

Dated 20 December 2012

- (1) **KINGFISHER PLC**
- (2) **KINGFISHER PENSION TRUSTEE
LIMITED**

DEED OF VARIATION
relating to the
KINGFISHER PENSION SCHEME

MAYER • BROWN

LONDON

TABLE OF CONTENTS

Page

TRUST DEED

Constitution

1.	Introduction.....	1
2.	Employers	1
3.	Valuations and contributions	2
4.	The Fund	2
5.	Trustees	5
6.	Administration	5
7.	Expenses	6
8.	Accounts and records.....	8
9.	Protection of Trustees	8
10.	Amendments	9

Benefits

11.	Additional voluntary contributions.....	9
12.	Special benefits	11
13.	Maximum benefits etc	11
14.	Transfers in	12
15.	Transfers out	12
16.	Annuities/buy-outs.....	14
17.	Death benefit trusts	15
18.	Benefit calculations	16
19.	Payment of benefits	17
20.	Pension sharing.....	20

Termination etc

21.	Reduction of contributions	21
22.	Termination.....	21
23.	Employer's default	22
24.	Effect of termination.....	23
25.	Separate Fund	24
26.	Winding up	26
27.	Liability.....	31

RULES

General

1.	Introduction.....	32
----	-------------------	----

Membership

2.	Auto-enrolment.....	32
3.	Opting in and joining.....	32
4.	General provisions as to Membership	33
5.	LSDB-only Membership	33
6.	Contributions	34
7.	Total Incapacity Cover	35
8.	Opting out – one-month window	36
9.	Opting-out – outside one-month window	37

Absence

10.	Family Leave – Active Members	37
11.	Family Leave – LSDB-only Members	38

TABLE OF CONTENTS
(continued)

	Page
12. Other absence.....	38
Benefits	
13. Retirement benefits.....	38
14. Leaving benefits.....	40
15. Death benefits	41
Provision of benefits	
16. Provision of Member's benefits	42
17. Provision of death benefits	43
SCHEDULE 1: FROZEN FS MEMBERS	45
SCHEDULE 2: CHANNEL ISLANDS.....	55
APPENDIX: DEFINED TERMS AND INTERPRETATION	60

KINGFISHER PENSION SCHEME

DEED OF VARIATION

DATE: 20 December 2012

PARTIES:

- (1) **KINGFISHER PLC**, a company incorporated in England and Wales (registered number 1664812) whose registered office is at 3 Sheldon Square, Paddington, London W2 6PX (the "**Company**"); and
- (2) **KINGFISHER PENSION TRUSTEE LIMITED**, a company incorporated in England and Wales (registered number 2082223) whose registered office is at 3 Sheldon Square as above (the "**Trustees**").

BACKGROUND:

- (A) The Kingfisher Pension Scheme (the "**Scheme**") was established with effect from 1 February 1987 by a trust deed dated 15 December 1986. The Scheme is now governed by a trust deed and rules (the "**Old Trust Deed and Rules**") adopted by a deed of variation dated 29 June 2012. Except where expressly stated or where the context requires otherwise, terms used in this Deed have the meanings given in the Old Trust Deed and Rules.
- (B) By clause 10.1 of the Old Trust Deed, the Trustees have power with the written consent of the Company by deed to alter, modify or add to all or any of the trusts and provisions of the Old Trust Deed. By clause 10.2 of the Old Trust Deed, the Old Rules may be altered, amended, modified or added to by the Trustees in a deed, but only with the written consent of the Company (which must not be given until the Company has consulted the Employers to whom the Old Rules apply).
- (C) The Company and the Trustees have agreed that changes should be made to the Scheme so that (among other things) the Employers may use it as an automatic enrolment scheme as defined in section 17 of the Pensions Act 2008.
- (D) The Trustees, with the consent of the Company, wish to amend the Old Trust Deed and Rules so as to give effect to the changes described in (C) above.
- (E) The Company has consulted the Employers to whom the Old Rules apply about the amendments to be made by this Deed to the Old Rules.
- (F) The Trustees are satisfied that the amendments to be made by this Deed are not regulated modifications as defined for the purpose of section 67 of the Pensions Act 1995.

EFFECT OF THIS DEED:

1. REPLACEMENT OF OLD TRUST DEED AND RULES

With effect from 1 January 2013, the Trustees with the consent of the Company replace the Old Trust Deed and Rules with the new trust deed and rules attached to this Deed (the "**New Trust Deed and Rules**"); except that the provisions of the Old Trust Deed and Rules or predecessor trust deeds and rules will continue to apply to the extent that the New Trust Deed and Rules so specify (see, in particular, clauses 1.2 (*Prior leavers*) and 29 (*Liability*) of the New Trust Deed).

2. AMENDMENTS TO THIS DEED ETC

The provisions of this Deed and the New Trust Deed and Rules will be amended to the extent (if any) necessary to ensure that:

- (a) the Scheme complies with the Preservation Requirements; and
- (b) this Deed and the New Trust Deed and Rules reflect the intentions of the Trustees and the Company at the date of this Deed, as to which a statement signed by or on behalf of both the Trustees and the Company will be final.

The amendment will have effect as though this Deed and the New Trust Deed and Rules had always contained the amendment, and the Trustees and the Company must as soon as practicable execute a deed documenting the amendment.

3. THIRD PARTY RIGHTS ETC

A person who is not a party to this Deed will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the terms of this Deed.

4. COUNTERPARTS

This Deed may be executed in more than one counterpart which will together constitute one deed.

EXECUTION:

The parties have shown their acceptance of the terms of this Deed by executing it as a deed below.

KINGFISHER PENSION SCHEME

TRUST DEED

CONSTITUTION

1. INTRODUCTION

1.1 Application of the Trust Deed and Rules

The Trust Deed and Rules are adopted with effect from 1 January 2013. The Rules apply to and in respect of all Employers as at that date and to all Workers in Service on or after it, subject to Clause 1.2 (*Prior leavers*).

1.2 Prior leavers

Benefits payable to and in respect of any Member who ceased to be in Active Membership before 1 January 2013 will not be changed by the adoption of the Trust Deed and Rules (nor, for the avoidance of doubt, will there be any change to any revaluation or increases applicable to such benefits), except that the provisions of the Trust Deed will apply in place of the provisions of the 2012 Trust Deed.

1.3 Interpretation

Expressions used in the Trust Deed and Rules have the meanings given in the Appendix (*Defined terms and interpretation*), which also contains provisions about interpretation.

2. EMPLOYERS

2.1 Participation

A company or firm may participate in the Scheme and so become an Employer if it agrees by deed to be bound by the provisions of the Trust Deed and Rules. A company or firm may become an Employer only if the Company and the Trustees consent in writing.

2.2 Substitution of new Company

The company or firm which is the Company may, with its and the Trustees' written consent, be replaced as the Company by any other company or firm which agrees by deed to undertake the powers and obligations of the Company under the Scheme. The company or firm which had been the Company and all other Employers will then continue to participate subject to Clauses 21 to 23 (*Reduction of benefits, Termination, Employer's default*).

2.3 Release

The Trustees may release an Employer from its liabilities under the Scheme if they are undertaken by another Employer or if all Members which have been employed by

Trust Deed

it are no longer in Service. Any powers and discretions of such a released Employer in relation to benefits payable to or in respect of Members who had been employed by it will then be vested in the said other Employer or, if none, in the Company.

3. VALUATIONS AND CONTRIBUTIONS

3.1 Valuations

The Actuary will value the Fund as at dates determined by the Trustees but at least once in every three years. He will report to the Trustees and the Company. The Trustees and the Employers must in any case comply with the requirements of sections 222 to 231 of the Pensions Act 2004 about valuation and certification of assets and liabilities.

3.2 Employers' contributions

The Company will, after consulting the Trustees and taking the advice of the Actuary, determine the liability of each Employer to contribute to the Fund. The contributions which the Employers are thus liable to pay must be such that, in the opinion of the Trustees, the Fund will be sufficient to meet the benefits, costs and expenses payable out of the Fund. The Trustees and the Employers must in any case comply with the requirements of sections 222 to 231 of the Pensions Act 2004 about funding, schedules of contributions and failure to pay contributions.

3.3 Surplus

Subject to section 37 of the Pensions Act 1995, the Trustees may, with the consent of the Company, transfer cash or other assets of the Fund to such one or more of the Employers (and in such shares) as the Trustees decide, provided that the transfer is an authorised surplus payment for the purpose of the Finance Act. Any cash or assets transferred to an Employer pursuant to this Clause will be free from the trusts of the Scheme.

4. THE FUND

4.1 Fund held on trust

The Fund will be held by the Trustees upon the trusts of the Scheme.

4.2 Trustees' powers

Subject to Clause 4.3, the Trustees will have the following powers which they may exercise in such manner as they may think fit:

- (a) to invest in, acquire, dispose of, lend or otherwise deal in or undertake to deal in any property, assets, rights, options, assurances, contracts or interests;
- (b) to invest or apply any part of the Fund in, upon the security of or in the acquisition of options relating to all types of real and personal property and contractual or other rights and interests (whether or not secured);

Trust Deed

- (c) to retain moneys of the Fund in cash of any currency or upon current account with any deposit taking institution without being liable for any gain foregone;
- (d) to enter into any partnership or limited partnership which engages in any of the activities referred to in (a) to (c) above, on such terms as the Trustees think fit (including as to any advance or capital contribution);
- (e) to enter into any securities lending arrangements; and
- (f) all powers relating to such properties, assets, rights, options, assurances, contracts, interests, partnerships and limited partnerships as if the Trustees were absolutely and beneficially entitled to the Fund.

However, no part of the Fund will be invested in employer-related investments. For this purpose, "**employer-related investments**" has the meaning which applies for the purpose of section 40 of the Pensions Act 1995, except that investments made by the operator of any collective investment scheme will not be taken into account.

4.3 Money purchase investments

The following terms will apply in respect of AVC Accounts, Retirement Accounts and any other benefits under the Scheme which are provided on a money purchase basis:

- (a) Subject to (b) below, the Trustees must allow or require Members to choose between different investment options, on such terms and conditions as the Trustees think fit. The Trustees must decide the options which are available from time to time, and may withdraw options either in respect of future contributions or in respect of funds already built up. An "**option**" for the purpose of this Clause 4.3 may include a "white-labelling" or "lifestyle" arrangement.
- (b) The Trustees may determine that a default investment option will apply when a person first becomes an Active Member, so that the person will not at that point be allowed or required to choose between different options under (a) above. The Trustees may also determine that a default investment option will apply, in respect of future contributions and/or in respect of funds already built up, where a Member does not make a choice under (a) when allowed or required to do so.
- (c) The Trustees must invest an appropriate part of the Fund in accordance with the choices made by Members and the applicable default investment options under (a) and (b) above. The Trustees must take account of such choices and default options when determining the value of Members' AVC Accounts, Retirement Accounts or other money purchase benefits.
- (d) The Trustees will not be required to advise or warn Members about choosing between investment options, and will have no liability in respect of any choices made by Members.

