

CHILD'S PENSION

22. If a Member dies while in Pensionable Service or after his pension under the Scheme commences without leaving a Qualifying Spouse or if he leaves a Qualifying Spouse and she dies, each of his Children will be entitled to a yearly pension ("the Child's Pension").

The Child's Pension will be payable in accordance with Rule 26

(1) from the Member's death if he did not leave a Qualifying Spouse and his pension under the Scheme had not begun, or

(2) from the date one month after the due date of the last instalment of:

(a) the Member's pension if it had begun and he did not leave a Qualifying Spouse, or

(b) the Spouse's Pension if the Child's Pension became payable on the death of a Qualifying Spouse

until the earlier of the Child's death and his ceasing to qualify as a Member's Child.

The amount of each Child's Pension for each Child will be the Notional Spouse's Pension divided by the number of Children from time to time surviving the Member.

The Notional Spouse's Pension is the Qualifying Spouse's Pension that would have been payable if the Member had died leaving a Qualifying Spouse not more than 10 years' younger than himself.

The Qualifying Spouse's Revaluation Increase will be calculated as if the Qualifying Spouse did not have a Guaranteed Minimum.

This paragraph will apply if there is a change in the number of the Member's Children qualifying for a Child's Pension. When this paragraph applies, the Trustees will adjust the Child's Pension from the instalment due immediately following the cessation or change. For this purpose, the Trustees will calculate the Child's Pension after the adjustment as though the number of Children after the event causing the adjustment had been the number at the Member's death.

The Trustees can restrict the amount of a Child's Pension or impose conditions on it if the Trustees cannot obtain satisfactory insurance cover for what their liabilities would have been.

The Trustees and the Principal Employer will decide the terms of any restriction or conditions and will tell the Member in writing but will not apply them in a way that conflicts with the requirements of the Disability Discrimination Act 1995.

If the Child's Pension has been payable for less than a complete year, the first increase will be proportionately reduced by reference to the actual period of payment and the Trustees can calculate the proportion on any approximate basis they consider appropriate.

The Trustees can at any time and for any period vary the amount of the Child's Pension for some or all of the Member's Children but not so as to alter the aggregate amount of their Child's Pensions from that calculated under this Rule.

These RST Underpin Rules form part of Appendix of Rules covering only YMC Members and apply as described in Rule 1 of that Appendix. These RST Underpin Rules will be treated as including rules to the effect of any rule that must be included for a Contracted-out Salary Related Scheme in accordance with Section 9(2B) of the Pension Schemes Act, and if any of these RST Underpin Rules are inconsistent with the requirements of the Pension Schemes Act (and Regulations made under it) in relation to Section 9(2B) of the Pension Schemes Act, the latter requirements will prevail.

1 DEFINITIONS

In these RST Underpin Rules the following words have the following meanings:

"Actuarial Advice" means advice given by the Actuary.

"Contracted-out Salary Related Scheme" means an occupational pension scheme which satisfies the requirements of Section 9(2B) of the Pension Schemes Act, is contracted-out of the State Earnings Related Pension Scheme and which provides benefits that are broadly equivalent to or better than those specified under the Reference Scheme as certified by the Actuary.

"Final Underpin Salary" means an amount equal to 90% of a Member's Underpin Salary averaged over the period between:

(a) the later of (i) the date of joining the Scheme (whether before or after 6 April 1997) and (ii) the 6 April three years before the 5 April coincident with (or otherwise immediately before) the date of exit; and

(b) the 5 April coincident with (or otherwise immediately before) the date of exit.

In respect of a Member who joins and leaves the Scheme in the same tax year, Final Underpin Salary is 90% of the annualised amount of the Member's earnings between the Lower Earnings Limit and the Upper Earnings Limit during the period of his Underpin Service. The Lower Earnings Limit and Upper Earnings Limit to apply are the respective amounts which apply for the relevant tax year concerned.

For the purpose of this definition, the "date of exit" means the date after 5 April 1997 on which the Member ceases to be in Contracted-out Employment under the Scheme.

"Lower Earnings Limit" For the purposes of these RST Underpin Rules, the amount applies in weekly terms.

"Normal Pension Age" has the same meaning as in Section 180(1)(b) of the Pension Schemes Act.

"Reference Scheme" means the standard scheme specified under Section 12B of the Pension Schemes Act against which the benefits of an occupational pension scheme must be compared in order to be contracted-out of the State Earnings Related Pension Scheme after 5 April 1997 on the basis of it being a Contracted-out Salary Related Scheme.

