Pensions Manual - Appendix I

Glossary

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Administrator means the person or persons managing the scheme.

Buy-out bond means an insurance policy or bond purchased in the name of a beneficiary by the trustees of a scheme, in lieu of the beneficiary's entitlement to claim benefits under the scheme.

The following rules apply to buy-out bonds:

1. If there should be a surplus amount after providing the maximum approvable pension benefits for the beneficiary under the buy-out bond, it should be used to provide or augment other approvable benefits within maximum limits. Post-retirement increases for pensions payable may also be provided for.

2. Benefits may be deferred until after normal retirement age.

3. Transfers may be paid from one buy-out bond to another and from a bond to a new employer's scheme.

4. Transfers between buy out-bonds and UK Statutory Schemes (for example, the NHS pension scheme) UK exempt approved occupational pension schemes and UK personal pension arrangements and vice versa are permissible if such bonds/schemes/arrangements permit such transfers.

5. Where two or more buy-out bonds are purchased for a beneficiary in lieu of her/his entitlements under a scheme, those bonds must require that like benefits under all such bonds are to come into payment simultaneously.

6. Transfers may be split into more than one policy provided only one such policy shall be capable of providing lump sum benefits. The policy providing non-commutable benefits must be endorsed to this effect and must also provide that further transfers may only be made to a policy endorsed in a similar manner.

7. Where the transfer payment applied to the commutable policy does not exceed the maximum deferred lump sum benefit calculated by reference to maximum limits at the date of leaving service, then the benefits arising upon vesting of the policy may be payable wholly in lump sum form. In all other cases, benefits must be calculated in accordance with the normal provisions for revaluation of deferred lump sums.

8. Transfers to or from a PRSA are not permitted.

Dependant means a person who is financially dependent on an employee who is a beneficiary of a pension scheme or a person who was so dependent at the time of the employee's death or retirement. A relative who is not, or was not, supported by the employee is not his dependant. A child of the employee is regarded as a dependant until he reaches the age of 18 years or ceases to receive full-time educational or vocational training, if later.

Dynamisation is another term for escalation or indexation. It is also used to describe index linking of earnings, either for calculating scheme benefits, or for determining final remuneration for the purpose of Revenue limitations.

Exempt approved scheme means a retirement benefit scheme approved by the Revenue Commissioners under section 774 Taxes Consolidation Act 1997 (TCA) which is exempt from income tax by virtue of section 774(3) TCA and exempt from capital gains tax by virtue of section 608(2) TCA.

Final remuneration may be computed on one of the following bases:

(i) (a) Basic remuneration over any 12-month period of the five years preceding the relevant date (that is, the date of retirement, leaving service or death, as the case may be),

plus

(b) the average of any fluctuating emoluments over three or more consecutive years ending on the last day used in (a) above.

(ii) The average of the total emoluments for any three or more consecutive years ending not earlier than ten years before the relevant date.

(iii) The rate of basic pay at the relevant date or at any date within the year ending on that date plus the average of any fluctuating emoluments calculated as in (i) above.

Provided that-

(1) Basis (iii) cannot be used where, within three years before the relevant date, an employee:

a) was promoted or received a special increase in basic pay, and

b) the total increase over the relevant three-year period is greater than it would have been if the remuneration on the day of commencement of the period had been increased proportionately to the increase in the Consumer Price Index, or to increase applicable to the employment under a national wage agreement, during the same three-year period.

However, it is possible to agree beforehand with Revenue that such increases, if given on a recognised scale applicable to defined groups of arm’s-length employees, will not prevent the availability of basis (iii).

(2) Whenever final remuneration is calculated by reference to a year or years other than the 12 months ending with the relevant date, each such year's remuneration may be increased in proportion to the increase in the cost of living from the last day of that year up to the relevant date referred to as "dynamised" final remuneration. This also applies to fluctuating emoluments so that fluctuating emoluments of a year other than the twelve months ending with the relevant date may be increased as detailed above.

(3) In the case of a 20% director -

(a) the scheme may not adopt either base (i) or (iii), and

(b) Proviso (2) above may not be applied unless it can be shown to the satisfaction of Revenue that the amount of the non-commutable pension payable or remaining payable or payable before the application of rules permitting commutation of the whole of the benefits to the director is not less than two-thirds of the annuity equivalent of all retirement benefits payable to the director (or to which he is entitled) under all schemes of the employer at the time any lump sum benefits are to be paid to him under the rules.

