THE NATIONAL ASSEMBLY FOR WALES MEMBERS’ ADDITIONAL VOLUNTARY CONTRIBUTIONS SCHEME

Interpretation

- These Rules may be cited as the National Assembly For Wales Members’ Additional Voluntary Contributions Scheme.
- In these Rules, unless the context otherwise requires-

"the Taxes Act 1988" means the Income and Corporation Taxes Act 1988;

"the Direction" means The National Assembly for Wales (Assembly Members) (Pension Scheme) Direction 1999;

"the Scheme" means the National Assembly for Wales Members’ Pension Scheme established in the Direction and as from time to time in force;

"approved scheme" means a retirement benefits scheme approved under Chapter I of Part XIV of the Taxes Act 1988 or such other legislation as may be in force from time to time in respect of such approval;

"the AVC Scheme" means the National Assembly for Wales Members’ Additional Voluntary Contributions Scheme set out in these Rules and as from time to time in force;

"contributor" means a participant who is admitted to the AVC Scheme in accordance with Rule 5(1);

"dependant" of a contributor means the contributor's spouse and any relevant child of the contributor as defined by Rule K3(5) of and Schedule 5 to the Direction;

"free-standing additional voluntary contribution scheme" means an additional voluntary contribution scheme which is an approved scheme to which an employer does not contribute;

"Fund" means the fund established under Rule B1 of the Scheme.

"index" at any time, means the index of retail prices published by the Office for National Statistics, or any successor agreed as appropriate by the Board of Inland

Revenue, for the calendar month three months prior to that time;

"maximum pension" shall be construed in accordance with Schedule 2 to the Rules of the Scheme;

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

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

"participating office holder" means a person making contributions to the Scheme deducted from his salary as an office holder;

"pensionable service" has the same meaning as in Schedule 2 to the Rules of the Scheme;

"personal pension scheme" means a scheme approved under Chapter IV of Part XIV of the Taxes Act 1988;

"retained benefits" has the same meaning as in Schedule 2 to the Rules of the Scheme;

"retained death benefits" means any lump sum benefits payable on the contributor's death derived from the sources set out in the definition of "retained benefits" in Schedule 2 to the Rules of the Scheme, but if the total of retained death benefit is less than £2,500 it may be disregarded:

> Provided that benefits representing a return of the contributor's own contributions plus interest thereon and benefits derived from a return of funds under retirement annuity contracts approved under section 620 of the Taxes Act 1988 or personal pension schemes may be ignored for this purpose;

"retirement benefits scheme" means a scheme within the meaning of section 611 of the Taxes Act 1988;

"service" has the same meaning as in Schedule 2 to the Rules of the Scheme.

"Trustees" has the same meaning as in Schedule 1 to the Rules of the Scheme.

- In the AVC Scheme, "final remuneration" means the greater of-
  (a) the highest emoluments of a person as a Member of the National Assembly for Wales and/or as an office holder which are assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined for any period of 12 months in the 5 years preceding the relevant date, and
  (b) the yearly average of the total emoluments of a person as a member of the National Assembly for Wales and/or as an office holder which are assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined for any 3 or more consecutive years ending not earlier than 10 years before the relevant date:
  Provided that-

  (i) where final remuneration is computed by reference to any year other than the last complete year ending on the relevant date, the contributor's remuneration (as calculated in (a) above) or total emoluments (for the purposes of (b) above) of any year may be increased in proportion to any increase in the index from the last day of that year up to the relevant date;

  (ii) an early retirement pension in payment by virtue of Part H of the Scheme; an ill-heallth retirement pension in payment by virtue of Part J of the Scheme or a spouse’s pension in payment by virtue of Part K of the Scheme may not be included in final remuneration;

  (iii) a contributor in receipt of a much reduced remuneration by reason of incapacity for more than 10 years up to the relevant date may calculate final remuneration under (a) or (b) above with the final remuneration calculated at the cessation of normal pay and increased in accordance with the index;

  (iv) final remuneration shall not exceed the permitted maximum.