"Reference Scheme Test" (RST) means the comparison of the benefits provided by a Contracted-out Salary Related Scheme with those under the Reference Scheme to ensure that they are broadly equivalent to or better than those specified under the Reference Scheme.

"RST Underpin Benefits" means the benefits payable in accordance with these RST Underpin Rules for and in respect of a Member and calculated in accordance with Rule 4.

"RST Underpin Rules" means these rules and any amendment or addition thereto.

"Rule" (followed by a number) means the Rule (with that number) in these RST Underpin Rules.

"Underpin Salary" means, in respect of each relevant tax year, an amount equal to a Member's earnings between 52 times the Lower Earnings Limit and 53 times the Upper Earnings Limit. The Lower Earnings Limit and Upper Earnings Limit to apply are the respective amounts which apply for the relevant tax year concerned.

This basis applies to a Member's Underpin Service which is wholly full-time employment with an Employer during a relevant tax year. If a Member's Underpin Service consists wholly or partly of part-time employment with an Employer during a relevant tax year, a Member's Underpin Salary for that tax year is calculated in the same way which applies to wholly full-time employment but as multiplied by the result of the fraction A over B, where:

A = the contractual weekly number of hours required to be worked by an equivalent full-time employee of the Employer during the relevant tax year; and

B = the average number of hours worked by the Member for each week in the same tax year.

The Employer shall decide if a Member's Underpin Service, or part of it, is part-time employment.

"Underpin Service" means Service in Contracted-out Employment completed by a Member after 5 April 1997. It is calculated in complete years (with additional days counting proportionately), subject to a maximum of 40 years.

This basis applies to a Member's Underpin Service which is wholly full-time employment with an Employer during each relevant tax year. If a Member's Underpin Service consists wholly or partly of part-time employment with an Employer during a relevant tax year, a Member's Underpin Service for that tax year is multiplied by the result of the fraction A over B, where:

A = the average number of hours worked by the Member for each week in the relevant tax year; and

B = the contractual weekly number of hours required to be worked by an equivalent full-time employee of the Employer during the same tax year.

The Employer shall decide if a Member's Underpin Service, or part of it, is part-time employment.

"Widow" and **"Widower"** means respectively either the widow or the widower of a Member.

If a Member has married under a law which allows polygamy and, on the day of the Member's death, has more than one spouse, the Trustees shall decide which, if any, survivor is the Widow or Widower. In reaching that decision, the Trustees shall have regard to the practice of the Department of Social Security and any relevant provisions of existing Social Security legislation, in particular Section 17(5) of the Pension Schemes Act and Regulation 2 of The Social Security and Family Allowances (Polygamous Marriages) Regulations 1975 (S.I. 1975/No.561).

2 POWER TO ALTER RST UNDERPIN RULES

The person, persons or bodies having the power of alteration in relation to the rest of the Scheme may at any time in writing make any alteration to the RST Underpin Rules necessary to comply with the contracting-out requirements of the Pension Schemes Act applicable to Contracted-out Salary Related Schemes. In relation to any Section 9(2B) Rights under the Scheme this power of alteration may only be exercised if:

2.1 the Trustees have informed the Actuary in writing of the proposed alteration to the RST Underpin Rules;

2.2 the Actuary has considered the proposed alteration and has confirmed to the Trustees in writing that he is satisfied that the Scheme will continue to satisfy the statutory standard under Section 12A of the Pension Schemes Act after the alteration is made; and

2.3 the alteration is not one which would otherwise prevent the Scheme from being a Contracted-out Salary Related Scheme.

3 ENTITLEMENT TO RST BENEFITS

3.1 RST benefit

In relation to a Scheme Member in Contracted-out Employment on and after 6 April 1997 benefits shall be payable in accordance with the Scheme Rules and shall be at least equal to the benefits set out in these RST Underpin Rules and shall be payable to the Member, or his surviving Widow or Widower.

3.2 Member's RST minimum

An annual pension shall be payable to a Member on his 65th birthday for life in respect of his Underpin Service equal to one-eightieth of his Final Underpin Salary multiplied by his Underpin Service (the "RST Minimum").