Trust Deed

- (e) Nothing in this Clause will give Members any right or title to or interest in particular assets of the Scheme.

4.4 Pensions Act requirements

The Trustees must comply with the requirements of sections 33 to 36 of the Pensions Act 1995 about preparing, maintaining and revising a statement of investment principles, choosing investments and obtaining proper advice.

4.5 Borrowing

The Trustees will have power to borrow, whether on the security of assets of the Fund or otherwise.

4.6 Insurance company dealing with Trustees

An insurance company which has a liability or obligation to the Trustees under any policy will not be concerned to enquire as to the purpose of any directions given by the Trustees or of any dealings by the Trustees with that policy or its proceeds.

4.7 Insurance etc

The Trustees may apply monies of the Fund in repairing, maintaining, demolishing, moving, storing or improving any assets of the Fund or in insuring assets for any amount up to their full replacement value against loss or damage from any risks.

4.8 Holding of assets

Assets of the Fund may be held in the name of the Trustees or of any person as their nominee.

4.9 Pooling

The Trustees may make arrangements for the whole or any part of the Fund to be pooled for investment purposes with assets of other retirement benefit schemes. The arrangements may include such terms relating to such matters as the Trustees think fit including modes of investment, apportionment of capital and income, taxation, severances, fees and expenses. Such arrangements may be made only with the consent of the Company.

4.10 Investment managers

The Trustees may from time to time appoint any person to be an investment manager of the whole or any part of the Fund with such of the powers and discretions conferred upon them by this Clause 4 (to be exercised with or without their consent) and upon such terms as to remuneration, sub-delegation, reports, resignation and otherwise as they think fit.

Trust Deed

5. TRUSTEES

5.1 Appointment and removal

The number of the Trustees must never be more than 14 or (except on account of casual vacancies or where the Trustees are or include a company) fewer than three. Within these limits, the Company will have power by deed to remove any Trustees from office or to appoint new or additional Trustees. A Trustee will be discharged if he is removed or replaced by the Company (provided that there is at least one Trustee remaining) or if he resigns by written notice both to the Company and to the other Trustees (provided that the Trustees continuing in office are at least three in number or include a company). A company which is not the sole Trustee will cease to be a Trustee upon going into liquidation.

5.2 Pensions Act requirements

The Company and the Trustees must in any case comply with the requirements of sections 241 to 243 of the Pensions Act 2004 as to arrangements for the appointment of member-nominated trustees or directors.

6. ADMINISTRATION

6.1 Trustees' powers

The Trustees will have all powers, rights and privileges necessary for or of assistance in the implementation of the Scheme. They may exercise their powers without the consent of any Employer or other person unless such consent is expressly required by the Trust Deed and Rules.

6.2 Trustees' meetings

The Trustees may determine the manner in which their meetings are called and conducted and the quorum necessary for business to be transacted. They will act by simple majority vote at their meetings unless they decide that a greater majority or unanimity will be required. A written resolution signed by all of the Trustees will be as valid and effectual as if it had been passed at a meeting and may consist of several documents each signed by one or more Trustees.

6.3 Secretary and agents

The Trustees may appoint a secretary with such powers to act on their behalf as they may determine and in accordance with their instructions. The Trustees may also employ agents in the transaction of any business. A receipt given to the secretary or an agent will be sufficient discharge to the Trustees.

6.4 Delegation

The Trustees may delegate to any person all or any of their powers, duties and discretions other than powers given by Clauses 2 (*Employers*), 3 (*Valuations and contributions*), 10 (*Amendments*), 22.3 (*Deemed termination*), 23 (*Employer's*

Trust Deed

default), 24 (*Effect of termination*), 25.5 (*FS Separate Fund*) and 26.5(c) (*Surplus*) on such terms as to sub-delegation and otherwise as they may think fit. The Trustees will not be bound to supervise any delegate or sub-delegate. The Employers may charge the Trustees for their costs in carrying out any powers, duties and discretions which the Trustees have delegated to them or their employees.

6.5 Disputes

The Trustees will settle all questions, disputes and matters arising as to the meaning of any provision of the Scheme or as to the proper implementation of the Scheme unless they are expressly left by the Trust Deed or the Rules for determination by another person. The Trustees must comply with the requirements of section 50 of the Pensions Act 1995 about adopting a dispute resolution procedure.

6.6 Auditor

The Trustees must appoint an individual, a firm or a company (being eligible to act as a statutory auditor under Part 42 of the Companies Act 2006) to act as auditor to the Scheme.

6.7 Investment manager

The Trustees must appoint an individual, a firm or a company (being eligible to act under Part II of the Financial Services and Markets Act 2000) to act as investment manager to the Scheme.

6.8 Actuary

The Trustees must appoint an individual actuary (being a Fellow of the Institute and Faculty of Actuaries) in accordance with section 47 of the Pensions Act 1995 to perform the tasks required of the actuary under that Act.

6.9 Insurance

The Trustees may insure the Fund or any person against any costs, losses or liabilities which may arise in connection with the Scheme. For the avoidance of doubt the persons covered by such insurance may include Trustees, directors or officers of corporate Trustees, Employers, employees of Employers and anyone formerly in any of these categories. The Trustees may also subscribe to any advisory service or representative body which, in their opinion, provides services relevant to the Scheme or to the Trustees in their capacity as such. However, the Trustees must not use assets of the Fund to insure themselves against fines or penalties contrary to section 256 of the Pensions Act 2004.

7. EXPENSES

7.1 Power to incur

The Trustees may incur any costs or expenses that they consider necessary or desirable for the proper performance of their duties. These will include their own

Trust Deed

(and, to the extent that they think fit, any other person's) costs in resolving any matter concerning the Fund or Scheme by litigation.

7.2 Recovery – KPS-MP

The Trustees will (unless and to the extent that the Employers meet such charges or the Company and the Trustees agree that they will be met from the FS Fund) debit Retirement Accounts in respect of any charges or deductions made by any provider with whom the relevant part of the Fund is invested under Clause 4.3 (*Money purchase investments*), whether the charges relate to Investment Expenses, administration costs and expenses or otherwise.

Any other costs and expenses which relate to KPS-MP must be met by the Employers in such proportions as the Company may direct, except that the Trustees may decide instead to meet the costs and expenses from the FS Fund or to debit Retirement Accounts in respect of them on such basis as they think fit.

7.3 Recovery – AVC Accounts

The Trustees will (unless and to the extent that the Employers meet such charges or the Company and the Trustees agree that they will be met from the FS Fund) debit AVC Accounts in respect of any charges or deductions made by any provider with whom the relevant part of the Fund is invested under Clause 4.3, whether the charges relate to Investment Expenses, administration costs and expenses or otherwise.

The Trustees will meet any other costs and expenses which relate to AVC Accounts from the FS Fund, except that they may decide instead to debit the relevant Accounts in respect of the costs and expenses on such basis as they think fit.

7.4 Recovery – KPS-FS

Subject to Clause 7.3, the Trustees will meet any Investment Expenses in respect of KPS-FS from the FS Fund.

The Trustees will meet all costs and expenses which do not come within Clauses 7.2, 7.3 and 7.4 from the FS Fund, except that the Employers will meet them to the extent and in such proportions as the Company may direct.

7.5 Trustee charging

A Trustee (or director of a corporate Trustee) who is a professional person is entitled to charge all reasonable professional and other charges for business done by him or by his firm in relation to the Scheme. The Trustees and the Company may in any case agree to pay fees to any Trustee (or director of a corporate Trustee) from out of the Fund.

Trust Deed

8. ACCOUNTS AND RECORDS

8.1 Records

The Trustees must keep a complete record of all events and matters which should be recorded for the proper working of the Scheme, and must keep accounts. The Trustees must in any case comply with the requirements of section 49 of the Pensions Act 1995 about books and records. The Employers must give the Trustees such assistance as they may reasonably require to enable them to comply with those requirements.

8.2 Accounts

Accounts must be drawn up for each accounting period. An accounting period will be a year ending on 31 March but may instead be a year (or a transitional period of between six and 18 months) ending on such date as the Trustees may choose.

8.3 Audit

The Trustees must arrange for the accounts to be audited by the auditor to the Scheme in accordance with section 41 of the Pensions Act 1995. The auditor must report:

- (a) whether the accounts comply with the requirements of the Pensions Act 1995;
- (b) whether the accounts correctly summarise the financial transactions of the Scheme during the accounting period; and
- (c) whether those transactions comply with the Trust Deed and Rules.

9. PROTECTION OF TRUSTEES

9.1 Exemption

No Trustee, nor any director or officer or member of a committee of a corporate Trustee, will incur any personal responsibility or be liable for anything whatsoever except for breach of trust knowingly and intentionally committed by him.

9.2 Indemnity

The Employers must indemnify each of the Trustees and each of the directors and officers and committee members of a corporate Trustee against all or any claims, costs, losses, damages and expenses which he may pay or incur or which may be made against him in connection with the Scheme (whether attributable to his own acts or omissions or those of any other Trustee or any Secretary, agent or delegate lawfully appointed by the Trustees) to the extent that he is unable or prevented by law from meeting them out of the Fund and to the extent that they are not attributable to breach of trust knowingly and intentionally committed by him. However, this indemnity will be limited so as to exclude any indemnity which would be void under the provisions of section 232 of the Companies Act 2006 or otherwise under the law.

Trust Deed

9.3 Personal interests etc

No action or decision of a Trustee (or a director, officer or committee member of a corporate Trustee) will be invalidated, nor will any Trustee (or director, officer or committee member) have any liability, solely because of any entitlement to benefits or other interest which that person may have under the Scheme.

9.4 Entitlement to benefits

Except if he has acted in bad faith, a Trustee (or a director, officer or committee member of a corporate Trustee) is entitled to receive any benefit from the Scheme payable in accordance with the Trust Deed and the Rules even though he is a Trustee (or director, officer or committee member) or was a party to a decision or exercise of a discretion which gave rise to that benefit. He will not be accountable for any such benefit.

10. AMENDMENTS

10.1 Trust Deed

Subject to sections 67 to 67I of the Pensions Act 1995, the Trustees will have the power with the written consent of the Company by deed to alter, modify or add to all or any of the trusts and provisions of the Trust Deed.

10.2 Rules

Subject to sections 67 to 67I of the Pensions Act 1995, the Rules may be altered, amended, modified or added to by the Trustees in a deed but only with the written consent of the Company (which must not be given until the Company has consulted the Employer or Employers to whom they apply). However, for the avoidance of doubt, the Company will be under no obligation to consult an Employer who has ceased to participate in the Scheme.

