

THE EXECUTIVE AGENCIES ACT

SCHMES
(*under section 16*)

The Executive Agencies Pension Scheme, 2002

L.N. 81A/2002

REGULATIONS
(*under section 18*)

The Executive Agencies (General) Regulations, 2010

L.N. 26/2010

THE EXECUTIVE AGENCIES ACT

SCHEME
(under section 16)

THE EXECUTIVE AGENCIES PENSION SCHEME, 2002

(Made by the Minister on the 30th day of May, 2002)

L.N. 81A/2002

1. This Scheme may be cited as the Executive Agencies Pension Scheme, 2002. Citation.
2. In this Scheme unless the context otherwise requires the following expressions have the following meanings— Interpretation.
- “actuary” means a Fellow of the Institute of Actuaries of England or the Faculty of Actuaries of Scotland or the Society of Actuaries of the United States of America or the Canadian Institute of Actuaries, who is appointed by the Trustees;
- “adherence date” means the date, subsequent to the Effective Date, on which an Executive Agency is admitted to participate in the Scheme pursuant to clause 23;
- “Effective Date” means the day of 2002;
- “First Participating Employer” means an Executive Agency which was one of the first participants in the Scheme;
- “Fund” means the Fund of the Scheme;
- “Member” means any Employee who has satisfied the Eligibility requirements pursuant to clause 2(1), (2), (3), (4), or (5) of the Rules and has been admitted to the membership of the Scheme in accordance with clause 2(6) of the Rules;
- “new entrant” means an Executive Agency which has been admitted to participate in the Scheme from an adherence date;
- “Participating Employer” means an Executive Agency which has been admitted to participate in the Scheme;
- “Pensioner” means a former Member or his spouse or child who is in receipt of a pension from the Scheme whether such pension is being paid directly from the Fund or has been purchased from an Insurance Company;
- “Retirement Committee” means a body appointed hereunder, membership of which consists of the Trustees, representatives from each Participating Employer and representatives of the Minister;

Schedule.

“Rules” means the rules of the Scheme set out in the Schedule hereto as may be amended from time to time.

Establishment of Pension Scheme.

3.—(1) The Minister hereby establishes under irrevocable trust with effect from the Effective Date, a superannuation fund for Employees of Executive Agencies, to be known as the Pension Scheme for Executive Agencies, which shall be governed by the trusts, powers and provisions contained in the Scheme and the Rules.

(2) The Minister shall appoint the Trustees of the Scheme and the Trustees shall signify their acceptance of office as such in writing.

(3) The First Participating Employers shall agree to become participants in the Scheme and such participation shall be evidenced in writing.

Purpose of Pension Scheme.

4. The main purpose of this Scheme is the provision of retirement benefits for the Members upon retirement at a specified age, and on their deaths for their spouses, children, dependents, or designated beneficiaries.

The Fund.

5.—(1) The Fund shall consist of—

- (a) the contributions made by the Members and Participating Employers as provided by the Rules;
- (b) any assets transferred to the Fund from any other Approved Superannuation Fund or approved retirement scheme pursuant to Clause 21;
- (c) all income accruing thereto from whatsoever source and donations, bequests or other gifts and any funds, investments, policies, monies and property from time to time received by and for the time being held by the Trustees for account of the Fund by way of addition or accretion or otherwise.

(2) The Fund shall be reduced by all payments of pensions and other benefits and expenses for professional services and administration as the Trustees shall from time to time make or authorize to be made out of the Fund, in accordance with the Rules, with the provision that all pensions and other benefits shall be limited in form and amount to those which would not cause the Scheme to cease to be an Approved Superannuation Fund under the Income Tax Act, or other applicable enactment.

(3) The Trustees shall stand possessed of all contributions and monies forming part of or arising out of the Fund or otherwise coming into their hands as Trustees hereunder upon irrevocable trusts to apply the same in accordance with the Rules and the terms herein provided.

Covenant of Participating Employers.

6. Each Participating Employer covenants with the Trustees—

- (a) to comply with the provisions of this Scheme and the Rules;

- (b) as from the date of admission of each Member to the Scheme, to deduct at the appropriate times, from every payment in respect of wages or salaries paid to such Member, such sum or sums as shall be provided for by the Rules;
- (c) to contribute out of its own monies to the Scheme, such sum or sums as shall be specified to be contributions payable by the Participating Employer in accordance with the Rules, and to pay these contributions to the Trustees;
- (d) to pay to the Trustees, within one month of the deduction date, all monies deducted from salaries of those of its Employees who are Members together with such contributions as are payable by the Participating Employers in accordance with the Rules.

7.—(1) There shall at all times be at least seven Trustees who shall be appointed by the Minister by instrument in writing.

Appointment
and removal
of Trustees,
etc.

(2) The Minister shall appoint one of the Trustees to be the Chairman of the Trustees and the Trustees shall appoint one of their number to be Secretary Trustee.

(3) The Minister may remove or replace any Trustee appointed hereunder, provided that such removal would not reduce the number of appointed Trustees to less than seven.

(4) A Trustee may at any time by notice in writing resign as a Trustee of the Fund.

(5) The Trustees shall do all things necessary to give effect to any removal or resignation and to vest the Fund in such new or additional Trustee or Trustees as may be appointed in accordance with paragraph (1).

(6) The Trustees shall meet at least quarterly at such time and place as they shall decide and may make regulations for the conduct of their business and all other matters in connection with their work.

(7) The Chairman of the Trustees and five other Trustees shall form a quorum.

(8) A quorum shall be competent to meet and transact the business of the Scheme notwithstanding a vacancy in the number of Trustees.

(9) All questions shall be decided by a majority vote of the Trustees present and voting and in the event of a tie, the Chairman shall have a casting vote.

(10) A Resolution in writing signed by all the Trustees shall be as valid as a resolution passed at a duly constituted meeting of the Trustees and may consist of several documents in like form, each signed by one or more of the Trustees.

(11) The Trustee shall keep minutes of their meetings and these shall be available for examination by the Participating Employers and the Retirement Committee.

Appointment and removal of members of Retirement Committee, etc.

8.—(1) The Retirement Committee shall consist of the Trustees and such other persons as the Participating Employers may appoint after consultation with the Members.

(2) The Chairman of the Trustees shall be the Chairman of the Retirement Committee and the members of the Retirement Committee shall appoint one of their number to be secretary of the Retirement Committee.

(3) A Participating Employer may remove or replace any member of the Retirement Committee provided that each Participating Employer shall have at least one representative on the Retirement Committee.

(4) A member of the Retirement Committee may at any time by notice in writing resign as a member of the Retirement Committee.

(5) The members of the Retirement Committee shall do all things necessary to give effect to any removal or resignation from, or addition to the Retirement Committee, to ensure that all the Participating Employers and their Employees are fully represented on this Committee at all times.

(6) The members of the Retirement Committee shall meet at least half-yearly at such time and place as they shall decide and may make regulations for the conduct of their business and all other matters in connection with their work.

(7) The Chairman of the Retirement Committee, five Trustees and five non-Trustees members of the Retirement Committee shall form a quorum.

(8) A quorum shall be competent to meet and transact the business of the Retirement Committee notwithstanding a vacancy in the number of members thereof.

(9) All questions shall be decided by a majority of votes of the members present and voting and in the event of a tie, the Chairman shall have a casting vote.

(10) A Resolution in writing signed by all the members of the Retirement Committee shall be as valid as a resolution passed at a meeting of the Retirement Committee.

Duties and powers of Trustees.

9.—(1) The Trustees shall accept and receive all sums of money paid to them from time to time by the Participating Employers and shall hold, invest and reinvest such monies and assets together with the income and profits derived therefrom, in such investments as they may think fit, including and without prejudice to the generality of the foregoing, securities, common and preferred stocks, units, unit trust or mutual funds or other common investment funds or securitized issues, real estate and mortgages.

(2) The Trustees may underwrite or sub-underwrite and enter into any agreement or agreements for underwriting or sub-underwriting any investments or securities, whether on issue or sale and whether jointly with other persons or not, and do all things incidental thereto.

(3) The Trustees shall have power to open and operate or to authorize such person or persons or body as they think fit to open and operate such bank accounts in the name of the Scheme as they think appropriate.

(4) The Trustees may borrow or raise money for the purposes of the Fund from—

- (a) the Participating Employers, or such of them as are willing to lend; or
- (b) from other sources, subject to the consent of a majority of the Participating Employers,

upon such terms and conditions as the Trustees in their discretion may deem desirable or proper.

(5) All monies borrowed as aforesaid shall be treated in all respects as monies forming part of the Fund, and it is hereby declared that the Trustees may from time to time if they consider it to the advantage of the Fund, exercise the power of borrowing hereby conferred by raising monies for the purpose of engaging in transactions or making investments on behalf of the Fund.