In calculating the Member's RST Minimum, no account is taken of:

3.2.1 any benefits deriving from additional voluntary contributions paid by the Member to the Scheme;

3.2.2 any transfer payment for or in respect of the Member accepted by the Trustees from another scheme; and

3.2.3 any discretionary increases or augmentations to benefits granted to or in respect of the Member;

except to the extent which the Trustees decide on the advice of the Actuary.

On the retirement of a Member (on his 65th birthday) who is not in pensionable service under the Scheme Rules, but who has a preserved pension under the Scheme, the Member's RST Minimum is revalued from the date the Member left Pensionable Service until his 65th birthday. The rate of revaluation shall be in accordance with the requirement in Section 84 of the Pension Schemes Act.

3.3 **Retirement other than at age 65**

3.3.1 **Early retirement**

On the retirement of a Member prior to his 65th birthday, the Member shall be paid a pension calculated as in Rule 3.2 but reduced by an amount as determined by the Trustees on Actuarial Advice in respect of the period between his actual date of retirement and his 65th birthday.

3.3.2 **Late retirement**

On the retirement of a Member after his 65th birthday, the Member shall be paid a pension calculated as in Rule 3.2 but increased by an amount as determined by the Trustees on Actuarial Advice in respect of the period between his 65th birthday and his actual date of retirement.

3.4 **Widow's and widower's RST minimum**

3.4.1 On the death of a Member in Underpin Service who leaves a Widow or Widower, he or she shall be paid a pension equal to 50% of the Member's RST Minimum (as defined in Rule 3.2 above) accrued up to the date of his death.

3.4.2 On the death of a Member who leaves a Widow or Widower following his retirement on pension, he or she shall be paid a pension equal to 50% of the Member's RST Minimum. For the purposes of this sub-rule

(a) any reduction or increases applied to a Member's RST Minimum on account of the age the Member actually retired at being different from his 65th birthday, shall not be applied in calculating the amount of the Widow's or Widower's pension. However, the Widow's or Widower's pension may be reduced by an amount determined by the Trustees on Actuarial Advice if the Member retired before Normal Pension Age; and

(b) no reduction shall be made to take account of any pension commuted by the Member on his retirement from the Scheme.

3.4.3 On the death of a Member who is not in Pensionable Service but who has a preserved pension under the Scheme and who leaves a Widow or Widower, there shall be payable a pension equal to 50% of the Member's RST Minimum (without any reduction or increase being applied due to Normal Pension Age being different to 65), revalued in accordance with the requirement in Section 12B(4)(d) of the Pension Schemes Act from the date he left Pensionable Service up to the date of his death, for the benefit of his Widow or Widower.

3.5 **Payment of widow's and widower's RST minimum**

The pension shall be payable for life to any Widow or Widower.

4 DISCRETIONARY USE OF WIDOWS' AND WIDOWERS' PENSIONS

4.1 This Rule 4 applies in respect of a Member who on his death after 5 April 1997 had an entitlement or accrued right to RST Underpin Benefits under the Scheme.

4.2 In respect of the period of Contracted-out Employment which corresponds to a Member's Section 9(2B) Rights applicable to the Widow or Widower under the Scheme, any discretion which the Trustees have under any provision in the Scheme Rules to apportion and pay any part of a pension in excess of a Member's Guaranteed Minimum Pension arising for a Widow or Widower to any one or more of the dependants of the Member (other than the Member's Widow or Widower) shall not be exercised by the Trustees as from and including 6 April 1997 except in relation to that part of the Widow's or Widower's pension which exceeds the RST Underpin Benefits applicable to the Widow or Widower.

5 INCREASE OF MINIMUM

Any RST Minimum paid to a Member, Widow or Widower in accordance with Rule 3 above shall be increased in payment in accordance with the provisions of the Scheme provided that they are not inconsistent with the requirements of Section 51 of the Pensions Act.

6 WINDING UP THE SCHEME

If the Scheme winds up for any reason, priority must be given to a Member's RST Minimum or his Widow's or Widower's benefit (as calculated in Rule 3) in accordance with Section 73 of the Pensions Act, and in accordance with the winding up provisions of the Scheme.

7 ASSIGNMENT, LIEN AND FORFEITURE

7.1 This Rule 7 applies as from and including 6 April 1997. Any provision in the Scheme Rules relating to:

7.1.1 any charge or lien on; or

7.1.2 any set-off against; or

7.1.3 any forfeiture of,

the whole or part of any entitlement or accrued right to a pension under the Scheme shall not be applied or exercised on or after 6 April 1997 except in circumstances and to the extent permitted under Sections 91 to 94 inclusive of the Pensions Act, and subject to Rules 7.2 and 7.3.