BENEFITS

11. ADDITIONAL VOLUNTARY CONTRIBUTIONS

11.1 Member's right to pay AVCs

An Active Member may pay to the Fund voluntary contributions ("AVCs") additional to those (if any) required by the Rules on the terms of this Clause 11.

11.2 Conditions as to payment

The rate or amounts, the frequency and the duration of the AVCs must satisfy such conditions as the Trustees may prescribe.

Trust Deed

11.3 Benefits from AVCs (FS Member)

AVCs paid by an FS Member prior to the Freezing Date will entitle the FS Member to additional benefits as follows:

- (a) The Trustees will maintain an AVC Account on behalf of the Member. The Trustees will use the AVC Account to provide additional benefits in accordance with (b) and (c) below when benefits become payable for the Member under the Rules unless an alternative date is agreed by the Trustees and the Member (the date in either case being the "**payment date**").
- (b) The Trustees may pay part or all of the AVC Account to the Member as a cash sum, subject to the Cash Sum Limit.
- (c) The Trustees will use the balance of the AVC Account (after payment of any cash sum) to provide additional benefits as follows:
 - (i) by purchasing an annuity which satisfies the requirements of Rule 16.3(c) (*Pension*); or
 - (ii) (if the Trustees so allow) by increasing any benefits otherwise payable for the Member on such basis and to such extent as the Trustees, after consulting the Actuary, think fit.

The choice of an annuity under (i), and the choice as between (i) and (ii) if (ii) is allowed by the Trustees, must be made by the Member. If the Member fails to make a choice within such period as the Trustees may allow for this purpose, the Trustees may treat him as having chosen any default arrangement as described in (d) below.

- (d) A "**default arrangement**" is an arrangement which the Member has been told will be made if he fails to make a choice within the period allowed, consisting of one or other of the following as the Trustees determine:
 - (i) the purchase of an annuity (on such terms as the Trustees may in their absolute discretion decide) offered by any company with which the Member's AVCs have been invested; or
 - (ii) an increase in the benefits otherwise payable for the Member.
- (e) The additional benefits must in any case comply with the Preservation Requirements.
- (f) Subject to (a) to (e) above, the additional benefits will be provided on such a basis and on such terms as the Trustees may decide.

11.4 Benefits from AVCs (MP Members)

An Active Member's AVCs will be added to his Retirement Account. Benefits will be provided in accordance with the Rules.

Trust Deed

11.5 Investment of AVCs

The provisions of Clause 4.3 (*Money purchase investments*) will apply in respect of AVCs.

12. SPECIAL BENEFITS

12.1 Trustees' power

The Trustees will have power to augment any benefit payable under the Scheme or to pay a benefit otherwise than under the Rules. This power will be exercised only:

- (a) if the Employer pays such contributions (if any) as the Trustees, having consulted the Actuary, may require;
- (b) at the direction of the Company or with its consent; and
- (c) in a manner which complies with the Preservation Requirements.

12.2 Increases to pensions in payment/deferment

The Company may direct that increases additional to those required by the Rules will be made to all or any pensions in payment and pensions in deferment at such times and in such manner as it may in its absolute discretion decide. The Company must consider not less often than annually whether or not to make such a direction and must consult the Employer.

12.3 Separate fund

The Trustees may set aside within the Fund a separate fund for a person or category of persons. They may resolve that such persons will be entitled to benefit from such separate fund only and may also resolve that no other persons will benefit from it. The amount of such separate fund will be determined by the Trustees after consulting the Actuary. These powers may be exercised only with the Company's consent.

13. MAXIMUM BENEFITS ETC

13.1 Revenue Limits

Prior to 6 April 2006, the Scheme was approved by HMRC as an exempt approved scheme under Chapter I of Part XIV of the Taxes Act. Accordingly, benefits payable under the Scheme were restricted to limits ("**Revenue Limits**") described in practice notes published by HMRC and summarised in annex I to the 2006 Trust Deed and Rules. Except if and to the extent that the Trustees decide otherwise, benefits in respect of any Member who ceased to be in Active Membership before 6 April 2006 will be determined as though:

- (a) (in respect of an FS Member, other than one to whom Appendix A (*Channel Islands*) to the 2006 Trust Deed and Rules applies) Clause 19.4 (*Trivial*

Trust Deed

benefits) and Paragraph 10 of Schedule 1 (*Cash sum option*) applied in place of any corresponding predecessor provisions;

- (b) (in respect of an MP Member, other than one to whom Appendix A to the 2006 Trust Deed and Rules applies) Clause 19.4 (*Trivial benefits*) and Rules 15 (*Death benefits*), 16 (*Provision of Member's benefits*) and 17 (*Provision of death benefits*) applied in place of any corresponding predecessor provisions;
- (c) (other than on incapacity) the Member's pension cannot come into payment before Minimum Pension Age; but
- (d) in other respects, Revenue Limits continued to apply.

In respect of any Member who leaves Pensionable Service on or after 6 April 2006, the Trustees may at their discretion restrict any benefit which would otherwise be payable under the Scheme to any lesser amount which would, in the Trustees' opinion, have been payable if Revenue Limits continued to apply, but (subject to this) benefits will be calculated on the basis that Revenue Limits do not apply.

13.2 Unauthorised payments

Any provision in the Trust Deed and Rules which would otherwise require the Trustees to make an unauthorised payment as defined in section 160 of the Finance Act will be treated as giving the Trustees an absolute discretion to make that payment.

14. TRANSFERS IN

14.1 Trustees' power

A transfer of assets may be accepted into the Fund from any other pension scheme upon such terms as the Trustees may decide. If such a transfer is accepted in respect of a person, the Trustees will credit an amount to his Retirement Account in respect of the transfer, and will provide benefits in accordance with the Rules.

14.2 Conditions

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

15. TRANSFERS OUT

15.1 Trustees' power

The Trustees may make a transfer of cash or other assets from the Fund to another pension scheme or an Insurance Company (a "**transfer payment**") for a Member or other beneficiary as described in this Clause 15.

Trust Deed

15.2 Other pension scheme

The Trustees may make a transfer payment to another pension scheme (including an occupational pension scheme or a personal pension scheme) only if it is:

- (a) a Registered Scheme; or
- (b) a qualifying recognised overseas scheme as defined in section 169 of the Finance Act.

15.3 Insurance Company

The Trustees may make a transfer payment to an Insurance Company only if:

- (a) it will issue a policy or annuity contract which satisfies the requirements of section 19(3) of the Pension Schemes Act; and
- (b) the Member or other person for whom it is made has, if his consent to the transfer payment is required, selected the Insurance Company.

15.4 Consents

If the person for whom the transfer payment is to be made is a Member or is in receipt of pension, it must not be made except:

- (a) with that person's written consent or at that person's written request, except that a request from a Member must be made before the later of the date one year before Normal Retirement Date and the date six months after the last day of his Pensionable Service, or such later date as the Trustees may permit; or
- (b) in circumstances where such consent need not be required to comply with the Preservation Requirements or the Pension Schemes Act.

No consent will be required to a transfer payment for a Member from any person other than the Member.

15.5 Discharged benefits

A transfer payment must relate to all or an identified portion of the benefits otherwise payable for the person for whom the transfer payment is made (the "**discharged benefits**"). The making of a transfer payment will discharge the Trustees from any further liability to pay the discharged benefits. The Trustees will not be obliged to enquire into the application of the cash or other assets transferred.

15.6 Value transferred

The value of the cash or other assets included in a transfer payment will be decided by the Trustees with the consent of the Company but must not be less than an amount advised by the Actuary which the Trustees are reasonably satisfied is equal to:

Trust Deed

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

15.7 GMPs/Section 9(2B) Rights

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

15.8 Statements of entitlement

The Trustees must, on the application of a Member, comply with the requirements of sections 93 to 101 of the Pension Schemes Act as to the provision of statements of entitlement of the amount of the Member's cash equivalent (if any) at the guarantee date.

16. ANNUITIES/BUY-OUTS

16.1 Money purchase benefits on death/retirement

Where the Trust Deed and Rules require benefits to be provided by the buying of an annuity, the Trustees may determine that the annuity must be a Buy-out Policy which satisfies any applicable requirements under Parts III and IV of the Pension Schemes Act. The Trustees may also assign a Scheme Annuity which they previously bought to secure benefits, so that the Scheme Annuity becomes such a Buy-out Policy.

16.2 Other benefits

The Trustees may buy a Buy-out Policy which will provide benefits for a person in substitution for the benefits (or a specified part of the benefits) which would otherwise be provided for him under the Scheme. The Trustees may exercise this power only if:

- (a) the Company consents;
- (b) the Trustees have taken the advice of the Actuary;
- (c) the person's entitlements or accrued rights (as defined for the purpose of the Pensions Act 1995) are not adversely affected without his consent; and
- (d) any applicable requirements under Parts III and IV of the Pension Schemes Act are satisfied.

16.3 Discharge

Where a Buy-out Policy is bought under Clause 16.1 or 16.2, the Trustees will have no further liability to provide the benefits (or specified part of the benefits) which would otherwise have been provided under the Scheme.

Trust Deed

16.4 Scheme Annuities – liability

Where the Trustees have secured the payment of benefits for a person by buying a Scheme Annuity, the benefits which the Trustees are liable to pay will not be more than the amounts which they receive under the annuity.

17. DEATH BENEFIT TRUSTS

17.1 Discretionary trust

A lump sum benefit payable by reason of the death of a Member may, within the Trust Period, be paid to such one or more of the following persons and in such shares as the Trustees in their absolute discretion decide:

- (a) the Member's surviving spouse, Civil Partner, children, parents and grandparents and the issue of any such persons;
- (b) where the Member was at the time of death cohabiting with a partner to whom the Member was not married, that partner;
- (c) any persons who, at the time of the Member's death, were or had been financially dependent upon him or to whose advancement, maintenance or support the Member was contributing or had contributed;
- (d) any person(s) nominated by the Member either:
 - (i) in a written notice given for this purpose to the Trustees and received by them during the Member's lifetime, or
 - (ii) in a written notice given for a similar purpose to the trustees or managers of any other scheme of the Member's Employer from which a transfer of assets has been accepted in respect of the Member, being a notice which was received by such trustees or managers before such transfer was made;
- (e) the Member's personal representatives; and
- (f) such person or persons as the Trustees may appoint to hold the benefit (or share) upon trust for such one or more of the persons mentioned in (a) to (d) above and in such shares or with such interests as the Trustees may direct or allow.

The Trustees will be entitled to exercise their discretion on the basis of information readily available to them.

17.2 Trust for beneficiaries

The terms of any separate trust created under Clause 17.1(f) will be such as the Trustees think fit and may, for example, include wider powers than those granted by

Trust Deed

statute (including those of investment, borrowing, maintenance, advancement, appropriation and insurance).