(6) The Trustees—

- (a) shall retain in cash and keep unproductive of income such amount of the Fund as they may in their discretion determine;
- (b) shall not be liable for interest on any uninvested cash deposited with them during the period in which such cash is retained in accordance with paragraph (a).

(7) The Trustees may delegate or authorize the sub-delegation to any Trust Company or Investment Manager or both, or other suitable Administrator, all or any of the powers, duties or discretion vested in them hereunder except duties regarding distribution of the assets in the event that the Scheme is wound up.

(8) Any such delegation may be on such terms and conditions as the Trustees shall deem fit and shall be mutually agreed in a contract made between them and the Trust Company, Investment Manager or other Administrator and the Trustees shall not be responsible for any loss thereby arising.

(9) The Trustees shall have the power to employ and to remunerate such manager or agent as they may think fit in the transaction of any business of the Scheme including the payment of pensions and other benefits and any such payment duly made by such manager or agent shall be a good and sufficient discharge of the Trustees.

Duties and powers of Retirement Committee.

10.—(1) The Retirement Committee shall monitor—

- (a) the funding and investment policies, objectives and strategies adopted by the Trustees and may discuss with the Trustees the formulation of such policies and objectives;
- (b) the performance of the Trust Administrator or Investment Manager or both, appointed by the Trustees and for that purpose, shall have access to the quarterly reports presented by the Trust Administrator or Investment Manager.

(2) The Retirement Committee shall—

- (a) review the Audited Financial Statements of the Fund and Actuarial Reports;
- (b) liaise with the Trustees, Participating Employers and Members on issues and other matters affecting the Members with respect to the operations of the Scheme;
- (c) perform such other duties as may from time to time be assigned to it by the Minister after consultation with the Trustees and the Participating Employers.

Payment of pensions, etc.

11.—(1) Payments shall be made from the Fund as the Trustees may from time to time in writing direct and certify as—

(a) payment of—

- (i) pensions or other benefits arising under the Fund; or
- (ii) expenses of administering the Scheme; or

(b) the repayment of borrowed monies and interest thereon.

(2) The Trustees may direct that payments of pensions shall be made directly to the Members.

Expenses of the Fund.

12.—(1) All costs, charges and expenses incurred in carrying out the provisions of this Scheme or for the benefit of or connected with the management of the Scheme shall be paid out of the Fund, unless otherwise paid.

(2) The Trustees and the members of the Retirement Committee shall be entitled to receive reimbursement from the Fund, for expenses incurred on behalf of the Scheme provided that such expenditure is approved by a majority of the Participating Employers, unless otherwise paid.

Annual audited accounts of the Fund.

13.—(1) The Trustees shall keep or cause to be kept proper records and accounts of the Fund and shall submit those accounts to an annual audit within nine months after the end of each Scheme Year.

(2) The auditor or auditors shall be afforded access to all relevant records and documents.

(3) A copy of every audited report shall be given to the Participating Employers and members of the Retirement Committee and shall be accessible to the Members.

14.—(1) The Trustees shall, from time to time, appoint on such terms as they think fit, an actuary and an auditor or auditors.

Appointment of professional persons.

(2) Each auditor shall be a person qualified for appointment as an auditor of a company under the Companies Act.

(3) The Trustees shall have power to revoke or vary any such appointment.

15.—(1) The Trustees may consult with legal counsel (who may be counsel to any Participating Employer) or an actuary or any other professional person appointed by the Trustees, with the knowledge of the majority of the Participating Employers, concerning any question which may arise with reference to their duties under the Scheme.

Consulting with counsel.

(2) The written opinion or advice of such counsel, actuary or other professional, as the case may be, shall be full and complete protection in respect of any action taken or suffered by the Trustees hereunder in good faith and in accordance with the opinion or advice of such counsel, actuary or other professional.

16.—(1) The provisions of paragraph (2) shall have effect subject to the powers exercisable by the Participating Employers under this Scheme and the Rules and save insofar as set aside or varied by any court of competent jurisdiction.

Determination of questions.

(2) The Trustees shall have full power conclusively to determine—

- (a) whether or not any person is entitled to any of the benefits, from time to time, payable under the Scheme and the amount of any such benefit; and
- (b) all questions and matters of doubt arising under, or in connection with, the Scheme and the Fund and whether relating to the construction thereof or otherwise.

(3) Any such determination shall be binding on all interested parties.

17. The Trustees shall have the power from time to time—

- (a) to give written authority to a committee consisting of any two or more persons as they shall think fit and established for the purpose, to draw cheques on such bank accounts or to endorse any cheque or to give receipt and discharge in accordance with the authority

Other powers and duties of Trustees.

laid down by the trustees and every such endorsement, receipt and discharge shall be valid and effectual as if it was given by all the Trustees;

- (b) to authorize any one or more of the Trustees to sign any document on their behalf; and
- (c) to give any undertaking to the Commissioner of Taxpayer Audit & Assessment and to any other relevant Government department or agency, notwithstanding that fulfilment of such undertaking would mean breaking or going beyond or outside the existing provisions of the Scheme and shall treat the existing provisions of the Scheme as being amended so far, if at all, as may be appropriate in order to permit fulfilment of such undertaking.

Protection
from
Liability.

18.—(1) No Trustee shall be personally liable for any loss, damage or costs or expenses that may happen or be incurred in consequence of any act or omission or default of such Trustee whilst purporting to act as such unless the Trustee is guilty of fraud or dishonesty whereby loss or damage is sustained by the Scheme.

(2) Without prejudice to the right of indemnity by law given to trustees, the Trustees shall in the absence of fraud or dishonesty, be indemnified by the Participating Employers in respect of all liabilities and expenses incurred in the execution or purported execution of their duties under the Scheme or of any powers, authorities or discretions vested in the Trustees under the Scheme and against all actions, proceedings, costs, expenses, claims and demands in respect of any matter or thing made, done or omitted in any way relating to the Scheme.

Actuarial
reviews.

19.—(1) At intervals of not more than three years, the Trustees shall obtain from the actuary, and submit to the Participating Employers and members of the Retirement Committee, a written report by the actuary on—

- (a) the financial position of the Fund and its ability to meet its existing and contingent liabilities; and
- (b) such recommendations with respect to the Fund as the actuary shall consider appropriate.

(2) The Members, Deferred Pensioners and Pensioners shall have access to any such report.

Pension
increases.

20.—(1) At each periodic actuarial valuation of the Fund, pensions in payment at the effective date of the valuation may be increased using surplus resources of the Fund as advised by the actuary and accepted by the Trustees and the Participating Employers.

(2) Once declared, any pension uplift shall be payable to the Pensioner with his Normal, Late, Early, Deferred or Ill-Health Retirement Pension (as defined in the Rules), as the case may be, or to the dependent or dependents of a former Member of the Scheme in accordance with the Rules.

(3) The Participating Employers or any of them may pay into the Fund, special subventions to increase benefits to Pensioners provided these payments are not such as to prevent the Fund from being an Approved Superannuation Fund under the Income Tax Act or other applicable enactment.

21.—(1) Subject to paragraph (2), the Trustees shall power to accept, in relation to a Member who has been a member of another Approved Superannuation Fund or retirement scheme approved under the Income Tax Act or other applicable enactment, a transfer from the trustees of such other pension plan of—

Portability of pension rights.

(a) a sum of money or policies of insurance effected for the purpose of such other pension plan; or

(b) such other assets as the Trustees deem appropriate.

(2) Such part of the sum of money or policies or other property transferred as is attributable to contributions paid by—

(a) the employer under the other pension plan, shall be treated as attributable to contributions by the relevant Participating Employer under the Scheme; and

(b) contributions paid by the Transferred Member under such other pension plan shall be treated as attributable to contributions paid by the Member under the Scheme.

(3) Pursuant to paragraphs (1) and (2) the Trustees may accept Transferred Assets from another Approved Superannuation Fund or retirement scheme in respect of a number of Members representing a bulk transfer of their accrued rights under that other scheme.

(4) If a former Member becomes a member of another Approved Superannuation Fund or retirement scheme approved under the Income Tax Act or other applicable enactment, the Trustees may, at the request of such Member, and subject to paragraph (5), transfer to the trustees of such other pension plan, subject to the consent of such trustees, such sum of money or policies of insurance effected for the purpose of the scheme or other assets as the Trustees deem appropriate.

(5) The Trustees, in consultation with the actuary, shall consider the value of such sum or policy or other assets to be equitable and applicable having regard to the benefits which have accrued to the Member up to the date on which he ceased to be a Member of the Scheme.