7.2 The application of any provision or the exercise of any discretion under the Scheme Rules relating to any of cases 7.1.1, 7.1.2 and 7.1.3 in Rule 7.1 shall not be made in a way which, in respect of any RST Underpin Benefits for or in respect of a Member under the Scheme, would cause the pension payable to a Member or, as the case may be, the Member's Widow or Widower to be less than the RST Underpin Benefits.

7.3 Rule 8.2 does not apply in the case of forfeiture of benefits arising from the attempted assignment by a Member or other beneficiary of any benefit under the Scheme.

In these circumstances, all benefits for and in respect of a Member or other beneficiary concerned shall be forfeited. Where permitted under the Scheme Rules, the Trustees may apply all or part of any forfeited benefits to or for the benefit of the Member or other beneficiary concerned or to or for the benefit of any of the dependants of the Member or of the other beneficiary concerned.

8 SCHEME CEASES TO BE A SALARY RELATED CONTRACTED-OUT SCHEME

If the Scheme ceases to be a Contracted-out Salary Related Scheme, the Trustees must obtain the approval of the Secretary of State to any proposed arrangement for securing Section 9(2B) Rights (and to that end will comply with the requirements of Regulation 45 of The Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/No.1172).

9 CONTRIBUTIONS EQUIVALENT PREMIUMS

9.1 In the circumstances permitted under Section 55(2) of the Pension Schemes Act, and subject to the conditions of Section 57(2) of the Pension Schemes Act, a contributions equivalent premium ("CEP") may be paid by the Trustees in respect of a Member with less than two years' Contracted-out Employment.

9.2 In accordance with Section 60 of the Pension Schemes Act, payment of a CEP extinguishes the Member's accrued rights to pensions in relation to Contracted-out Employment so far as is attributable to the amount of the CEP.

9.3 Where a CEP is paid in respect of a Member's accrued rights to pensions under the Scheme in relation to Contracted-out Employment completed after 5 April 1997:

9.3.1 any refund of the Member's contributions paid to him or any transfer payment made from the Scheme in respect of him, shall be reduced by the amount permitted by Section 61 of the Pension Schemes Act (and regulations made under that Section 61); and

9.3.2 any rights to pensions under the Scheme for the Member or the Member's Widow or Widower shall be extinguished in relation to the period of Underpin Service completed after 5 April 1997.

9.4 Where the CEP would be less than £17 (or any higher amount as may be specified in regulations made under the Pension Schemes Act) it shall be treated as having been paid for the purposes of Section 60 (but not Section 61) of the Pension Schemes Act.

10 COMMUTATION OF RST BENEFIT

A Member's benefit payable under the RST Underpin Rules may be commuted and paid as a lump sum to the extent permitted under Regulation 19 of The Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/No.1172).

11 REDUCTION FACTORS FOR YOUNGER WIDOWS AND WIDOWERS

11.1 This Rule 11 applies in respect of a Member who, on his death on or after 6 April 1997, had Section 9(2B) Rights under the Scheme.

11.2 In respect of the period of Contracted-out Employment which corresponds to a Member's Section 9(2B) Rights under the Scheme, any provision in the Scheme Rules relating to the reduction of any pension benefit payable on the death of a Member on account of the Member's Widow or Widower being younger than the Member, shall not be applied to an extent which would cause the reduction, or the effect of it, to be more than a fixed rate of 2.5% simple for each complete year (without proportion for each complete month) of age difference in excess of ten years by which the Member's age exceeds that of the Widow or Widower.

12 INSURED BENEFITS

12.1 This Rule applies as from and including 6 April 1997 to and in respect of a Member who has an entitlement to Section 9(2B) Rights under the Scheme.

12.2 In respect of the period of Contracted-out Employment which corresponds to a Member's Section 9(2B) Rights under the Scheme, any provision in the Scheme Rules relating to the restriction of any benefits payable on the death of a Member on account of any special terms or conditions or any other reason concerning the insurability of the Member, imposed by the insurance company with whom any benefits are for the time being insured or reinsured, shall not be applied to the extent which would cause the pension payable to the surviving Widow or Widower of the Member to be less than the RST Underpin Benefits for the Widow or Widower.