  For the purposes of providing immediate benefits at the relevant date it is permitted to calculate final remuneration on the appropriate basis above using remuneration assessable to tax under Case I or II of Schedule E and upon which tax liability has not been determined. On determination of this liability final remuneration shall be recalculated. If this results in a lower final remuneration then benefits in payment shall be reduced as necessary. Where final remuneration is greater it is possible to augment the benefits in payment. Such augmentation, however, must take the form of an annuity.

  Where immediate benefits are not being provided or where a transfer payment is to be made in respect of accrued pension benefits then final remuneration may only be calculated using remuneration assessable to income tax under Case I or II of Schedule E and upon which tax liability has been determined.

Trustees and administration

3. (1) Schedule 1 to the Rules of the Scheme shall have effect for the purposes of the AVC Scheme.

   (2) These Rules set out arrangements for an AVC Scheme whereby participants in the Scheme may, subject to the approval of the Trustees, make contributions for the purpose of securing benefits additional to those which would otherwise be payable to or in respect of such participants pursuant to the Scheme.

   (3) Subject to Rule 10(3) below, benefits under this AVC Scheme shall be paid by the Trustees in accordance with the provisions of these Rules.

   (4) The Trustees shall be responsible for the discharge of all duties imposed on the administrator of an AVC Scheme under Chapter I of Part XIV of the Taxes Act 1988.

   (5) Any sums received by the Trustees by virtue of the AVC Scheme shall be paid into a suspense account or accounts used for the purpose of the AVC Scheme.

AVC contributors

4. (1) Subject to paragraphs (2) and (3) below, any participant may become a contributor to the AVC Scheme by making written application in such form as the Trustees shall require and by having such application accepted.

   (2) A contributor may not make any contributions to the AVC Scheme after he has ceased to be a participant, but may make a further application under sub-paragraph (1) above if he again becomes a participant.

   (3) The Trustees may, with effect from such date as it may determine, close the AVC Scheme to participants who are not contributors to the AVC Scheme at that date.

Contributions

6. (1) A contributor may make contributions to the AVC Scheme of such amount within limits imposed by the Board of Inland Revenue, at such times and in such manner as may be specified by the Trustees, with the approval of the institution with which the contributions are to be invested.

(2) A contributor's contributions to the AVC Scheme in any tax year must not exceed whichever is the smaller of-

(a) such amount determined by the Trustees on a basis acceptable to the Board of Inland Revenue as is likely to provide benefits equal to the limits set out in Rule 12; or

(b) that percentage of the contributor's total salary which, together with any other contributions made by the contributor to any scheme (including this Scheme) providing benefits in respect of service, will bring the total of contributions to 15% of that salary, or, where his annual salary exceeds the permitted maximum, to 15% of that permitted maximum.

(3) In sub-paragraph (2)(b) above, a contributor's total salary means-

(a) in respect of a contributor who is a participating member and not a participating office holder, a member's salary;

(b) in respect of a contributor who is both a participating member and a participating office holder, a member's salary and his office holder's salary;

(4) A transfer value to the AVC Scheme shall only be accepted by the Trustees if it is from either-

(a) a free-standing additional voluntary contributions scheme, which is not an appropriate personal pension scheme which satisfies the requirements prescribed under sections 9(3) and (5), 26 and 31(2) of the Pension Schemes Act 1993; or

(b) an additional voluntary contribution scheme which is an approved scheme:

Provided that, in either case-

(i) it is certified by the administrator of that scheme to represent only the realisable value of the contributor's own contributions to that scheme; and

(ii) acceptance will not cause the contributor's benefits to exceed the limits set out in Rule 12.

Investment of contributions

7. (1) Each contributor's contributions shall be invested in such investments as the Trustees may from time to time determine, save that such contributions may not be used for the purpose of making any loan whatsoever.

(2) Without prejudice to the generality of paragraph (1) above, the Trustees, in accordance with a contributor's instructions, may invest the contributor's contributions-

(a) in an insurance policy or policies taken out with an insurance company, being a United Kingdom office or branch of an insurance company to which Part II of the Insurance Companies Act 1982 applies and which is authorised under section 3 or 4 of that Act to carry on ordinary long-term insurance business; or

(b) in a deposit account or accounts with a building society authorised by virtue of Part II of the Building Societies Act 1986.