17.3 Unpaid lump sum

Any part of a lump sum death benefit which remains unpaid at the end of the Trust Period will be paid to the Member's personal representatives, except that it will be retained as part of the Fund to the extent that otherwise the Crown, the Duchy of Lancaster or the Duke of Cornwall would benefit.

18. BENEFIT CALCULATIONS

18.1 Pensions/allowances

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

18.2 Factors etc

Unless expressly left to be decided by an Employer or the Actuary, the Trustees will, after consulting the Actuary, decide:

- (a) the value of any pension, allowance or other benefit;
- (b) the amount by which a pension, allowance or other benefit is to be increased or reduced as required by the Trust Deed and Rules; and
- (c) whether a pension, allowance or other benefit is equal in value to any other pension, allowance or other benefit.

Persons making such a decision (and the Actuary when giving advice) may make such assumptions and take account of such matters as they think appropriate, and may treat a person as enjoying normal health for his age and sex.

18.3 Rounding

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

18.4 Tax

If the Trustees are liable for any tax in respect of any benefit, they may apply part of the benefit in paying the tax (including any interest) or may postpone payment of the benefit until the tax has been paid or provided for to their satisfaction. In the event that a lifetime allowance charge under section 214 of the Finance Act is payable in respect of a Member, the Trustees will permanently reduce the benefits payable in respect of the Member on the basis of advice from the Actuary such that the reduction is in their opinion equivalent to the charge.

Trust Deed

18.5 Employer's lien

Subject to section 93 of the Pensions Act 1995, this Clause applies where a Member owes an Employer a monetary obligation because of his own criminal, negligent or fraudulent act or omission. If the amount of the monetary obligation is agreed by the Member and the Employer, or if the obligation has become enforceable under a Court order or as a result of an award made by an arbitrator or arbiter, the Employer is entitled to payment of a sum from the Scheme. The sum to which the Employer is entitled is equal to the lesser of:

- (a) the amount of the obligation which is agreed or which has become enforceable; and
- (b) the cash equivalent of the Member's benefits which remain payable, other than GMPs and benefits payable under Clause 14 (*Transfers in*).

The Trustees must reduce the Member's benefits (other than GMPs and benefits payable under Clause 14) in such a way as they see fit, the value of the reduction being equal to the sum paid to the Employer. The Trustees must give the Member a certificate showing the amount forfeited and the effect of forfeiture on his benefits.

19. PAYMENT OF BENEFITS

19.1 Evidence and information

A Member or other beneficiary must supply the Trustees with such evidence and information as the Trustees may require for the purpose of the Scheme. In particular, a Member must supply any information required as to benefits paid or payable under other Registered Schemes, and as to the amount of the Member's lifetime allowance which is available (determined in accordance with sections 214 to 226 of the Finance Act). Payment of any benefit to any person will be conditional upon production by that person of the required evidence and information.

19.2 Instalments

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

19.3 Means of payment

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

Trust Deed

19.4 Trivial benefits

The Trustees may commute trivial benefits as follows:

- (a) If a Member has reached age 60 and the value of the Member's pension rights does not exceed 1% of the Lifetime Allowance, the Trustees may commute all benefits for and in respect of the Member under the Scheme for a lump sum less tax, provided that the lump sum is a trivial commutation lump sum as defined in paragraph 7 of Schedule 29.
- (b) If the value of the pension and lump sum benefits payable to a Dependant under the Scheme does not exceed 1% of the Lifetime Allowance and the Member (if still alive) would not yet have reached age 75, the Trustees may commute those benefits for a lump sum less tax, provided that the lump sum is a trivial commutation lump sum death benefit as defined in paragraph 20 of Schedule 29.
- (c) In addition to the powers under paragraphs (a) and (b) above, the Trustees may commute all benefits for and in respect of a Member or Dependant under the Scheme for a lump sum less tax, provided that the lump sum is of a sort described in Part 2 of the Registered Pension Schemes (Authorised Payments) Regulations 2009.
- (d) The value of rights or benefits for this purpose will be determined by the Trustees after taking the Actuary's advice.
- (e) Subject to the provisions of Schedule 29 referred to above, the Trustees do not need the consent of a Member or Dependant or any other person actually or prospectively entitled to a benefit in order to exercise their powers under this Clause.

19.5 Serious ill-health

If a Member becomes entitled to payment of a pension at a time when (in the opinion of a registered medical practitioner) he is likely to live for less than one year, the Trustees may pay him in commutation of that pension a cash sum of equal value less tax, provided that the lump sum is a serious ill-health lump sum for the purpose of paragraph 4 of Schedule 29.

19.6 Minors etc

If the person entitled to a benefit is a minor, payment may be made to the minor direct or to his parent or guardian or any adult with whom he resides. If the person entitled to a benefit suffers from mental or physical incapacity, payment may be made to any person or institution who the Trustees consider is responsible for his care. In any of the cases mentioned under this Clause 19.6, the Trustees need not enquire into the use by the recipient of payments to him.

Trust Deed

19.7 Person's estate etc

If a person dies when payment of a benefit was due to him, the benefit may be paid to his estate or (if the Trustees so decide) to his widow, widower, Civil Partner, dependant or apparent next-of-kin. Where a benefit would otherwise be payable to a person's estate, but no grant of probate or letters of representation has been shown to the Trustees, the Trustees may pay or apply the benefit to or for his widow, widower, Civil Partner or apparent next-of-kin.

19.8 Unclaimed benefits

Any instalment of a pension or allowance and any lump sum benefit will be forfeited if not claimed within six years of the date on which payment first became due. The Trustees may at their discretion decide that all or part of any instalment or lump sum will be paid despite its having been forfeited.

19.9 Assignment etc

Subject to sections 92 to 94 of the Pensions Act 1995:

- (a) no pension or other benefit may be assigned, charged or alienated; and
- (b) a benefit (except a GMP) will be forfeited if:
 - (i) the person entitled to it was made bankrupt before 6 April 2002; or
 - (ii) the Trustees are aware that the person entitled to it has attempted to assign, charge or alienate all or part of the benefit or any interest in it or that an event has occurred that was intended to have the same effect.

Despite forfeiture, the Trustees may pay or apply all or part of a benefit to or for the benefit of the person originally entitled to it or any of the people mentioned in section 92(3) of the Pensions Act 1995.

A Pension Sharing Order or a court order under section 25B of the Matrimonial Causes Act 1973 in respect of a Member's rights or benefits under the Scheme will not be treated as an assignment, charge or alienation of a benefit.

19.10 Overstatement/overpayment

If the Trustees find that a benefit has been overstated or overpaid, any subsequent payment of that benefit will be at the correct rate, unless the Trustees determine that it is reasonable to pay a greater amount (not exceeding the amount as overstated or overpaid), taking account of any right which the person in question may have acquired to that greater amount.

If a benefit or other sum has been overpaid, the Trustees must take such steps to recover the overpayment as in their view are reasonable, taking account of the likely cost of recovery and any defence which the person in question may have. The steps may include deductions from any subsequent payments to the person in question, by

Trust Deed

such instalments as the Trustees think fit. The value of the deductions must not exceed the value of the overpayment. The deductions must not reduce the value of a pension below the level of any GMP.

20. PENSION SHARING

20.1 Reduction for Pension Debit

If a Member's benefits under the Scheme are subject to a Pension Debit, the benefits will be reduced accordingly. The amount of the Pension Debit will be deducted from each of the Member's Qualifying Benefits within the implementation period as defined in section 34 of the Welfare Reform Act.

20.2 Securing the Pension Credit

If a Member's benefits under the Scheme are subject to a Pension Debit, the Trustees will discharge their liability for the corresponding Pension Credit by paying the amount of the Pension Credit to a qualifying arrangement in accordance with paragraph 1(3) of Schedule 5 to the Welfare Reform Act.

20.3 Death before Pension Credit is secured

If the former spouse or Civil Partner of a Member dies after a Pension Sharing Order is made, but before the liability for the Pension Credit has been discharged by the Trustees, no benefits will be paid unless the Trustees, at their discretion, decide that a pension or lump sum will be paid to a person or persons nominated by the former spouse or Civil Partner for this purpose or, if no nomination has been made, to the former spouse's or Civil Partner's personal representatives. Any such benefits must not be of greater value than the Pension Credit.

20.4 Transfer-in of Pension Credit Rights

Where the Trustees accept a transfer payment for an individual and are informed by the transferor that the transfer value consists wholly or partly of Pension Credit Rights, the Trustees must ensure that transferred-in Pension Credit Rights are treated as provided separately from any other benefits provided under the Scheme.

20.5 Transfer-out of benefits subject to Pension Debit

Where the Trustees make a transfer payment to a receiving scheme or arrangement for a Member who is subject to a Pension Debit, the transfer payment will be the reduced amount after the Pension Debit has been deducted under Clause 20.1.

Trust Deed

20.6 Charges

The Trustees may recover charges from a Member or former spouse or Civil Partner (as appropriate) in accordance with the Welfare Reform Act. In particular, the Trustees may recover any costs reasonably incurred in connection with pension sharing activity by whichever of the following methods they choose:

- (a) by requiring payment to be made before the start of the implementation period in respect of the Pension Sharing Order; or
- (b) by making a deduction from the Member's accrued rights or pension, the Pension Credit or any cash equivalent transfer value.

TERMINATION ETC

21. REDUCTION OF CONTRIBUTIONS

21.1 Reduction/suspension of contributions

An Employer may, by prior written notice to the Trustees, reduce or suspend its liability to pay contributions as set out in the notice. Members' contributions will not be affected.

21.2 Trustees' powers following reduction/suspension

After consulting the Actuary, the Trustees may then or at any later time reduce any benefits payable for all or any persons who are or have been Members in the Service of that Employer. The total reduction in benefits must have a value which, in the opinion of the Actuary, is not more than the value of the reduction or suspension of Employer's liability.

21.3 Notification of Member

The Trustees must notify the Member of any reduction in benefit. If the Member has died, the Trustees must instead notify the person entitled to the benefit.

22. TERMINATION

22.1 Termination of Employer's liability for all Workers

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

- (a) The Employer may terminate by giving prior written notice to the Trustees specifying the Termination Date.
- (b) If the Employer is not a subsidiary (as defined in section 1159 of the Companies Act 2006) of the Company, the Trustees may with the consent of

Trust Deed

the Company terminate by giving prior written notice to the Employer specifying the Termination Date.

- (c) Termination will take place on the same date that the Employer goes into liquidation or is dissolved.
- (d) If the Company's liability is terminated and the Company is not replaced under Clause 2.2 (*Substitution of new Company*), the liability of all other Employers will terminate on the same Termination Date.
- (e) If the rule against perpetuities applies to the Scheme, each Employer's liability will terminate not later than the end of the perpetuity period, which will be 80 years from 15 December 1986 or such longer period as the law permits.