(6) In making such transfer, it shall be arranged that such part of the sum of money or policies or other assets transferred as is attributable to contributions paid by—

- (a) the former Member under the Scheme, shall be treated as attributable to contributions paid by such member under such other pension plan; and
- (b) the relevant Participating employer under the Scheme, shall be attributable to contributions paid by the employer under such other pension plan.

(7) The former Member in relation to whom such a transfer is effected shall be entitled to such rights under that other Approved Superannuation Fund or retirement scheme as the trustees of that pension plan consider just and equitable and as agreed between them and the former Member.

(8) Pursuant to paragraphs (4), (5), (6) and (7) the Trustees may allow transfer payments to be made to another Approved Superannuation Fund or retirement scheme in respect of a number of Members representing a bulk transfer of their accrued rights under the Scheme.

Amendments
of the
Scheme.

22. The Minister may at any time amend the Scheme and the Rules provided that no such amendment may—

- (a) prior to the satisfaction of all liabilities with respect to Retired Members, Deferred Pensioners and Members and their spouses, children or designated beneficiaries or both, allow any part of the Fund to revert to or be recoverable by the Participating Employers or to be used for or diverted to purposes other than for the exclusive benefit of Retired Members, Deferred Pensioners, and Members and their spouses, children or designated beneficiaries or both;
- (b) enlarge the duties or liabilities of the Trustees without their written consent;
- (c) prejudice or affect the accrued rights of any Member, in respect of benefits payable to him under the Scheme and to which such Member has become entitled by reason of contributions and Transferred Assets already paid to the Scheme; or
- (d) reduce the benefits of any Pensioner or Deferred Pensioner at the date of amendment;
- (e) prevent the Scheme from securing or maintaining its tax exempt status under the Income Tax Act or other relevant enactments;
- (f) extend the operation of the scheme beyond the Trust Period as defined in Clause 26.

Admission
into and
withdrawal
from Scheme.

23.—(1) The Minister may with the consent of the Trustees and Participating Employers, admit any Executive Agency to participation in the Scheme.

(2) A Participating Employer and its Employees may withdraw from the Scheme upon the expiry of one hundred and eighty days' notice in writing served upon the Trustees by such Employer, indicating its intention to cease contributing to the Scheme.

24. If a Participating Employer is wound up for the purpose of reconstruction or amalgamation with any other institution, the Trustees may make arrangement and enter into agreements for the continuation of the Fund in conjunction with such reconstructed or amalgamated company as if such company were the Participating Employer and accordingly, the Scheme and the Rules shall thereafter take effect in all respects as if such company had been a party to the Scheme instead of the Participating Employer.

Reconstruction or amalgamation.

25.—(1) The Scheme shall be partially wound up on the occurrence of any one or more of the following events—

Withdrawal of Participating Employer (Partial Winding Up).

- (a) the Participating Employer is declared by the Minister to have ceased to be an Executive Agency;
- (b) the Participating Employer, with the prior consent of the Minister, gives one hundred and eighty days notice in writing to the Trustees indicating its intention to cease contributing to the Scheme;
- (c) the Participating Employer becomes insolvent or an effective resolution is passed or an order made by any Court for its winding up unless; being solvent, it is voluntarily wound up with a view to reconstruction or amalgamation on terms satisfactory to the Minister;
- (d) a receiver is appointed over the assets or any portion thereof of the Participating Employer;
- (e) the Participating Employer has for a period of 30 days after written demand, made default in the payment of any money (whether principal or interest) due and owing by it or any account to the Fund.

(2) On the partial winding up of the Scheme as provided in paragraph (1), the Trustees shall—

- (a) set apart out of the Fund, such sums as the actuary advises to be the part of the Fund applicable to those Members in the service of that Participating Employer as at the date of such partial winding up; and
- (b) in the manner specified in the Rules, use such portion of the Fund as has been so determined as pertaining to the Participating Employer as at the date of such partial winding up.

26.—(1) The Scheme shall determine upon the happening of whichever of the following events first occurs, provided that under no circumstance shall the trusts continue beyond—

Termination of the Scheme Full Winding Up.

(a) the expiry of six months after the giving of notice in writing by the Minister to the Trustees that the Scheme is to be wound up; or

(b) the expiry of the period of—

(i) twenty-one years after the date of the death of the last survivor of the issue now living of Her Britannic Majesty Queen Elizabeth II; and

(ii) such further period, if any, as may be provided by law.

(2) On the termination of the Scheme as provided in paragraph (1), the affairs of the Scheme shall be wound up and the Trustees shall—

(a) cause an actuarial valuation to be made of the assets and liabilities of the Fund; and

(b) in the manner specified in the Rules, apply the assets of the Fund on the written advice of the actuary, so far as they permit, after the payment of all sums which may then be owing and the costs, charges and expenses of the winding up.

SCHEDULE

(Clause 2)

RULES OF THE PENSION SCHEME FOR EXECUTIVE AGENCIES

Interpretation

1.—(1) In these Rules, unless the context otherwise requires—

“actuarial equivalent” means an amount of benefit which the actuary certifies to be mathematically equivalent in value to another benefit;

“Approved Superannuation Fund” means a superannuation/pension fund which has been and continues to be approved in accordance with the provisions of the Income Tax Act.

“Basic Contributions” has the meaning ascribed to it in rule 3(1);

“child” means a Member’s unmarried child under the age of 19 years or, if a full-time student at a tertiary educational institution, under the age of 23 years;

“continuous service” means a period of uninterrupted employment with Participating Employers;

“contributory service” means the uninterrupted period of years and months during which a Member contributed to the Scheme pursuant to rule 3(1) and for the purpose of determining such period, any periods of service with the Employer of—

(a) fifteen days or more, shall be treated as a complete month;

(b) less than fifteen days, shall be disregarded;

“credited interest” on any contribution shall be the net rate actually earned by the Fund, as determined annually, after the publication of the audited financial statements or the growth in value of investment units allocated in respect of the Member’s accounts, or both;

“Deferred Pensioner” means a Member who terminated from the Scheme before eligibility for the start of a Retirement Pension but who has vested rights to a Retirement Pension payable from his Early Retirement Date or Normal Retirement Date;

“Deferred Retirement Pension” has the meaning ascribed to it in rule 6(5);

“Early Retirement Date” has the meaning ascribed to it in rule 5(2);

“Early Retirement Pension” has the meaning ascribed to it in rule 6(2);

“election period” means a time period of six (6) months after the Effective Date, within which employees of Executive Agencies are to join the Scheme;

“Employee” means any person in the full-time permanent employment of any Participating Employer on or after the Effective Date who meets the requirements in rule 2;

“gratuity” has the meaning ascribed to it in rule 6(12);

“Ill-Health Retirement Date” has the meaning ascribed to it in rule 5(3);

“Ill-Health Retirement Pension” has the meaning ascribed to it in rule 6(3);

SCHEDULE, *cont'd.*

- “insurance company” means a life insurance company registered under the Insurance Act;
- “joint life and survivor pension” has the meaning ascribed to it in rule 6(18);
- “Late Retirement Date” has the meaning ascribed to it in rule 5(4);
- “Late Retirement Pension” has the meaning ascribed to it in rule 6(4);
- “Member’s Account” at any date in relation to any Member means the sum of—
- (a) the Member’s Basic Contribution accumulated with credited interest to that date;
 - (b) Employer’s Contributions on the Members behalf accumulated with credited interest to that date;
 - (c) the Member’s optional contributions, if applicable, accumulated with credited interest to that date; and
 - (d) the Member’s Transferred Assets, if applicable, accumulated with credited interest to that date;
- “Normal Form” has the meaning ascribed to it in rule 6(9);
- “Normal Retirement Date” has the meaning ascribed to it in rule 5(1);
- “Normal Retirement Pension” has the meaning ascribed to it in rule 6(1);
- “optional contributions” has the meaning ascribed to it in rule 3(3);
- “pensionable salary” for a Member means taxable salary exclusive of any special allowances, overtime or other *ad hoc* compensation;
- “pensionable service” means the total number of years and months of a Member’s contributory service and his prior pensionable service, if any;
- “prior fund” has the meaning ascribed to it in rule 3(7);
- “prior pensionable service” means any period of uninterrupted pensionable service with the Government up to the date on which the Member is admitted to the membership of the Scheme pursuant to rule 2(8);
- “reduced pension” has the meaning ascribed to it in rule 6(12);
- “Retired Member” means any Member who is retired under the Scheme and who is receiving retirement benefits provided hereunder;
- “Retirement Pension” means the monthly pension to which a retired Member or Deferred Pensioner or his beneficiary becomes entitled hereunder;
- “Scheme Year” means any twelve-month period commencing on the first day of a calendar year;
- “spouse” means a person of the opposite sex to a Member who—
- (a) was lawfully married to the Member at the date of his retirement or earlier termination of service or death; or
 - (b) not being lawfully married to the Member, resided with him for a continuous period of at least twenty-four months immediately preceding the date of the Member’s retirement or earlier termination or death, at which date neither that person nor the Member was lawfully married to any other person, and who has been established to the satisfaction of the Trustees to have been represented publicly as being the spouse of the Member throughout such period;