(3) The Trustees shall, as soon as practicable, invest the contributions, with the institution and in the manner chosen by the contributor, in order to provide benefits which fall within the scope of Rule 8.

(4) The investments made in respect of a contributor with an institution may be realised and reinvested at the request of the contributor with that or any other institution determined by the Trustees, in such amounts, at such times and in such manner as may be specified by the Trustees, with the approval of the institutions concerned.

Benefits which may be provided

8. (1) Subject to the limits set out in Rule 12, a contributor shall be entitled to whatever benefits are secured by the contributions paid by him, and by any transfer value accepted under Rule 5(4).

(2) The benefits normally permitted are-

(a) a lump sum payable on the death of the contributor;

(b) a return of the contributor's contributions in respect of retirement benefits to the extent of the total realisable value of the investments made by the Trustees with the contributions made by the contributor, payable either on the death of the contributor before retirement or in the circumstances referred to in Rule 11;

(c) on the death of the contributor before retirement, a pension payable to the contributor's spouse throughout the remainder of his or her lifetime;

(d) on the death of the contributor after retirement, a pension payable to one or more dependants throughout the remainder of their lifetime (save that, in the case of a child not falling within Rule K3(5)(c) of the Scheme, the pension shall only be payable until the child reaches the age of 17 or, if later, until the child ceases to be within his period of full-time education or training as defined in Paragraph 2 of Schedule 5 to the Rules of the Scheme); and

(e) a pension payable to the contributor from the contributor's retirement throughout the remainder of his or her lifetime, under which-

(i) payments may be guaranteed to be payable for up to 10 years after retirement in any event; or

(ii) payments may be guaranteed to be payable for up to 5 years after retirement with any balance in respect of any period between death and the expiry of the period of 5 years being paid in one lump sum on death.

(3) Pensions may be level in payment, increase at a fixed rate, vary in line with the index or with the value of units in a unit trust, managed fund or insurance company fund or be provided on a with-profits basis.
(4) In the case of benefits payable at or after a contributor's retirement, the choice of which of the above types of benefit shall be payable shall be made by the contributor at retirement.

Payment of lump sums on death

9. (1) Any lump sum payable on a contributor's death shall be paid or applied (by way of settlement or otherwise) within 2 years of the contributor's death by the Trustees to or for the benefit of any one or more of-

(a) any individual or individuals nominated by the contributor in writing;

(b) the contributor's dependants, children, parents, grandparents and descendants of such persons; and

(c) the contributor's personal representative.

(2) The decision as to which individual or individuals should receive part or all of the lump sum and how much each shall receive shall be at the absolute discretion of the Trustees.
(3) Any part of the lump sum which has not been so paid or applied within 2 years of the contributor's death shall be paid to the contributor's personal representative.
(4) For the purposes of this Rule, a lump sum includes a refund of contributions.

Purchase of pensions

- (1) On or before the date of his retirement, the contributor shall specify in writing to the Trustees the pension or pensions which are to be purchased on his behalf or on behalf of his dependants.

(2) The Trustees shall purchase the pension or pensions specified under paragraph (1) above from such insurer or friendly society as the Trustees may determine from time to time or as the contributor may in writing specify, being either-

(a) a company which is a United Kingdom branch or office of an insurance company to which Part II of the Insurance Companies Act 1982 applies and which is authorised under section 3 or 4 of that Act to carry on ordinary long-term insurance business; or

(b) a friendly society authorised to carry on business under Part IV of the Friendly Societies Act 1992.

(3) Where a contributor elects for the purchase of pensions to be provided by such insurer or friendly society as he may specify under paragraph (2) above, (not being an insurer or friendly society determined by the Trustees), the making of that election shall have the effect of discharging any liability of the Trustees to pay those pensions to or in respect of that contributor.