22.2 Termination of Employer's liability for certain Workers

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

22.3 Deemed termination

If, in the opinion of the Trustees, all or a substantial number of a group or category of Members leave Service at the instigation or invitation of the Employer (whether simultaneously or over a short period), the Trustees may treat the Employer as having given a notice or notices under Clause 22.2 in such terms as they may notify to the Employer in writing.

23. EMPLOYER'S DEFAULT

23.1 Failure to pay contributions

If an Employer fails to pay contributions as required by the Trust Deed and the Rules, the Trustees may treat that Employer as having given notice under Clause 21.1 (*Reduction/suspension of contributions*) or 22 (*Termination*) at such time and in such terms as they may notify to the Employer in writing.

23.2 Late payment

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

Trust Deed

24. **EFFECT OF TERMINATION**

24.1 **Identified Beneficiaries**

In the event of a Termination, the Trustees must identify the following persons (called "**Identified Beneficiaries**"):

- (a) on Total Termination, all Members living immediately after the Termination Date and all persons entitled to receive benefits as a result of the membership of Members who died on or before the Termination Date; or
- (b) on a Partial Termination:
 - (i) Members in the Service of the relevant Employer on the Termination Date (other than Members for whom, under Clause 22.2 (*Termination of Employer's liability for certain Workers*), the Employer's liability is not terminated or who, immediately after the Termination Date, are in the Service of another Employer whose liability for them is not terminated), and
 - (ii) at the discretion of the Trustees, any one or more of:
 - (A) Members not in Service but still living on the Termination Date for whom, in the opinion of the Trustees, the Employer's liability would have terminated had they still been in Service, and
 - (B) persons entitled to receive benefits as a result of the membership of Members who, in the opinion of the Trustees, would have been Identified Beneficiaries had they still been living on the Termination Date.

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

24.2 **Notification**

The Trustees must notify Identified Beneficiaries of the Termination as soon as reasonably practicable after the event causing the Termination.

24.3 **Separate Fund**

On Total Termination, the Trustees must set up a Separate Fund in accordance with Clause 25 (*Separate Fund*) and then apply Clause 26 (*Winding up*).

On a Partial Termination, the Trustees may set up a Separate Fund in accordance with Clause 25 and then apply Clause 26.

Trust Deed

Where the Trustees set up a Separate Fund, Identified Beneficiaries may not benefit from any part of the Fund other than the Separate Fund, except as mentioned in Clause 26.7 (*Internal transfer*).

24.4 Contributions

A Member who is an Identified Beneficiary may not pay contributions for Service after the Termination Date.

24.5 Employer's liability

Notwithstanding Termination:

- (a) an Employer's liability (whether to contribute, to pay expenses, to indemnify the Trustees or otherwise) will not terminate in respect of amounts due, expenses incurred or claims made on or before the Termination Date; and
- (b) interest may continue to accrue under Clause 23.2 (*Late payment*).

24.6 Employer's powers etc

If there is a Termination in respect of all Workers of an Employer:

- (a) any powers or discretions of the Employer relating to benefits of persons who are not Identified Beneficiaries will transfer to any subsequent Employer of the Member or, if none, to the Company; and
- (b) the Employer may not, without the consent of the Company, receive a payment under Clause 26.5(d) (*Balance of FS Separate Fund*) on any subsequent Termination.

25. SEPARATE FUND

25.1 Application of this Clause

This Clause 25 will apply where under Clause 24.3 (*Separate Fund*) the Trustees are required to set up a Separate Fund on Total Termination or decide to set up a Separate Fund on a Partial Termination.

25.2 Composition of Separate Fund

On Total Termination, the whole of the Fund on the Termination Date (excluding any other Separate Fund then already set up) will be the Separate Fund. The Separate Fund will be divided into the FS Separate Fund, the MP Separate Fund and the AVC Separate Fund as described in Clauses 25.3 to 25.5.

On a Partial Termination, the Separate Fund will consist of the MP Separate Fund, the AVC Separate Fund and the FS Separate Fund, as described in Clauses 25.3 to 25.5.

Trust Deed

25.3 The MP Separate Fund

The MP Separate Fund will consist of:

- (a) the Retirement Accounts of Identified Beneficiaries; and
- (b) Scheme Annuities in respect of Identified Beneficiaries, if derived from Retirement Accounts.

25.4 The AVC Separate Fund

The AVC Separate Fund will consist of:

- (a) the AVC Accounts of Identified Beneficiaries; and
- (b) Scheme Annuities in respect of Identified Beneficiaries, if derived from AVC Accounts.

25.5 The FS Separate Fund

The FS Separate Fund will be:

- (a) in the case of a total termination under Clause 22.1(a) (*Identified Beneficiaries*), the FS Fund; or
- (b) in the case of a partial termination under Clause 24.1(b) (*Identified Beneficiaries*), a sum calculated as follows:
 - (i) the Share of Fund, if that is less than the Basic Entitlements, or
 - (ii) subject to (i) above, the Basic Entitlements or such greater value as the Trustees may think fit after consulting the Actuary and the Company, not exceeding the Share of Fund.

For these purposes:

"Basic Entitlements" means the amount certified by the Actuary to be required to provide or secure the FS Benefits without abatement;

"Share of Fund" means the value of that part of the FS Fund which relates to the FS Benefits of Identified Beneficiaries, calculated by the Actuary on a basis acceptable to the Trustees under which the whole of the FS Fund would have related to the FS Benefits of Identified Beneficiaries if the liability of all Employers had been terminated at the same time for all Workers; and

"FS Benefits" has the meaning given in Clause 26.5 (*FS Separate Fund – benefits*).

Trust Deed

25.6 Setting up Separate Fund

The Trustees may set up a Separate Fund at any time after the event causing the Termination. If the Trustees have not set up the Separate Fund by the Termination Date, they must do so as soon as reasonably practicable after that date.

25.7 Deductions/additions

Where the Trustees pay or receive amounts after the Separate Fund has been set up, and those amounts relate to the Separate Fund or to Identified Beneficiaries, the Trustees will apply such deductions or increases as they think fit to the MP Separate Fund, the AVC Separate Fund or the FS Separate Fund.

25.8 Allocation of assets

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

26. WINDING UP

26.1 Expenses and insurance

The Separate Fund must be used to pay costs and expenses which relate to the Separate Fund or Identified Beneficiaries and which can properly be recovered from the Fund. The Separate Fund may also be used to buy insurance or guarantees for the Trustees against claims being made by Identified Beneficiaries or others after all or part of the Separate Fund has already been spent. Clauses 7.2 (*Recovery – KPS-MP*), 7.3 (*Recovery – AVC Accounts*) and 7.4 (*Recovery – KPS-FS*) will apply in respect of payments under this Clause 26.1.

26.2 Providing benefits

Subject to Clause 26.1 and to section 73 of the Pensions Act 1995, the Trustees must apply the Separate Fund as described in Clauses 26.3 to 26.5.

Trust Deed

26.3 MP Separate Fund

(a) Benefits

The Trustees must apply the MP Separate Fund as follows:

- (i) They must apply each Retirement Account to provide benefits in respect of which contributions were made to that Account.
- (ii) They must apply each Scheme Annuity to provide benefits secured by that Annuity.

(b) Surplus

Any remaining part of the MP Separate Fund will be added to the FS Separate Fund.

26.4 AVC Separate Fund

(a) Benefits

The Trustees must apply the AVC Separate Fund as follows:

- (i) They must apply each AVC Account to provide benefits in respect of which contributions were made to that Account.
- (ii) They must apply each Scheme Annuity to provide benefits secured by that Annuity.

(b) Surplus

Any remaining part of the AVC Separate Fund will be added to the FS Separate Fund.

26.5 FS Separate Fund

(a) Benefits

The Trustees must apply the FS Separate Fund to provide the benefits of Identified Beneficiaries described below but excluding the benefits described in Clauses 26.3 and 26.4. The benefits to be provided under this Clause are referred to as the "**FS Benefits**".

(i) Each of:

- (A) pensions and other benefits already in payment,
- (B) if a Member was in Service on the Termination Date and had then reached Normal Retirement Date, the pension and other benefits he would have received if he had retired on that date, and

Trust Deed

- (C) in respect of each Member covered by (i) or (ii) above, the pensions and other benefits to which his spouse, Civil Partner, Children or dependants will be entitled on his death (assuming for a Member in Service that he retired on the Termination Date).
- (ii) Equivalent pension benefits payable under the National Insurance Act 1965.
- (iii) GMPs and accrued rights to GMPs, including state scheme premiums (as defined in the Pension Schemes Act).
- (iv) All other benefits to which any Identified Beneficiary is prospectively entitled (and the benefits payable on the death of any such person who is a Member) calculated on the basis that:
 - (A) all Identified Beneficiaries who were in Service on the Termination Date left Service on that date entitled to a deferred pension, and
 - (B) any Rule permitting a refund of contributions does not apply.

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

(b) **Deficit**

If the FS Separate Fund is insufficient to provide the FS Benefits then, subject to section 73 of the Pensions Act 1995, the Trustees must abate all or any of them in such manner as they consider equitable after consulting the Actuary but they must not abate any of the benefits in categories (i), (ii) or (iii) of Clause 26.5(a) until they have entirely abated all of the benefits in each succeeding category.

(c) **Surplus**

If the FS Separate Fund is more than sufficient to provide the FS Benefits, the Trustees may use some or all of the balance of the FS Separate Fund to augment the FS Benefits and to provide other relevant benefits (as defined in section 612 of the Taxes Act) for Members who are Identified Beneficiaries (or who would be Identified Beneficiaries if still living). The Trustees may exercise this power as they think fit but only after consulting the Actuary and with the consent of the Company, except that the consent of the Company will not be required if:

- (i) in relation to the Company or its business or assets, the appointment of a receiver, liquidator, administrator or administrative receiver has been made or, in the opinion of the Trustees, is imminent;
- (ii) the Company is a subsidiary (as defined in section 1159 of the Companies Act 2006) of another company;

Trust Deed

- (iii) a single person holds shares or other investments in the Company which entitle him to exercise not less than one half of the total voting rights at a general meeting of the Company; or
- (iv) a group of persons who, in the opinion of the Trustees, are acting in concert holds such shares or other investments as are mentioned in (iii) above.

(d) Balance of FS Separate Fund

Subject to sections 76 and 77 of the Pensions Act 1995, any balance of the FS Separate Fund after applying Clauses 26.5(a) to (c) will be paid to those Employers who at any time employed any Identified Beneficiaries and in such shares between them as the Trustees after consulting the Actuary think appropriate, except that an Employer's share will instead remain in the Fund (for the general purposes of the Scheme) if:

- (i) that Employer's liability was not terminated for all of its Workers, or
- (ii) the liability of other Employers has not been terminated and the Company so directs.