SCHEDULE, *cont'd.*

“Transferred Assets” means either—

- (a) the sum of money or other assets paid or transferred to the Trustees by the trustees of a prior fund representing pension rights earned by a Member in a prior Approved Superannuation Fund or retirement scheme; or
- (b) the sum of money or other assets paid or transferred by the Trustees to the trustees of another Approved Superannuation Fund, representing pension rights earned by a Member under the Scheme;

“Transferred Member” means a former member of another Approved Superannuation Fund or approved retirement scheme, who—

- (a) has become a Member of the Scheme and in respect of whom a transfer payment to the Fund has been made by the trustees of that scheme; and
- (b) is entitled to such benefits from the Scheme actuarially equivalent to the Transferred Assets;

“vested Member” means a Member who has completed at least five years of pensionable service and acquired a vested interest in his Participating Employer’s contributions on his behalf and credited interest thereon.

(2) Wherever used in the Rules, unless the context requires, words importing the masculine gender shall include the feminine gender and words importing the singular shall include the plural and *vice versa*.

ELIGIBILITY

Basic Eligibility

2.— (1) Subject to paragraphs (2), (3) and (4), each Employee on the active employment roll of the Participating Employer and who has not yet attained the age of 65 years is eligible to join the Scheme on the first day of the month coincident with or immediately following the latest of—

- (a) the Effective Date; or
- (b) the adherence date of his Participating Employer; or
- (c) the date of his permanent employment in the service of his Participating Employer.

Special Terms in Respect of Employees in Service on the Effective Date

(2) Each Employee who, on the Effective Date, is in the employment of a Participating Employer may elect to join the Scheme on the Effective Date or on the first day of any subsequent month, provided that he has not then attained age 65 years.

(3) The election referred to in paragraph (2) shall be exercised within six months of the Effective Date.

Employees Hired on or after the Effective Date

(4) Each Employee hired on or after the Effective Date shall join the Scheme on the first day of the month coincident with or immediately following the date on which he satisfies the eligibility requirement in paragraph 2(1).

Employees of a New Entrant

(5) Each Employee who is in the employment of a new entrant on the adherence date and has not attained age 65 years may elect to join the Scheme on such date or on the first day of any subsequent month.

SCHEDULE, *cont'd.*

Enrolment in the Scheme

- (6) Subject to paragraphs (2), (3), (4) and (5)—
 - (a) in order to be admitted as a Member, each eligible Employee shall complete and sign the enrolment form prescribed by the Trustees and shall furnish such other data as the Trustees deem necessary or desirable; and
 - (b) such enrolment form shall be the authority required for the deductions from salary of Member's contributions in accordance with the terms of the Scheme.

Proof of Age

(7) For the purposes of paragraph (8), each eligible Employee shall submit evidence in the form of birth and marriage certificates or other legal proof acceptable to the Trustees, with respect to—

- (a) his age;
- (b) the age and relationship of—
 - (i) a spouse or child named by him as his beneficiaries; and
 - (ii) any other person named by him as a dependent.

CONTRIBUTIONS

Members' Basic Contributions

3.—(1) Each Member shall, through monthly payroll deductions, make Basic Contributions to the Scheme of an amount equivalent to five percent (5%) of his pensionable salary.

(2) Contributions shall cease at the Member's Normal, Early, Ill-Health or Late Retirement Date, or at the date of his death or termination of employment, whichever first occurs.

Members' Optional Contributions

(3) A Member may make, on an optional basis, additional contributions to the Scheme of up to five percent (5%) of his pensionable salary. This shall be his optional contributions.

*Contributions by each Participating Employer
Ordinary Annual*

(4) Each Participating Employer shall at all times be an ordinary annual contributor to the Scheme for the purpose of providing benefits payable under the Scheme and such ordinary contributions shall be—

- (a) equal to the amount varying according to the Member's pensionable service as specified in the Table set out herein; and
- (b) payable to the Trustees in installments at least once per month.

<i>Years of Pensionable Service (Years)</i>	<i>Employer's Contributions (% Pensionable Salary)</i>
Less than 5	5
5 but less than 10	7½
At least 10	10

SCHEDULE, *cont'd.**Additional Contributions*

(5) Each Participating Employer shall make such additional contributions as recommended by the actuary to be necessary to fund the benefits or to provide for any improvements that the Participating Employers shall require from time to time, provided that such payments are restricted to be within amounts stipulated by the Income Tax Act, so as not to prevent the Fund from being an Approved Superannuation Fund under that Act or other relevant enactment.

Income Tax Limits on Annual Contributions

- (6) The total amount of—
- (a) Member's contributions payable under paragraphs (1) and (3); or
 - (b) Participating Employer's contributions payable paragraph (4), shall not exceed 10% of the Member's remuneration or such other sum as is prescribed under the Income Tax Act or any other applicable enactment.

Assets Representing the Accrued Benefits of Transferring Members

(7) The Trustees may, on the enrolment of a new Member, accept from the trustees of another Approved Superannuation Fund or approved retirement scheme the capital value (as determined by the actuary of the prior fund) representing the accrued rights of such member in the prior fund.

(8) On any such transfer of capital value to the Fund, the trustees of the prior fund shall identify the portion of the Transferred Assets that represents the Member's own contributions, accumulated with credited interest, to the date of payment from the prior fund.

PENSIONABLE SERVICE

4.— (1) Continuous service with the Participating Employer shall not be broken in the event of the Member's temporary removal from the active employment roll by reason of—

- (a) absence with the consent of the Participating Employer during any period of no pay leave not exceeding one year, but the Participating Employer may consent to extend the period of no pay leave;
- (b) absence from work because of occupational injury or disease incurred as a result of employment with the Participating Employer, such absence being of a duration certified by a registered medical practitioner, as being due to the injury or disease.

(2) A Member shall not be credited with pensionable service for any of the periods of absence specified in paragraph (1), unless he continues to make all contributions to the Scheme during his absence, but he shall retain the pensionable service accrued prior to such absence and upon his return to active employment after an approved leave of absence, he shall again accrue pensionable service, from the date on which he begins to pay contributions to the Scheme.

(3) Failure to return to the employ of the Participating Employer by the end of any agreed period specified in paragraph (1) shall be considered a termination of employment.

Re-Hiring

(4) Any Member whose employment has been terminated except under rule 5(3) and who has received or is entitled to any of the benefits provided hereunder shall, in the event of his being re-employed by the Participating Employer, be treated for the purposes of the Scheme as a new Employee of the Participating Employer as from the date of such re-employment.

SCHEDULE, *cont'd.*

RETIREMENT DATES

Normal Retirement Date

5.—(1) The Normal Retirement Date—

- (a) for each Member shall, subject to sub-paragraph (b), be the first day of the month coincident with or immediately following the 65th anniversary of his date of birth;
- (b) for a Member who has prior pensionable service under the Pensions Act or under the Pensions (Teachers) Act, shall be the first of the month coincident with or immediately following the 60th anniversary of his date of birth.

Early Retirement Date

(2) With the consent of the Trustees and the Participating Employer, a Member who has completed at least 5 years' pensionable service may be retired on the first day of any month within 10 years of his Normal Retirement Date. The date on which the Member retires shall be his Early Retirement Date.

Ill-Health Retirement Date

(3) A Member who, in the opinion of the Medical Advisor appointed by the Trustees and approved by a majority of the Participating Employers, has become disabled by bodily injury, physical or mental disease to the extent that he is prevented otherwise than temporarily from carrying out any duties carried out by him immediately before becoming so disabled, shall be retired on the first day of the month following the month in which he became disabled. The date on which the Member retires will be his Ill-Health Retirement Date.

Late Retirement Date

(4) With the consent of the Participating Employer and the Trustees, a Member may continue in employment beyond his Normal Retirement Date to a Late Retirement Date which will be the first day of any month during the 5 years immediately following his Normal Retirement Date. The payment of his basic contributions, and the Participating Employer's ordinary annual contributions, shall continue until his actual retirement date.

RETIREMENT PENSIONS

Normal Retirement Pension

6.—(1) The annual amount of pension payable to a retiring Member from his Normal Retirement Date shall be equal to the life annuity, guaranteed payable for five (5) years certain, which can be purchased from an Insurance Company, or otherwise secured, with the Member's Account at his Normal Retirement Date. This annuity shall be his Normal Retirement Pension.