Leaving the AVC Scheme

- (1) If a participating Member has ceased to be a member of the Scheme then he may cease to participate in the AVC Scheme at any time before benefits provided under Rule 8 are taken by requiring the Trustees (in such manner as may, subject to sections 95 and 96 of the Pension Schemes Act 1993, be specified by the Trustees) to do one or more of the following as appropriate:-

(a) to transfer the value of the contributor's accrued benefits to an approved scheme of a subsequent employer, or to a personal pension scheme subject, in each case, to that scheme being willing to accept the transfer value and meeting the prescribed requirements referred to in section 95(2) of the Pension Schemes Act 1993 (and in each case the Trustees shall certify to the receiving scheme that the whole of the transfer value represents the realisable value of the contributor's contributions and that all of it must be used to secure a non-commutable pension) and after they have made such a transfer the Trustees will be discharged from any obligation to provide any benefits to which the transfer value relates;

(b) to use the value of the contributor's accrued benefits to purchase one or more insurance policies of the type described in section 95(2)(c) of the Pension Schemes Act 1993;

(c) if the contributor's aggregate period of reckonable service as a participant, including any service whilst a member of a previous employer's pension scheme from which a transfer value has been paid to the Scheme (including a transfer value to the AVC Scheme), totals less than 2 years, to pay the contributor the value of his accrued benefits after deduction of any tax payable by the Trustees.

(2) For the purposes of this Rule, the value of a contributor's accrued benefits shall be the total realisable value of the investments made by the Trustees with the contributions paid by the contributor.

Maximum benefits

10. (1) The lump sum benefit (exclusive of any refund of the contributor's own contributions and any transfer value received by the AVC Scheme in respect of the contributor plus interest if any) payable under the AVC Scheme on the death of a contributor while in service or (having left service with a deferred pension) before the commencement of the contributor's pension shall not, when aggregated with all other like benefits under the Scheme, personal pension schemes, free-standing additional voluntary contribution schemes and retained death benefits, exceed whichever is appropriate of-

(a) 4 times final remuneration at the date of death; or

(b) 4 times final remuneration at the date of leaving service,

and any remuneration in excess of the permitted maximum shall be disregarded.

(2) A contributor's pension payable under the AVC Scheme, when aggregated with any other pensions and the pension equivalent of any lump sums under the the Scheme and any pension under a free-standing additional voluntary contributions scheme in respect of service, shall not exceed such maximum pension as is calculated in respect of that contributor in accordance with Schedule 2 to the Rules of the Scheme.

(3) Any pensions for dependants payable under the AVC Scheme, when aggregated with any pension payable to dependants under the Scheme or under a free-standing additional voluntary contributions scheme, shall not exceed an amount equal to two-thirds of the maximum pension-

(a) payable to the contributor at the date of the contributor's death (including any pension increases given under paragraph (4) below), or

(b) being a deferred benefit, payable to the contributor at normal retirement date, or

(c) prospectively payable to the contributor who dies in service had the contributor remained in service up to normal retirement date at the rate of pay in force immediately before the contributor's death, or

(d) prospectively payable to the contributor who dies in service after normal retirement date before taking any benefit under the Scheme on the basis that the contributor had retired on the day before he died,

and, in whichever case applies, the maximum pension shall be calculated as if the contributor had no retained benefits.

(4) Where a contributor chooses as a benefit an index-linked pension, the maximum amount of the pension ascertained in accordance with paragraph (2) or (3) above may be increased by up to three per cent for each complete year, or, if greater, in proportion to any increase in the index which has occurred since payment of the pension commenced.

Surplus monies

13. The Trustees shall comply with the requirements of regulation 5 (restriction on discretion to approve - other schemes) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993 and, where the AVC Scheme is the leading scheme in relation to a contributor, with the requirements of regulation 6 (calculation of surplus funds) of those Regulations so far as they concern main schemes.

Surrender at the request of the Trustees

14. (1) The Trustees may require an institution with which contributions have been invested

under the AVC Scheme to surrender the whole or part of the value of such contributions.

(2) If, pursuant to paragraph (1) above, the Trustees require a surrender of the whole or part of the value of contributions, they shall reinvest such contributions in accordance with Rule 7 of the Rules.

(3) If, on or before the date when the Trustees exercise their rights under paragraph (1) above, a request has been received from a contributor under Rule 7(4), the Trustees may give effect to such request.

Taxation

15. Whenever the Trustees as administrators of the AVC Scheme are liable for any tax in respect of any payment made to any person under the AVC Scheme, they may deduct sums equal in total to such tax from any payments made to such person in such manner as they consider proper.

Expenses

16. The expenses of establishing and administering the AVC Scheme shall be borne by the Fund.