26.6 Provision of benefits

The Trustees will decide how benefits are to be provided under Clauses 26.3 to 26.5, and may:

- (a) make transfer payments under Clause 15 (*Transfers out*);
- (b) make arrangements concerning any policy of assurance or indemnity which may be held in the Fund and which relates to Identified Beneficiaries;
- (c) pay state scheme premiums in accordance with the Pension Schemes Act;
- (d) until the winding up of the Separate Fund is complete, pay benefits from the Separate Fund in accordance with the relevant provisions of the Trust Deed and the Rules; or
- (e) (where the whole of the Fund is the Separate Fund, or where the Company consents) continue to run the Separate Fund as a closed fund, paying benefits from the Separate Fund in accordance with the relevant provisions of the Trust Deed and Rules, in which case:
 - (i) the Trust Deed will continue to apply in relation to the closed fund, but the Employers will have no further liability in respect of the fund,
 - (ii) no new Members may be admitted to the closed fund,
 - (iii) the Trustees may make regulations governing the operation of the closed fund which override the Trust Deed and Rules, and

Trust Deed

- (iv) the closed fund will be wound up in accordance with this Clause 26.6 (subject to any changes which the Trustees consider necessary or expedient) at a date chosen by the Trustees, but, if the rule against perpetuities applies to the Scheme, not later than the end of the perpetuity period specified in Clause 22.1(e) (*Termination of Employer's liability for all Workers*).

26.7 Internal transfer

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

26.8 External transfer

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

- (a) The transfer will be made instead of applying Clauses 26.2 to 26.6 but after any application of Clause 26.7.
- (b) The other scheme must be one which all or some of the Identified Beneficiaries have joined as members and which accepts the liability to pay all GMPs and accrued rights to GMPs of Identified Beneficiaries.
- (c) The transfer must not be made without the consent of the Company unless such consent would not have been required for augmenting benefits under Clause 26.5(c) or if the Separate Fund when set aside was no more than the Basic Entitlements.
- (d) The transfer must comply with Clause 15 (*Transfers out*) except Clauses 15.5 (*Discharged benefits*) and 15.6 (*Value transferred*).
- (e) The Trustees will be discharged of liability to provide the benefits for Identified Beneficiaries which would otherwise have been provided from the Separate Fund and will not be obliged to inquire into the use of the cash or other assets transferred to the other pension scheme.

26.9 Amendments

The powers of amendment under Clause 10 (*Amendments*) will continue to be exercisable until winding up of the Scheme is complete.

Trust Deed

27. **LIABILITY**

Clause 29 of the 2010 Trust Deed ("**Old Clause 29**") will continue to apply (subject to Clause 10 (*Amendments*)). Old Clause 29 provides (broadly) as follows:

- (a) Following the occurrence of any Trigger Event in respect of one or more Relevant Employers, Kingfisher will be jointly and severally liable to the Trustees for all Obligations of such Relevant Employers.
- (b) For these purposes:

"Kingfisher" means Kingfisher plc (registered number 1664812).

"Obligations" means any obligations of a Relevant Employer to the Trustees under the Trust Deed and Rules, any legislation or otherwise, whether those obligations exist at the time of the Trigger Event or arise at any subsequent time, to the extent that the Relevant Employer has failed to discharge or otherwise satisfy such obligations. The Obligations of a Relevant Employer will include in particular any obligation to pay to the Trustees any contributions or Employer Debt.

"Trigger Event" means, in respect of a Relevant Employer, any of the following:

- (i) an Employer Debt becoming due from Kingfisher at a time when no Employer Debt has yet become due from that Relevant Employer; or
- (ii) insolvency events (as defined in section 121 of the Pensions Act 2004) occurring in relation to both Kingfisher and that Relevant Employer either on the same day or within a period of 12 months; or
- (iii) the commencement of winding-up of the Scheme in respect of all Relevant Employers, except if the winding-up is the result of a Termination brought about by the Trustees under Clause 23.1 (*Failure to pay contributions*).

"Relevant Employer" means any person which at the time of the Trigger Event is an Employer or has an obligation to the Trustees by virtue of being an employer in relation to the Scheme for the purpose of any legislation.

"Employer Debt" means a debt due to the Trustees under section 75 of the Pensions Act 1995 (and calculated in accordance with section 75 and any related regulations, including the Occupational Pension Schemes (Employer Debt) Regulations 2005) or any replacement legislation as to the liability of employers for deficiencies in pension scheme assets.

KINGFISHER PENSION SCHEME

RULES

GENERAL

1. INTRODUCTION

1.1 Application of Rules

These Rules are adopted with effect from 1 January 2013 and set out the terms of KPS-MP for Service on and after that date.

1.2 Modifications

The Rules are supplemented and modified by the Schedules. Schedule 1 (*Frozen FS Members*) describes the terms on which benefits are payable under KPS-FS for Frozen FS Members. Schedule 2 (*Channel Islands*) sets out the modifications which apply for Members employed in Jersey or Guernsey.

MEMBERSHIP

2. AUTO-ENROLMENT

2.1 Enrolment

An Eligible Jobholder who is not already an Active Member will become an Active Member on completion of any Postponement Period after the applicable Starting Day.

2.2 Re-enrolment

An Eligible Jobholder (other than a Recent Opter-out) who is not already an Active Member will become an Active Member on an applicable Automatic Re-enrolment Date.

3. OPTING IN AND JOINING

3.1 Jobholders opting in

A Jobholder who is not already an Active Member may become one by giving his Employer an opt-in notice in accordance with section 7 of the Pensions Act 2008. The Employer must then make such arrangements as are required for this purpose by section 7. Active Membership will start on the applicable enrolment date in accordance with regulation 18 of the Auto-Enrolment Regulations (normally, the first day of the next pay period after the date on which the Jobholder gives notice to the Employer).

3.2 Entitled Workers joining

An Entitled Worker who is not already an Active Member and wishes to become one must give his Employer a joining notice in accordance with section 9 of the Pensions

Rules

Act 2008. The Employer must then make such arrangements as are required for this purpose by section 9. The Worker must complete and returns such forms as the Trustees may require (which may include a form indicating the Member's choices for the purpose of Clause 4.3 (*Money purchase investments*) and Rule 6.2 (*Applicable Contribution Basis*)). Membership will start on the first day of the month after the requirements of this Rule have been met.

4. GENERAL PROVISIONS AS TO MEMBERSHIP

4.1 Discretionary admission

The Trustees may, at the request of the Employer, admit as an Active Member any Worker who would not otherwise be eligible for admission under the Rules.

4.2 Discretionary exclusion or special terms

The Trustees may, with the consent of the Employer, determine that, notwithstanding any other provision of the Rules, particular Workers or categories of Worker (not already Active Members) will not be eligible to become Active Members or may become Active Members subject only to such conditions or upon such terms as the Trustees may impose.

4.3 Members to supply information

Every person becoming an Active Member must at that time and at all times during his Membership provide such information, documents and evidence as the Trustees may require.

5. LSDB-ONLY MEMBERSHIP

5.1 Qualification

A Worker who is not an Active Member will be an LSDB-only Member for the purposes of 12.3 (*LSDB-only Members*).

5.2 Deemed to be Members for certain purposes

An LSDB-only Member will be deemed to be a Member for the purposes of Rules 4.3 (*Members to supply information*), the Appendix (*Defined terms and interpretation*), and Clauses 17 (*Death benefit trusts*), 18 (*Benefit calculations*) and 19 (*Payment of benefits*) of the Trust Deed. See also Rule 11 (*Family leave – LSDB-only Members*).

Rules

6. CONTRIBUTIONS

6.1 Member's options

An Active Member has the following options as to the Contribution Basis under the Scheme, subject to Rule 6.2:

Contribution Basis	Own Account Contribution (percentage of Basic Pay)	Matching Contribution (percentage of Basic Pay)
1	1%, or 1.25% if Total Incapacity Cover is provided	2%
2	3%	3%
3	4%	4%
4	5%	5%
5	6%	6%
6	7%	10%
7	8% or higher	14%

Under Basis 7, the Active Member may choose a rate for Own Account Contributions which is higher than 8%, subject to Rule 6.2, but the chosen rate must be a whole-number percentage of Basic Pay.

Further optional Contribution Bases may be introduced by agreement in writing between the Company and the Trustees.

The Company and the Trustees may by agreement in writing change the rates for Own Account Contributions and Matching Contributions under any of the Contribution Bases with a view to ensuring that the Scheme meets the quality requirement under section 20 of the Pensions Act 2008 or an alternative requirement under regulation 32E of the Auto-enrolment Regulations.

6.2 Applicable Contribution Basis

The Contribution Basis which applies in respect of an Active Member will be determined as follows.

- (a) For a person who is already an Active Member on 1 January 2013, the Contribution Basis which applied immediately before that date will apply as from that date.
- (b) For a person who becomes an Active Member on or after 1 January 2013 under Rule 2 (*Auto-enrolment*) or Rule 3.1 (*Jobholder opting in*), Contribution Basis 1 will apply as from the start of his Active Membership, unless he chooses a different Basis.

Rules

- (c) A person who becomes an Active Member on or after 1 January 2013 under Rule 3.2 (*Eligible Workers joining*) must choose the Contribution Basis which will apply as from the start of his Active Membership.
- (d) If the Trustees consent, an Active Member may choose to change the Contribution Basis which applies to him, with effect from a date decided by the Trustees and agreed by the Company (provided that the Company will agree to at least one such date in each 12-month period).
- (e) A choice for the purpose of this Rule 6.2 must be made within such period and in such form as the Trustees decide.

6.3 Payment

Contributions are payable monthly in respect of an Active Member on the Contribution Basis which applies under Rule 6.2. The Own Account Contributions are payable by the Active Member if he is a Contributory Member, or by the Employer if he is a SMART Member. The Matching Contributions are payable by the Employer.

6.4 Employer payments – meeting from KPS-FS

If the Trustees and the Company agree after consulting the Actuary, amounts which would otherwise be payable by an Employer under this Rule 6 will instead be transferred from the FS Fund.

6.5 Members – AVCs

A Member may pay additional voluntary contributions in accordance with Clause 11 (*Additional voluntary contributions*).

6.6 Members – payment

A Member's contributions will be paid in such manner as the Trustees may agree with the Member and notify to the Employer but will otherwise be deducted from the Member's remuneration and paid by the Employer to the Trustees.

6.7 Other contributions

An Employer (or, with the consent of the Trustees, any other person) may pay contributions in respect of a Member in addition to those required under this Rule 6.

7. TOTAL INCAPACITY COVER

7.1 Providing cover

An Active Member may ask the Trustees to provide Total Incapacity Cover.