Early Retirement Pension

(2) The annual amount of pension payable to a Member who retires on an Early Retirement Date shall be equal to the life annuity, guaranteed payable for five (5) years certain, which can be purchased from an Insurance Company, or otherwise secured, with the Member's Account at his Early Retirement Date. This annuity shall be his Early Retirement Pension.

Ill-Health Retirement Pension

(3) The annual amount of pension payable to a Member who satisfies the conditions for retirement on the grounds of physical or mental incapacity, as set out in rule 5(3), shall be equal to the life annuity, guaranteed payable for five (5) years certain, which can be purchased from an Insurance Company, or otherwise secured, with the Member's Account as at his Ill-Health Retirement Date. This annuity shall be his Ill-Health Retirement Pension.

SCHEDULE, *cont'd.**Late Retirement Pension*

(4) The annual amount of Late Retirement Pension payable to a Member who retires on a Late Retirement Date shall be equal to the life annuity, guaranteed payable for five (5) years certain, which can be purchased from an Insurance Company, or otherwise secured, with the Member's Account at his Late Retirement Date. This annuity shall be his Late Retirement Pension.

Deferred Retirement Pension

(5) The annual amount of Deferred Retirement Pension payable to a Deferred Pensioner under rule 7(2)(b) shall be equal to the life annuity, commencing at his Early or Normal Retirement Date guaranteed payable for five (5) years certain, which can be purchased from an Insurance Company, or otherwise secured, with the Member's Account at his Early or Normal Retirement Date as the case may be. This annuity shall be his Deferred Retirement Pension.

Maximum Pension

(6) Notwithstanding anything herein contained, the maximum annual Retirement Pension payable to a Member shall be two-thirds (2/3) of the Member's annual remuneration at the date of his retirement provided that he has completed at least thirty-three and one-third (33 $\frac{1}{3}$) years of service and shall be proportionately reduced for service below thirty-three and one-third (33 $\frac{1}{3}$) years, except that this limit shall be superseded by any and all such other limits as may from time to time be allowed by the Income Tax Act or other applicable enactment.

Dates of Payment

(7) Pension benefit payments shall be made in equal monthly installments commencing on the first day of the month coincident with the Member's Retirement Date as determined by rule 5(1), (2), (3) or (4), as the case may be.

Trustee's Right to Vary Dates of Payment

(8) Notwithstanding anything herein contained if a Retirement Pension payment would be less than \$1,000 per month, then and in that event the benefit may be paid quarterly or half-yearly in advance, at the discretion of the Trustees.

*Normal Form of Retirement Pension—5 Years
Certain & Life Annuity*

(9) Pursuant to paragraph (1), (2), (3), (4), or (5), the Normal Form of any Member's Retirement Pension is a monthly annuity payable for the Member's lifetime except that in no event shall the payments cease before sixty (60) monthly payments have been made.

(10) If a Retired Member dies prior to his receiving the full five (5) years of benefit payments hereby guaranteed under paragraph (9), the balance of such payments shall be made, as and when due, to his designated beneficiary or if no such beneficiary was named to his legal personal representative.

Alternative Forms of Pension

(11) Subject to the approval of the Trustees a Member may elect to have the actuarial equivalent of his Normal Form of Pension paid in an optional form, pursuant to paragraph (12), (15), (17), (18) or (20), provided his request is made before payment of his benefit commences. Once payment of the Retirement Pension has actually commenced, the Member may not thereafter vary the form of payment.

SCHEDULE, *cont'd.**Gratuity and Reduced Pension*

(12) A Member may elect to commute up to one-quarter of his pension for a lump sum and receive an actuarially reduced pension.

(13) The lump sum payable shall not exceed one-quarter of the unreduced pension multiplied by 12½ but not exceeding \$120,000 or such other limit permitted under the Income Tax Act or other applicable enactment. This shall be his gratuity.

The reduced pension shall be his Retirement Pension actuarially reduced to reflect the gratuity payment.

(14) The actuarially reduced pension shall be payable in the Normal Form or in accordance with the Member's choice of option under paragraph (12), (15), (17), (18) or (20), as the case may be.

Pension Guaranteed for 10 Years certain & Life Thereafter

(15) In lieu of the Normal Form of Retirement Pension, the Member may elect to receive an actuarially reduced pension, payable for life but with 120 guaranteed monthly payments.

(16) If a Retired Member shall die prior to his receiving all 120 monthly payments guaranteed under paragraph (15), the balance of such payments shall be made, as and when due, to his designated beneficiary or if no such beneficiary was named to his legal personal representative.

Pension Guaranteed for Life Only

(17) At the Member's option, in lieu of the Normal Form of Retirement Pension an increased pension shall be payable which is the actuarial equivalent of the Member's pension payable under paragraph (1), (2), (3), (4) or (5), or of the reduced pension payable under paragraph (12), as the case may be, which ceases immediately on his death, irrespective of the number of payments which had been made.

Joint Life and Survivor Pension

(18) At the Member's option, in lieu of the Normal Form of Retirement Pension a reduced pension which is the actuarial equivalent of the pension payable under paragraph (1), (2), (3), (4), or (5) or of the reduced pension payable under paragraph (12), as the case may be, shall be payable to the Retired Member while both the Retired Member and the person designated as the joint life at the time of selecting the option are alive and, after the first death, shall be continued in the same or a reduced amount to the survivor until his or her death. This reduced pension shall be the Joint Life and Survivor Pension.

(19) If the designated joint life dies before the Member's actual retirement date, the Normal Form of Retirement Pension will automatically become payable as if the election to receive a Joint Life and Survivor Pension had not been made.

Other Forms of Payment of Pension

(20) Each Member entitled to a pension under the Scheme may request that the Trustees convert the pension payable under paragraph (1), (2), (3), (4) or (5) or the reduced pension payable under paragraph (12), as the case may be, into another form of pension not described herein provided that it is the actuarial equivalent of the pension to which he is entitled under these Rules and the payment thereof is allowable under the provisions of the Income Tax Act.

SCHEDULE, *cont'd.*

(21) Once a choice of form of Retirement Pension is made and accepted by the Trustees, it cannot be rescinded by the Member without the written consent of the Trustees and with satisfactory evidence of the Member's and beneficiary's good health. In no circumstances shall the consent of a beneficiary be required as a condition to the right of a Member to revoke or change any form of Retirement Pension previously elected.

TERMINATION OF SERVICE BEFORE RETIREMENT

With Less Than Five (5) Years' Pensionable Service

7.—(1) A Member whose employment is terminated for any reason other than death before he has become entitled to a pension under rule 5, and before he has completed at least five (5) years of pensionable service shall elect one of the following:—

- (a) a refund of his Basic Contributions, and optional contributions, if any, held in the Scheme accumulated with credited interest to his date of termination, plus a Deferred Retirement Pension, payable from his Early or Normal Retirement Date, actuarially equivalent to his Transferred Assets, if any, payable in respect of his Transferred Assets accumulated with credited interest to his Early or Normal Retirement Date, as the case may be;
- (b) a Deferred Retirement Pension commencing at his Early or Normal Retirement Date, the annual amount of which shall be equal to the life annuity, guaranteed payable for five (5) years certain, which can be purchased from an Insurance Company or otherwise secured, with his own Basic Contributions and optional contributions, if any, and his Transferred Assets, if any, all accumulated with credited interest up to his date of Early or Normal Retirement, as the case may be;
- (c) a transfer to the trustees of another Approved Superannuation Fund or approved retirement scheme that he is joining of the amount of his own Basic Contributions and optional contributions, if any, and Transferred Assets, if any, all accumulated with credited interest up to the date of payment.

At least Five (5) Years' Pensionable Service

(2) A Member whose employment is terminated for any reason other than death before he has become entitled to a pension under rule 5, and after he has completed at least (5) years of pensionable service shall elect one of the following benefits—

- (a) a refund of his Basic Contributions and optional contributions, if any, accumulated with credited interest to his date of termination, plus a Deferred Retirement Pension payable from his Early or Normal Retirement Date, actuarially equivalent to his Transferred Assets, if any, accumulated with credited interest up to his Early or Normal Retirement Date, as the case may be;
- (b) a Deferred Retirement Pension commencing at his Early or Normal Retirement Date of an amount determined as in rule 6(5);
- (c) a transfer to the trustees of another Approved Superannuation Fund or approved retirement scheme that he is joining of the amount of his Member's Account as at his date of termination, with credited interest up to the date of payment.

Method of Election

(3) The choice of the type of benefit payable under this Rule shall be made by the Member in writing not later than thirty (30) days after his date of termination.