(4) Where sick pay is drawn for ten or more years (under, for example, a sick pay or permanent health insurance scheme) and the member is regarded as continuing in service, "final remuneration" may be calculated by reference to the employee's pay for a selected period as detailed above before the date on which he dropped from full pay to sick pay. This figure may be increased proportionately to increases in the Consumer Price Index between the relevant dates.

A **Hancock annuity** means an annuity purchased by the employer at the time of the employee's retirement, the capital cost of which is normally allowed for tax relief in the year of purchase. (The type of transaction is considered in *Hancock* v *General Reversionary Trust Limited* 7 T.C.)

Ill-health means physical or mental deterioration which is serious enough to prevent the individual from following her/his normal employment or which seriously impairs her/his earning capacity. It does not mean simply a decline in energy or ability.

It should be pointed out that commutation of pension benefit in excess of the normal rules may only be considered where the recipient is in "exceptional circumstances of ill-health" (see Chapter 7.5).

Normal retirement age (NRA) usually means between age 60 and 70 years. See Chapter 6.7 for further details.

Relevant benefits is defined in section 770 TCA as:

any pension, lump sum, gratuity or other like benefit –

(a) given or to be given on retirement or on death or in anticipation of retirement, or, in connection with past service, after retirement of death, or
(b) to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question [.]

This includes any pension or lump sum given on retirement or death.

Retained benefits means relevant benefits (pension and lump sum) provided for the member under other schemes whether deferred or already in payment. This includes:

(i) Approved or statutory schemes relating to previous employments;

(ii) Buy-out bond policies held in respect of entitlements relating to previous employments;

(iii) Retirement annuity contracts;

(iv) Personal retirement savings accounts;

(v) Pan-European Pension Products;

(vi) Schemes relating to overseas employment.

The following benefits may be ignored when calculating retained benefits:

(a) Small deferred pension not exceeding €330 p.a.

(b) Small lump sums not exceeding €1,270 in aggregate.

(c) Refunds of contributions.

(d) Benefits under statutory or approved schemes or under retirement annuity contracts relating to concurrent employments.

The concept of retained benefits also applies to maximum death-in-service benefits. The benefits that must be taken into account in this situation are dealt with at Chapter 10.3.

Service means remunerated service as an employee of the relevant employer(s) which is taxable under Schedule E. Service as a director of an investment company is excluded (see Chapter 2.5).

Small self-administered schemes (or small self-administered pension schemes – SSAPSs) generally means schemes with 12 or fewer members. The special conditions attached to approval of these schemes are set out in Chapter 19.

A **20% director** means someone who directly or indirectly at any time in the last three years owned or controlled more than 20% of the voting rights in the employer company, or in the parent company of the employer company.

The following restrictions apply to 20% directors

Continuity of service in company re-organisations: Where an individual is a 20% director prior to and subsequent to a company re-organisation, continuation of service for pension purposes will only be accepted where a claim has been admitted under section 400 TCA, which deals with company reconstructions without change of ownership. See Chapter 13.11 for further details.

Early retirement: Generally, where early retirement benefits are taken, all links with the business must be severed, including the disposal of shares in the company (see Chapter 9.6).

Final remuneration: Although 20% directors may be paid dividends from their companies, only income taxed under Schedule E is eligible for inclusion as "final remuneration" for pension calculation purposes. The calculation of final remuneration is the average of the total emoluments for any three or more consecutive years ending not earlier than ten years before the relevant date. Revenue will permit dynamised final remuneration provided that the amount of the non-commutable pension payable or remaining payable or payable before the application of rules permitting commutation of the whole of the benefits to the director is not less than two-thirds of the annuity equivalent of all retirement benefits payable to the director (or to which he is entitled) under all schemes of the employer at the time any lump sum benefits are to be paid to him under the rules.

Ill-health: (see Chapter 7.5) Where full commutation of a pension is sought, the prior approval of Revenue should be obtained.

Investment company: A 20% director cannot be accepted into membership of an approved scheme for that employment. See Chapter 2.5 for further details

Lump sum benefits on death: If a 20% director dies in service before normal retirement age, the remuneration may be taken as the rate payable at the time of death, provided it can be verified. (See Chapter 10.1 for further details.)

Normal retirement age (NRA): The NRA for 20% directors must be between ages 60 and 70 years. (See Chapter 6.7 for further details.)

Refund of contributions: The option to take a refund of contributions in lieu of other benefits on leaving service is not available to 20% directors.

Service after normal retirement age: If a 20% director's service continues after normal retirement age the rules of the scheme should not permit an actuarially increased pension, exceeding the maximum fraction of final remuneration applicable, on the basis that for ages up to 70 the age attained at actual retirement was deemed to be the normal retirement age**.**