Rules

7.2 Evidence of health

A person who makes a request under Rule 7.1 must provide the Trustees with such evidence as to his state of health and submit himself to such medical examinations as they may require. If he fails to do so or if the evidence shows him to have a Relevant Medical Condition, the Trustees may:

- (a) refuse to provide Total Incapacity Cover; or
- (b) restrict the benefits which may become payable to or in respect of that person under Rule 13.2(b) (*Incapacity retirement*) as the Trustees may, after consulting the Actuary or any relevant Insurance Company, consider appropriate and as they notify to him.

7.3 Non-disclosure

If the Incapacity of a Member who had been required to give evidence under Rule 7.2 is caused (in whole or in part) by a Relevant Medical Condition which was not revealed by such evidence, the Trustees may pay reduced or no benefits under Rule 13.2(b) (*Incapacity retirement*) as if such benefits had been restricted in accordance with Rule 7.2, but they may do so only if they are satisfied that, at the time that he complied with the request under Rule 7.2, the Member:

- (c) was aware that he was then suffering from the Relevant Medical Condition; and
- (d) deliberately or negligently failed to reveal it.

7.4 Cost of Total Incapacity Cover – Member's share

Where Total Incapacity Cover is provided for a Member, an agreed part or proportion of the Own Account Contributions will be added to the FS Fund rather than being credited to the Member's Retirement Account. "Agreed" for this purpose means agreed for the time being in writing by the Company and the Trustees.

7.5 Cessation of cover

If a Member with Total Incapacity Cover so elects, the Trustees will cease to provide the Cover in question with effect from a date determined by the Trustees. Total Incapacity Cover will in any case cease at Normal Retirement Date or such later date as is agreed for the time being in writing by the Company and the Trustees.

8. OPTING OUT – ONE-MONTH WINDOW

8.1 Opt-out notice

A Jobholder who has become an Active Member under Rule 2 (*Auto-enrolment*) or Rule 3.1 (*Jobholders opting in*) may opt out of Active Membership by giving his Employer an opt-out notice in accordance with regulation 9 of the Auto-enrolment Regulations. Subject to Rule 8.3, the period during which notice can be given is one

Rules

month beginning with the date when the person became an Active Member, or, if later, with the date when the Employer gave him the information required under regulation 7 of the Auto-enrolment Regulations.

8.2 Valid notice

If a Jobholder gives a valid opt-out notice in accordance with regulation 9 of the Auto-enrolment Regulations, then:

- (a) the Employer must inform the Trustees;
- (b) the Jobholder will be treated as not having been an Active Member;
- (c) the Employer must refund to the Jobholder his contributions to the Scheme and any contributions made on his behalf (less tax); and
- (d) the Trustees must refund to the Employer the Jobholder's contributions and the Employer's contributions in respect of him.

8.3 Invalid notice

If a Jobholder gives an invalid opt-out notice, the Employer must take any steps required under regulation 9 of the Auto-enrolment Regulations, and the period for giving notice will be extended in so far as required by that regulation.

9. OPTING-OUT – OUTSIDE ONE-MONTH WINDOW

An Active Member may opt out of Active Membership by giving written notice to the Trustees (except during any applicable period under Rule 8.1 (*Opt-out notice*)). Where a Member does so, he will cease to be an Active Member on a date determined on a basis agreed between the Trustees and the Employer.

ABSENCE

10. FAMILY LEAVE – ACTIVE MEMBERS

The following provisions apply to a Member who is absent from work due to Family Leave and who was an Active Member immediately before the absence began:

- (a) The Member will remain in Active Membership (unless Active Membership ceases as described in the "Active Member" definition).
- (b) The Member's contributions (if any) and his share of the cost of any Total Incapacity Cover under Rule 7.4 (*Cost of Total Incapacity Cover – Member's share*) will be based on Actual Basic Pay. However, if the Employer consents, the Trustees may reduce or waive the Member's liability to pay contributions.
- (c) If the Member is entitled to receive Statutory Pay or other earnings or is on an Ordinary Leave Period, the Employer's contributions will be based on Normal Basic Pay.

Rules

- (d) Any benefits which become payable under Rule 13.2(b) (*Incapacity retirement*) or 15.1(a) (*Members who die before retirement*) if the Member retires or dies while on Family Leave will be based on Normal Salary.

11. FAMILY LEAVE – LSDB-ONLY MEMBERS

The following provisions apply to an LSDB-only Member who is absent from work due to Family Leave. If the LSDB-only Member dies during the Family Leave, then:

- (a) He will be deemed to have died in Service for the purpose of Rule 15.3 (*LSDB-only Members*).
- (b) For the purpose of calculating benefits, his earnings will be deemed to be such amount as the Trustees decide would have been his likely earnings if he had not been absent (except that the Employer may decide, where consistent with statute, that this paragraph (b) will not apply).

12. OTHER ABSENCE

The following provisions apply to a Member who is absent from work other than due to Family Leave and who was an Active Member immediately before the absence began:

- (a) The Member will remain in Active Membership (unless Active Membership ceases as described in the "Active Member" definition).
- (b) The Member's contributions, his share of the cost of any Total Incapacity Cover under Rule 7.4 (*Cost of Total Incapacity Cover – Member's share*) and the Employer's contributions will be based on Actual Basic Pay. However, if the Employer consents, the Trustees may reduce or waive the Member's liability to pay contributions.
- (c) Any benefits which become payable under Rule 13.2(b) (*Incapacity retirement*) or 15.1(a) (*Members who die before retirement*) if the Member retires or dies while on leave will be based on Normal Salary.

BENEFITS

13. RETIREMENT BENEFITS

13.1 Normal retirement

This Rule 13.1 applies if an Active Member retires from Service at Normal Retirement Date. The Trustees will use the Member's Retirement Account to provide benefits in the manner described in Rule 16 (*Provision of Member's benefits*).

Rules

13.2 Incapacity retirement

This Rule 13.2 applies if an Active Member retires from Service before Normal Retirement Date due to Incapacity. The Trustees will credit the Member's Retirement Account with an amount equal to:

- (a) the amount of the total Matching Contributions and any Core Contributions and Additional Core Contributions under the 2010 Trust Deed and Rules which have been paid by the Company in respect of the Member (without interest); plus
- (b) (if the Member is retiring due to Total Incapacity and has Total Incapacity Cover) an amount calculated on such basis as has for the time been agreed in writing in respect of the Member by the Company and the Trustees.

The Trustees will use the Member's Retirement Account to provide benefits in the manner described in Rule 16 (*Provision of Member's benefits*).

13.3 Other early retirement

This Rule 13.3 applies if an Active Member retires from Service before Normal Retirement Date (other than due to Incapacity) and:

- (a) the Member has two years' Qualifying Service;
- (b) the Member has reached Minimum Pension Age; and
- (c) the Trustees and the Employer consent.

The Trustees will use the Member's Retirement Account to provide benefits in the manner described in Rule 16 (*Provision of Member's benefits*).

13.4 Late retirement

This Rule 13.4 applies to a Member who remains in Service after Normal Retirement Date and who was an Active Member immediately before that date. The Member will remain an Active Member (and continue paying contributions) until the earlier of:

- (a) his retirement from Service; and
- (b) the Member opting out under Rule 8 (*Opting-out – one-month window*) or Rule 9 (*Opting-out – outside one-month window*).

The Trustees will then use the Member's Retirement Account to provide benefits in the manner described in Rule 16 (*Provision of Member's benefits*).

Rules

13.5 Flexible retirement

If an Active Member who has reached Minimum Pension Age so requests and the Trustees and the Employer agree then, with effect from a date chosen for this purpose by the Trustees:

- (a) the Member will cease to be an Active Member and the Trustees will use the Member's Retirement Account to provide benefits in the manner described in Rule 16 (*Provision of Member's benefits*); but
- (b) the Member may again become an Active Member subject to the terms and conditions of Rules 2 (*Auto-enrolment*) and 3 (*Opting in and joining*), and to such other terms and conditions as the Trustees or the Employer may impose.

14. LEAVING BENEFITS

14.1 Application of this Rule

This Rule 14 applies where:

- (a) a Member ceases to be an Active Member before Normal Retirement Date (other than under Rule 8.1 (*Opting-out – one-month window*)); and
- (b) benefits are not provided under Rule 13.2 (*Incapacity retirement*) or Rule 13.3 (*Other early retirement*).

14.2 Less than two years' Qualifying Service

If the Member has not completed two years' Qualifying Service, and no transfer of assets has been received from a personal pension scheme on his behalf, then:

- (a) if the Member has completed three months' Qualifying Service and so elects in such form and within such period as the Trustees specify for this purpose, the Trustees will make a transfer payment for him under Clause 15 (*Transfers out*), the amount being the cash transfer sum calculated in accordance with section 101AB of the Pension Schemes Act;
- (b) except where (a) applies, the Member will be entitled to a refund. The refund will be equal to the accumulated value of the Member's contributions (if any) as determined by the Trustees. Tax will be deducted from the refund, as set out in Clause 18.4 (*Benefit calculations*).

14.3 More than two years' Qualifying Service

If the Member has completed two years' Qualifying Service, or if a transfer of assets has been received from a personal pension scheme on his behalf, the Trustees will use the Member's Retirement Account to provide benefits under Rule 16 (*Provision of Member's benefits*):

- (a) at Normal Retirement Date;

Rules

- (b) at a date before Normal Retirement Date chosen by the Member, provided that the Member:
 - (i) has reached Minimum Pension Age or is suffering from Incapacity, and
 - (ii) has left Service (unless the Trustees and the Employer agree to waive this requirement); or
- (c) at a date after Normal Retirement Date chosen by the Member.

14.4 Transfer payments

A Member entitled to benefits under Rule 14.3 which have not come into payment may instead have a transfer payment made for him under Clause 15 (*Transfers out*).

15. DEATH BENEFITS

15.1 Members who die before retirement

If a Member dies before his Retirement Account has been used to provide benefits under Rule 16 (*Provision of Member's benefits*), then:

- (a) if he is an Active Member and dies before age 75, the Trustees will credit his Retirement Account with a sum equal to four times his annual Salary;
- (b) if he is an LSDB-only Member and dies before age 75, the Trustees will credit his Retirement Account with any sum payable under Rule 15.3 (*LSDB-only Members*);
- (c) if he dies before age 75, the Trustees will apply in accordance with Clause 18 (*Death benefit trusts*) an amount from the Retirement Account not exceeding the Available Lifetime Allowance; except that, where a person chosen by the Trustees to receive a lump sum under Clause 18 is a Dependant aged at least 18 and so requests, the Trustees may, instead of paying a lump sum, allocate a corresponding notional share of the Account to the Dependant, and use the notional share to provide benefits under Rule 17 (*Provision of death benefits*); and
- (d) the Trustees will apply any balance of the Retirement Account as follows:
 - (i) if the Member leaves one or more Dependants, the Trustees will apply the balance on behalf of such one or more of the Dependants, and if more than one in such shares, as the Trustees choose. The Trustees will allocate a notional share of the balance to each person chosen by them, and will use that notional share to provide benefits under Rule 17; or
 - (ii) if the Member does not leave any Dependants, the Trustees will apply the balance (less tax) in accordance with Clause 17.