BENEFITS PAYABLE ON DEATH OF A MEMBER

On Death in Service

8.—(1) If a Member dies while actively employed by the Participating Employer—

SCHEDULE, *cont'd.*

- (a) a lump sum shall be payable to his designated beneficiaries equal to the amount of his Member's Account at his date of death, accumulated with credited interest to the date of payment, but the Trustees may pay the amount due hereunder in equal installments over a number of years, rather than as a lump sum;
- (b) if there is no designated beneficiary, the lump sum shall be payable to his legal personal representative.

*Death of an Inactive Member while Awaiting the Start of his
Deferred Retirement Pension*

(2) If a Member who was previously employed by a Participating Employer, dies while entitled to a Deferred Retirement Pension under rule 7(1) or (2) but before commencement of his pension, then—

- (a) his designated beneficiary shall be entitled to receive the amount of money that had been accumulated on the Member's behalf, pursuant to his election under rule 7(1) or (2) up to his date of death, with further credited interest up to the date of payment, but the Trustees may pay the amount due hereunder in equal installments over a number of years, rather than as a lump sum;
- (b) if there is no designated beneficiary, the refund shall be paid to his legal personal representative.

On Death of a Retired Member

(3) Subject to rule 6(9), on the death of a Retired Member, the outstanding guaranteed pension payments, if any, shall be made in accordance with the form of benefit elected by him under rule 6(12), (15), (17), (18) or (20), as the case may be.

DESIGNATED BENEFICIARY

9.—(1) Subject to paragraph (2)—

- (a) each eligible Employee shall name in the prescribed form a beneficiary to receive any death benefits hereunder which may become payable after his death;
- (b) the Member may reserve to himself the right from time to time, by way of similar form, to change the appointment or nomination of any such beneficiary;
- (c) any beneficiary so nominated or appointed to receive any such monies shall be deemed to be beneficially entitled thereto, provided that the interest of any such beneficiary pre-deceasing the Member shall pass to the surviving beneficiary;
- (d) unless the appointment of the beneficiary is in a form approved by the Participating Employer and the Trustees and is received by the Participating Employer or the Trustees before the retirement of the Member, such appointment shall not have any force or effect.

Prior Nomination

(2) A designation of beneficiary made by a Member or a Deferred Pensioner under the Scheme shall remain valid unless revoked by the Member or Deferred Pensioner.

(3) Where there is more than one child or other designated beneficiary—

- (a) in making a nomination, the Member shall state what proportion of the benefits each child or other beneficiary shall be entitled to receive, and if they survive him they shall, on his death, be so entitled;
- (b) if the Member does not state what proportion of the benefits each of two (2) or more children or other beneficiaries shall be entitled to receive, the benefits shall be shared equally among the children or other beneficiaries that survive him.

SCHEDULE, *cont'd*

GENERAL PROVISIONS

10.—(1) Any Member or beneficiary entitled to a benefit under any provision of the Scheme shall have no power to transfer or assign in whole or in part, his right or interest in any Retirement Pension due or to become due from the Scheme except to the Trustees for the benefit of the Member or his spouse, children or beneficiary, nor shall any such right or interest be subject to the claims of creditors or of legal process against any Member or his spouse, children, or beneficiary or estate.

Limits to Employee's Rights

- (2) Enrolment in the Scheme shall not—
- (a) be construed as giving the Employee any right to be retained in the service of the Participating Employer;
 - (b) interfere with the right of the Participating Employer to discharge any Employee; or
 - (c) give the Employee any right, claim or interest in any benefit herein described except upon fulfillment of the provisions and requirements of the Scheme.

Evidence of Disability and Survival

- (3) The Trustees shall have the right to—
- (a) appoint a medical practitioner to ascertain the condition of health of any Member to whom they propose to grant Ill-Health Retirement to determine if such Member is incapable of discharging the duties of his office or employment and if the incapacity is likely to be permanent and every such Member shall submit himself for examination from time to time, as may be required by the Trustees;
 - (b) require satisfactory evidence of survival of any person receiving benefits under these Rules on the due date of any such payment.

Recovery from Disability

(4) If, in the opinion of a Medical Advisor acceptable to the Participating Employer, a Member who was retired in accordance with rule 5(3) recovers so as to be able to perform the duties of the position occupied by him prior to his Ill-Health Retirement or a similar position, then—

- (a) the Participating Employer may allow the Member to re-enter the Participating Employer's service; and
- (b) if the Member agrees to re-enter the service of the Participating Employer, he shall be treated as a new Member.

Copies of the Statutory Trust and Rules

(5) Each Member shall be entitled to inspect a copy of the Scheme and these Rules and any alterations thereof.

Statements of Members' Accounts

(6) Each Member shall receive a statement as soon as practicable after the end of each Scheme Year showing the total contributions which he has paid during that Year and the total of his Member's Account as at the date of the statement.

Forfeiture of Pension Benefits

(7) The Retirement Pension to which a Member shall or may become entitled under these Rules—

SCHEDULE, *cont'd.*

- (a) shall be forfeited and cease to be paid or payable if such Member shall execute any assignment of his entitlement under the Scheme for the benefit of creditors or attempt to alienate, charge or anticipate the same or any part thereof and in any such case, and whether the pension has begun to be paid or otherwise, the Trustees shall apply such forfeited pension for the Member's personal support or maintenance or otherwise for the benefit of his spouse, children or other designated beneficiary; or
- (b) may, if the Pensioner is, in the opinion of the Trustees, suffering from any disease or other incapacity rendering him unable to manage his affairs or give a proper receipt, be paid at their discretion, to the Pensioner's spouse or any relative or beneficiary of the Pensioner or to any bank or institution to be applied for his benefit and the receipt of the person, bank or institution so paid shall be a complete discharge to the Trustees for the money paid and they shall not be under any liability to see to the application thereof.

Pension Increases

(8) The Trustees may, pursuant to Clause 20 of the Scheme, grant increases in pensions as recommended by the actuary to be within the resources of the Fund and such resources may come from—

- (a) the non-vested balances from Participating Employers' contributions with credited interest in respect of terminating members with less than five (5) years' pensionable service;
- (b) additional contributions made by the Participating Employer;
- (c) surpluses as determined by the actuary.

ADMINISTRATION OF THE SCHEME

Administrative Procedure

11.—(1) The administration of the Pension Scheme shall be the responsibility of the Trustees and may be done by the Trust Administrator or Investment Manager, or both or the Life Insurance Company or other professional appointed by the Trustees under Clause 9 of the Scheme.

Certification of Records

(2) The Participating Employers shall maintain the necessary records of age, pensionable service and pensionable salary of each Member and shall make these available to the Trustees.

(3) In the event that there is a difference between a Participating Employer and its Employee with regard to pensionable service or pensionable salary, the records of the Participating Employer shall be considered as conclusive in determining such pensionable salary or pensionable service.

PARTIAL WINDING UP OF THE SCHEME

12.—(1) The provisions of this rule shall apply on the withdrawal of a Participating Employer from the Fund in accordance with Clause 25 of the Scheme.

(2) Subject to paragraph (3), the Trustees shall hold the part of the Fund as advised by the actuary to be applicable to those Members in the service of the Employer as at the date of such partial winding up on trust to apply it, on the written advice of the actuary, after providing for the payment of all costs, charges, and expenses arising as a consequence of the withdrawal of and the settlement of any debts owed by the Fund, in the provision of benefits, whether in the form of lump sums representing refunds of the Members' own Basic and optional Contributions accumulated with credited interest or Early, Normal or Late Retirement Pensions or Deferred Retirement Pensions in accordance with each Member's entitlement under rule 6, 7 or 8 and his individual election.

SCHEDULE, *cont'd.*

(3) The portion of the assets as advised by the actuary under paragraph (2) shall be allocated with the following priorities—

- (a) firstly, in purchasing non-commutable and non-assignable annuities or otherwise providing for the pensions payable under the same conditions as payments receivable hereunder for those person then entitled to Early, Normal or Late Retirement Pensions and to such spouses, children or other dependents or all of the foregoing beneficially entitled through them to pensions out of the Fund, such annuities to be of amounts equal to the pensions to which those persons are then entitled;
- (b) secondly, in securing the benefits for all other Members, whether vested or non-vested, who are entitled in anticipation to pensions out of the Fund in such amounts as determined by the actuary having regard to their respective accrued rights under the Scheme on the last day immediately preceding the effective date of the withdrawal of the Participating Employer.

(4) The respective benefits of each such Member to be secured, at his election, through—

- (a) lump sums within limits allowed under the Income Tax Act or other applicable statutes or the purchase of non-commutable and non-assignable immediate or deferred annuity or both such lump sums and annuity;
- (b) the transfer of the amount which is the actuarial equivalent of said annuity to another Approved superannuation Fund which the Member is joining or has joined; or
- (c) some other arrangement as may be permitted, from time to time, under the Income Tax Act or other applicable enactment, if such benefit is the actuarial equivalent of the Member's accrued rights at the effective date of withdrawal of his Participating Employer.

*Insufficiency of Part of Fund Attributable to Accrued Benefits of
Employees of the Withdrawing Employer*

(5) If the part of the Fund determined by the Actuary to be attributable to the Employees of the Participating Employer is insufficient to provide a full allocation for all persons within any of the categories defined in paragraph (3)(b), the allocation to each person within the category shall be reduced in the same proportion.

*Surplus of Assets Attributable to Employees of the
Withdrawing Employer*

(6) If any assets remain after making full allocations to the Members pursuant to paragraph (3)(a) and (b)—

- (a) part of such balance shall, with the consent of the Participating Employer, be used by the Trustees to enhance the benefits of the Members, in a fair and equitable manner having regard to each Member's respective entitlement, the limits on benefits imposed under the Income Tax Act or other applicable enactment and the written advice of the actuary;
- (b) notwithstanding anything contained herein to the contrary and having regard to the limits imposed by the Income Tax Act or any other applicable statutes, any surplus assets remaining after meeting the allocations of paragraph (3)(a) and (b) and any enhancements granted pursuant to paragraph (6)(a) shall be returned to the Participating Employer as advised by the actuary.

WINDING UP OF THE SCHEME

13.—(1) The provisions of this rule shall apply upon the discontinuance of the Fund in accordance with Clause 26 of the Scheme.

SCHEDULE, *cont'd.*

(2) The Trustees shall hold the Fund on trust to apply it, on the written advice of the actuary, after providing for the payment of all costs, charges and expenses of the winding up and the settlement of all debts owed by the Fund, in the provision of benefits which are then payable, being paid or accrued whether they be in the form of lump sums representing refunds of Members' own basic and optional contributions accumulated with credited interest or Early, Normal or Late Retirement Pensions or Deferred Retirement Pensions in accordance with the entitlement of each Member or Deferred Pensioner under rule 6, 7 or 8 and his individual election.

(3) The available assets shall be allocated with the following priorities—

- (a) firstly, in purchasing non-commutable and non-assignable annuities or otherwise providing for payments being received hereunder by those persons then in receipt of pensions out of the Fund and to such spouses, children or other dependents beneficially entitled through them to pensions out of the Fund, such annuities to be of amounts equal to the pensions which those persons were then receiving and/or contingently payable;
- (b) secondly, in purchasing non-commutable and non-assignable annuities or otherwise providing for the pensions payable under the same conditions as payments receivable hereunder for those persons then entitled to Early, Normal or Late Retirement Pensions out of the Fund and to such spouses, children or other dependents beneficially entitled through them to pensions out of the Fund, such annuities to be of amounts equal to the pensions to which those persons were then entitled;
- (c) thirdly, in securing the benefits for all other Members whether vested or non-vested and Deferred Pensioners, who are entitled in anticipation to lump sums or pensions out of the Fund, in such amounts as determined by the actuary having regard to their respective accrued rights under the Scheme on the last day immediately preceding the effective winding up date, the respective benefits of each such Member or Deferred Pensioner to be secured, at his election, through—
 - (i) lumps sums within the limits allowed under the Income Tax Act or other applicable enactment or the purchase of non-commutable and non-assignable immediate or deferred annuity, or both such lump sums and annuity;
 - (ii) the transfer of the amount which is the actuarial equivalent of the said annuity to another Approved Superannuation Fund which the Member or Deferred Pensioner is joining or has joined; or
 - (iii) some other arrangement as may be permitted, from time to time, under the Income Tax Act or other applicable enactment, if such benefit is the actuarial equivalent of the Member's accrued rights at the effective date of the winding up.

Insufficiency of the Assets on Winding Up of the Fund

(2) If the balance of the Fund after meeting all costs, charges and expenses of the winding up and the payment of all debts owed by the Fund but before securing the benefits at paragraph (1)(a) and (c), is insufficient to provide a full allocation for all persons within all of the categories defined in paragraph (1)(b) and (c), the allocation for each person within the categories shall be reduced in the same proportion.

Surplus Assets on Winding Up

(3) If any assets remain after making full allocations to the Pensioners, Members and Deferred Pensioners pursuant to paragraphs (1)(a), (b) and (c) then part of such balance shall,

SCHEDULE, *cont'd.*

with the consent of a majority of the Participating Employers, be used by the Trustees to enhance the benefits of the Pensioners, Deferred Pensioners and Members, in a fair and equitable manner having regard to their entitlement, the limits imposed by the Income Tax Act or other applicable enactment and the written advice of the actuary.

(4) Notwithstanding anything contained herein to the contrary and having regard to the limits imposed by the Income Tax Act, or any other applicable enactment, any surplus assets remaining after meeting the allocations of paragraph (1)(a), (b) and (c) and any enhancements granted pursuant to paragraph (3) shall be returned to the Participating Employers in the proportions advised by the actuary.

CURRENCY FOR CONTRIBUTIONS AND BENEFITS

14. Contributions and Benefits under these Rules shall be calculated and remitted in the lawful currency of Jamaica.

THE EXECUTIVE AGENCIES ACT

REGULATIONS
(under section 18)

THE EXECUTIVE AGENCIES (GENERAL) REGULATIONS, 2010

(Made by the Minister on the 2nd day of July, 2010)

L.N. 26/2010

1. These Regulations may be cited as the Executive Agencies (General) Regulations, 2010. Citation.

Preliminary

2. In these Regulations— Interpretation.

“financial instructions” means the financial instructions issued to Executive Agencies pursuant to the Financial Administration and Audit Act;

“Public Service Regulation” means the Public Service Regulations, 1961, as amended from time to time.

3.— (1) Each Executive Agency shall operate as a performance based institution in order to ensure the achievement of the objects set out in section 3 of the Act. Operating principles.

(2) For the purposes of paragraph (1), the Agency shall—

- (a) operate as efficiently and effectively as possible in fulfilling its mandate under the relevant Act;
- (b) adhere to employment practices; and
- (c) have regard to the interests of the community which it serves and endeavour to accommodate those interests whenever possible.

(3) For the purposes of paragraph (2), the Chief Executive Officer of each Executive Agency shall formulate and implement a human resource policy containing provisions which are generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions for—

- (a) good and safe working conditions;
- (b) an equal employment programme;
- (c) the impartial selection of suitably qualified persons for appointment; and
- (d) opportunities for the enhancement of the abilities of individual employees.

Framework Document and Performance Agreement

Review and updating of Framework Document.

4. The Chief Executive Officer of each Executive Agency shall take such steps as are necessary to ensure that—

- (a) the Framework Document of the Agency contains all the provisions set out in the Schedule to the Act and is reviewed every three years and updated as necessary; and
- (b) the Framework Document and the Performance Agreement contain provisions requiring the Chief Executive Officer to comply with the financial instructions.

Corporate Plan

Corporate Plan.

5.—(1) Each Chief Executive Officer shall—

- (a) prepare a proposed corporate plan for the Agency to cover a minimum period of three years of operation; and
- (b) submit a copy of the proposed plan to the responsible Minister, responsible permanent secretary and the Financial Secretary on or before January 15th of each year or as specified by the Financial Secretary.

(2) The proposed corporate plan shall be in a form approved by the Financial Secretary, and shall include—

- (a) the Agency's strategic objectives and performance targets together with its broad plans for achieving them;
- (b) the Agency's plans for marketing, operational and information technology and financial and human resources;
- (c) the Agency's main undertakings;
- (d) the information to be provided by the Agency to the Financial Secretary and the responsible Minister during the three year period;
- (e) a business plan containing such information as the Financial Secretary or the responsible Minister requires;
- (f) the key performance indicators of the Agency as determined in accordance with regulation 6;
- (g) such other matters as may be agreed on by the Financial Secretary, the responsible permanent secretary and the responsible Minister from time to time.

(3) The responsible Permanent Secretary shall within fourteen days of receiving the proposed corporate plan submit it with any modifications proposed by the responsible Permanent Secretary to the responsible Minister with a recommendation in writing from the responsible Permanent Secretary for its approval.

(4) The corporate plan may be modified at any time by the Agency with the approval of the responsible permanent secretary and the responsible Minister.

(5) Every Executive Agency shall act only in accordance with its corporate plan unless it has obtained the written approval of the responsible Minister and the responsible permanent secretary to do otherwise.

6. The procedure for setting key performance indicators shall require that such indicators—

Procedure for setting key performance indicators.

- (a) are set by the Chief Executive Officer in consultation with the responsible permanent secretary;
- (b) are related to the core business of the Agency;
- (c) are clearly linked to the Agency's goals and objectives;
- (d) provide for transparency and are measurable and credible;
- (e) are certified by the responsible permanent secretary as being meaningful and relevant to the monitoring of the Agency's performance; and
- (f) are approved by the responsible Minister.

7.—(1) Each Executive Agency shall formulate a Code of Conduct for the information and guidance of members of staff of the Agency.

Code of Conduct.

(2) Without prejudice to the generality of paragraph (1), the Code of Conduct shall contain provisions which, with such modifications as may be necessary, are comparable to the provisions with such modifications as may be necessary, of the Public Service Regulations that are set out in the Schedule to these Regulations.

Schedule.

(3) The Code of Conduct shall be published in a Human Resource Manual and the Chief Executive Officer shall take such steps as are necessary to ensure that all members of staff have access to the Manual.

(4) The Code of Conduct shall—

- (a) include provisions relating to—

- (i) requirements for confidentiality;
- (ii) the involvement of employees in political activity;
- (iii) recruitment and appointment of staff;
- (iv) separation;
- (v) conflict of interest;
- (vi) standards of behaviour at the workplace;
- (vii) disciplinary matters;
- (viii) grievance procedures;

(b) require the Chief Executive Officer to establish a Human Resource Executive Committee to manage the human resource functions that are delegated to the Agency pursuant to the Public Service Regulations.

(5) In the exercise of its functions under paragraph (4) (b), the Human Resource Executive Committee shall act in accordance with guidelines established by the Office of the Services Commissions.

Leave entitlement.

8.—(1) Subject to paragraphs (2) and (3), each member of staff of an Executive Agency shall be entitled to a minimum of fourteen days vacation leave, ten days sick leave and five days casual leave in each year.

(2) The Chief Executive Officer of an Executive Agency may, if the circumstances so warrant, having regard to the nature of its operations, grant additional leave to members of staff as a performance incentive, so, however, that any such leave shall be in accordance with policy guidelines issued by the Government.

(3) Provisions relating to leave entitlement shall be set out in the Human Resource Manual or the Code of Conduct, as the case may require, of each Executive Agency.

Linking of service.

9.—(1) Subject to the provision of this regulation, a person employed in an Executive Agency may be transferred to a post in another Executive Agency and upon such transfer, any leave entitlement earned by and any pension benefits accruing to, the person in relation to the former employment shall continue to apply while the person remains employed to an Executive Agency.

(2) For the purposes of paragraph (1), a person shall be deemed to be on secondment to the new Executive Agency during the period of six months following the date on which the person commenced duties in that Agency.

(3) The person transferred may at his option exercisable within three months of the date of the transfer—

- (a) be paid for any leave earned in the former employment; or
- (b) be paid in respect of a portion of such leave and be credited with the remaining portion.

(4) The Executive Agency to which a person is transferred shall, in accordance with the relevant provisions of the Executive Agencies (Pension Scheme) 2002, pay pensions contributions in relation to the person so transferred and such contributions shall be based on the person's total years of service in Executive Agencies.

(5) A person who resigns from a post in an Executive Agency and is thereafter employed by another Executive Agency, shall be entitled, on retirement from the Agency in which he is last employed, to a pension in respect of his total years of pensionable service in Executive Agencies.

(6) For the purposes of paragraph (5), the Executive Agency in which the person is employed subsequent to resignation from another Agency shall pay pensions contributions based on the person's total years of pensionable service in Executive Agencies.

Advisory Boards

10.—(1) Each Advisory Board shall consist of not less than five nor more than seven members as the responsible Minister may appoint on the recommendation of the Chief Executive Officer, being persons who are qualified as having had experience or shown capacity in matters relating to law and finance, or such other matters as the Chief Executive Officer considers appropriate for appointment under this paragraph.

Appointment of
members of
Advisory Board.

(2) A person shall not be qualified for appointment as a member of the Advisory Board if that person is the responsible permanent secretary or—

- (a) is a member of the Senate or House of Representatives;
- (b) has been convicted of an offence involving fraud, dishonesty or moral turpitude.

(3) The Minister may appoint any person to act temporarily in place of any member of the Board if that member is absent or unable to act.

(4) The Minister shall appoint one of the members of the Advisory Board to be the chairman thereof.

(5) In the case of the chairman's absence or inability to act at any meeting, the members of the Board present at such meeting shall elect one of their numbers to act as chairman at that meeting.

(6) The appointment of every member of the Board shall be evidenced by an instrument in writing which shall state the period not exceeding three years as the Minister may specify and each member shall be eligible for reappointment.

(7) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of the instrument by the Minister.

(8) A member other than the chairman may at any time resign his office by instrument in writing addressed to the chairman who shall forthwith cause it to be forwarded to the Minister and that member shall cease to hold office as from the date of receipt of the instrument by the Minister.

(9) The Minister may terminate the appointment of any member who—

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) becomes disqualified for appointment by virtue of paragraph (2);
- (e) fails to carry out any of the functions conferred or imposed on him under the Act or these Regulations.

(10) The names of all members of the Advisory Board as first constituted and every change in the membership shall be published in the *Gazette*.

(11) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board shall determine.

(12) The chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Board.

(13) The chairman or in the chairman's absence or inability to act, the person appointed under paragraph (5) shall preside at the meetings of the Board and when so presiding the chairman or that person shall have an original and a casting vote in any case in which the voting is equal.

(14) The quorum of the Board shall be three or such higher number as the Board shall determine.

Strategic Review

11.—(1) A strategic review of the operations of each Executive Agency shall be carried out every five years.

Strategic
Review.

(2) The strategic review shall be conducted by such person or persons as are appointed by the responsible Minister on such terms and conditions as are specified in the instrument of appointment.

(3) The purpose of the strategic review shall be to provide—

(a) an evaluation of the Agency's performance against key performance indicators; and

(b) an assessment of the efficacy of the service delivery of the Agency.

(4) The findings of the strategic review shall be used to update the Framework Document and other relevant documents in the Scheme of Management.

(5) The expenses of the strategic review shall be paid out of the funds of the Agency.

General

12.—(1) The Framework Document of each Executive Agency shall be signed by the responsible Minister, the responsible permanent secretary, the Cabinet Secretary, Financial Secretary and the Chief Executive Officer.

Signing of
Framework
Document and
Performance
Agreement

(2) Each Performance Agreement shall be signed by the responsible Minister, the responsible permanent secretary and the Chief Executive Officer.

13.—(1) The performance evaluation of each Chief Executive Officer shall be conducted by the responsible permanent secretary in consultation with the Chief Executive Officer.

Performance
Evaluation.

(2) The responsible permanent secretary shall submit the performance evaluation to the responsible Minister and the Chief Personnel Officer.

14.—(1) The Chief Executive Officer shall submit to the responsible Minister through the responsible permanent secretary, quarterly reports on the activities of the Executive Agency during the preceding quarter.

Quarterly
Reports.

(2) The responsible permanent secretary shall assess the report and shall forward his comments on the Agency's performance with the report to the responsible Minister and the Cabinet Secretary.

Annual Reports.

15.—(1) The Chief Executive Officer shall submit to the responsible Minister through the responsible permanent secretary, the annual report required by section 15(3) of the Act in relation to the activities and performance of the Executive Agency during the preceding financial year.

(2) The annual report shall include—

- (a)** a statement concerning the accounting policies applied in the accounts of the Executive Agency;
- (b)** a statement concerning the Agency's actual performance against its key performance indicators; and
- (c)** financial statements containing such information as the Financial Secretary requires.

(3) The responsible permanent secretary shall, within one month after the receipt of the report, submit to the responsible Minister and the Cabinet Secretary, an assessment of the performance of the Executive Agency.

SCHEDULE

(Regulation 8)

Provisions of the Public Service Regulations to be included with necessary modifications in Codes of Conduct and Human Resource Manuals of Executive Agencies.

Regulation 11—Failure to comply with request of Commission.

Regulation 13—Penalty for giving false information.

Regulation 15—Supervision of training.

Regulation 16—Advertisement of vacancies.

Regulation 17—Principles of selection for promotion.

Regulation 18—Principles of selection for acting appointments.

Regulation 19—Procedure for appointments.

Regulation 20—Selection Boards.

Regulation 28—Functions respecting discipline.

Regulation 32—Interdiction.

Regulation 35—Officer convicted of a criminal charge.

Regulation 36—Non-payment of emoluments on conviction of a criminal charge.

Regulation 38—Suspension, deferral and withholding of increments.

Regulation 43—Proceedings for dismissal.