Rules

15.2 Members who die after retirement

If a Member dies after his Retirement Account has been used to provide benefits under Rule 16 (*Provision of Member's benefits*), there will be payable any Dependants' benefits which have been secured under Rule 16.3 (*Pension*).

15.3 LSDB-only Members

If an LSDB-only Member dies before age 75, then:

- (a) the Trustees will pay in accordance with Clause 17 (*Death benefit trusts*) a lump sum equal to his annual Salary (or such multiple of annual Salary as may be agreed in respect of him by the Company and the Trustees); except that
- (b) if the LSDB-only Member is also a Member so that Rule 15.1 (*Members who die before retirement*) applies, the Trustees will instead credit the lump sum to his Retirement Account.

PROVISION OF BENEFITS

16. PROVISION OF MEMBER'S BENEFITS

16.1 Application of this Rule

This Rule 16 describes how the Trustees will provide benefits using a Member's Retirement Account when required to do so under Rules 13 or 14 (*Retirement benefits, Leaving benefits*).

16.2 Lump sum

If the Member so requests, the Retirement Account will be used to pay the Member a lump sum not exceeding the Cash Sum Limit.

16.3 Pension

Subject to Rule 16.4, the balance of the Retirement Account (after any lump sum has been provided under Rule 16.2) will be applied in purchasing an annuity from an Insurance Company as follows:

- (a) The Member must choose the Insurance Company and (subject to (c) below) the terms of the annuity, within such period as the Trustees may decide.
- (b) If the Member fails to make a choice as required under (a) above, the Trustees may choose the Insurance Company and (subject to (c) below) the terms of the annuity. The Trustees will not be obliged to ensure that the annuity chosen is the most favourable or the most suitable for the Member.
- (c) The annuity must satisfy the following requirements:
 - (i) The annuity must provide a pension for the Member.

Rules

- (ii) The annuity may provide a guarantee, whereby either:
 - (A) payment of the Member's pension is guaranteed for a specified period (up to 10 years) after the Member's death; or
 - (B) a lump sum is payable on the Member's death, provided that the lump sum is an annuity protection lump sum death benefit as defined in paragraph 16 of Schedule 29.
- (iii) The annuity may also provide a pension payable following the Member's death to one or more of the Member's Dependants.
- (iv) The pension or pensions may be fixed or may carry the right to increases.
- (v) The annuity must not be capable of commutation, assignment or surrender, except to the extent allowed under the Occupational Pension Schemes (Discharge of Liability) Regulations 1997.
- (vi) The annuity must be a lifetime annuity, and any Dependant's annuity must be a dependants' annuity, as defined in paragraphs 3 and 17 of Schedule 28.

16.4 Drawdown

If the Member so requests and the Trustees agree, part or all of the balance of the Retirement Account will be applied not as described in Rule 16.3, but instead to provide a drawdown pension or drawdown pensions, as defined in paragraph 4 of Schedule 28, on such basis and subject to such terms and conditions as the Trustees decide.

17. PROVISION OF DEATH BENEFITS

17.1 Application of this Rule

This Rule 17 describes how the Trustees will use a notional share of a Member's Retirement Account on behalf of a Dependant where required to do so under Rule 15 (*Death benefits*).

17.2 Pension

The notional share will be used to purchase an annuity from an Insurance Company as follows:

- (a) If the Dependant is over 18, he must choose the Insurance Company and (subject to (c) below) the terms of the annuity, within such period as the Trustees may decide.
- (b) If the Dependant is under 18 or fails to make a choice as required under (a) above, the Trustees may choose the Insurance Company and (subject to (c)

Rules

below) the terms of the annuity. The Trustees will not be obliged to ensure that the annuity chosen is the most favourable or the most suitable for the Dependant.

- (c) The annuity must satisfy the following requirements:
 - (i) The annuity must provide a pension for the Dependant.
 - (ii) The pension may be fixed or may carry the right to increases.
 - (iii) The annuity must not be capable of commutation, assignment or surrender, except to the extent allowed under the Occupational Pension Schemes (Discharge of Liability) Regulations 1997.
 - (iv) The annuity must be a dependants' annuity as defined in paragraph 17 of Schedule 28.

SCHEDULE 1 FROZEN FS MEMBERS

1. INTRODUCTION

This Schedule describes the terms on which benefits are payable under KPS-FS for Frozen FS Members.

2. FS PENSION PAYABLE AT ELIGIBLE PAYMENT DATE

2.1 Entitlement

A Frozen FS Member is entitled to a pension payable from Eligible Payment Date, referred to as the FS Pension. The amount of the Member's FS Pension on the Freezing Date is the Freezing Date Pension. The FS Pension is then increased in deferment in accordance with Paragraph 2.2.

2.2 Increase

While in deferment, the FS Pension will be split into two parts and increased as described below.

(a) The two parts are as follows:

- (i) the Basic GMP; and
- (ii) the excess over the Basic GMP.

(b) The two parts will be increased as follows:

- (i) The Basic GMP will be increased up to GMP Payment Date at the rate which is appropriate under Paragraph 14.4 (*Increases in deferment*).
- (ii) The excess over the Basic GMP will be increased on 1 April in each year until Eligible Payment Date by a percentage thereof equal to the lesser of:
 - (A) 5%; and
 - (B) the percentage increase between the figures in the Retail Prices Index for the beginning and end of a year selected by the Trustees but ended during or after the immediately preceding November,

except that the increase on 1 April 2013 will be calculated on a proportionate basis for each complete month since the Freezing Date.

When the Member's FS Pension comes into payment, if necessary a further increase will be given (or will be deemed to be given for the purpose of calculating an Eligible Dependant's pension under Paragraph 6 (*Death during*

Schedule 1: Frozen FS Members

deferment)), so that the total increase is equal to that required in order to satisfy the Revaluation Requirements.

See also Paragraph 5 (*Pre-2007 Pension*).

3. EARLY PAYMENT

A Frozen FS Member entitled to payment of an FS Pension from Eligible Payment Date may:

- (a) elect instead to receive an immediate pension calculated by reducing the FS Pension as determined by the Trustees to take account of the earlier date of payment, but this election may be made only if the Member has attained Minimum Pension Age and the Trustees and the Employer consent, except that:
 - (i) the Employer's consent will not be necessary if the Member left Service at least one month before the date of payment, and
 - (ii) in respect of the part of the pension which relates to Pensionable Service before 9 March 2007, neither the Trustees' nor the Employer's consent will be required for payment at or after age 60;
- (b) with the consent of the Trustees and when suffering from Incapacity, elect instead to receive his FS Pension increased as described in Paragraph 2.2 (*Increase*) as if the date on which the pension comes into payment were his Eligible Payment Date.

If an election under (a) above is made on retirement from Service, the Company may direct that the reduction to the FS Pension will be of a lesser amount than would otherwise apply.

See also Paragraph 5 (*Pre-2007 Pension*) and Paragraph 12 (*Incapacity pensions – reduction/suspension*).

4. LATE PAYMENT

A Frozen FS Member entitled to payment of an FS Pension from Eligible Payment Date may, with the consent of the Trustees, elect instead to receive a pension payable from a date after Eligible Payment Date. Such later pension will be equal to that which would otherwise have been payable from Eligible Payment Date but increased as determined by the Trustees to take account of the later date on which the pension comes into payment (and the amount of such increase which relates to that part of the pension at Eligible Payment Date which is equal to the Revalued GMP at that date will not be less than the difference between the amount of the Revalued GMP at the date on which the Member's pension comes into payment and the amount of the Revalued GMP at Eligible Payment Date). See also Paragraph 5 (*Pre-2007 Pension*).

Schedule 1: Frozen FS Members

5. PRE-2007 PENSION

The following provisions apply to the part of an FS Pension which relates to Pensionable Service before 9 March 2007 (the "**Pre-2007 Pension**"); except that the provisions do not apply in the case of a B&Q Transferee or a Senior Executive Member.

- (a) The increases described in Paragraph 2.2(b)(i) and (ii) (*Increase*) will be given to the Pre-2007 Pension only if at the Freezing Date the Member was below age 60 and then only in respect of the period to that age.
- (b) Where Paragraph 3(a) (*Early payment*) applies, the Pre-2007 Pension will be reduced under that Paragraph only if and to the extent that payment begins before age 60.
- (c) An increase determined by the Trustees will be made to the Pre-2007 Pension if and to the extent that payment begins after age 60.

6. DEATH DURING DEFERMENT

If a Frozen FS Member dies while entitled to an FS Pension which has not yet come into payment, the Trustees will pay:

- (a) if the Member dies before Eligible Payment Date:
 - (i) a pension to his Eligible Dependant, subject to Paragraph 8 (*Limitations on Eligible Dependants' pensions*), equal in amount to half the FS Pension increased as described in Paragraph 2.2 (*Increase*) as if the date of the Member's death were his Eligible Payment Date,
 - (ii) an allowance to his Children in accordance with Paragraph 9 (*Amount of Children's allowances*), and
 - (iii) if the Member is not survived by an Eligible Dependant or Children or is an Active Member at the date of death, a lump sum (under Clause 17 (*Death benefit trusts*)) equal to his own contributions to the Fund until the Freezing Date together with Interest thereon; and
- (b) if the Member dies on or after Eligible Payment Date having elected under Paragraph 4 (*Late payment*) to receive his pension from a date after the date of his death, the benefits which would have been payable under Paragraph 7 (*Death after retirement*) if the Member had elected to receive his FS Pension from the date of his death.

Schedule 1: Frozen FS Members

7. DEATH AFTER RETIREMENT

If a Frozen FS Member dies after his FS Pension has come into payment, the Trustees will pay:

- (a) a pension to his Eligible Dependant, subject to Paragraph 8 (*Limitations on Eligible Dependants' pensions*), of an amount equal to half the FS Pension the Member was receiving at the date of his death (or would have been receiving but for commutation under Paragraph 10 (*Cash sum option*) or Clause 18 of the Trust Deed (*Benefit calculations*) or surrender under Paragraph 11 (*Extra Dependants' pensions*));
- (b) an allowance to his Children in accordance with Paragraph 9 (*Amount of Children's allowances*);
- (c) if the Member dies less than five years after the date on which his FS Pension comes into payment, a lump sum (under Clause 17 (*Death benefit trusts*)), payable if the Member leaves no Eligible Dependant or Children or after they have died or have ceased to be entitled to receive a pension, equal to the excess, if any, of:
 - (i) the aggregate instalments of FS Pension which the Member has and would have received (without exercising any option under Paragraph 10 (*Cash sum option*) or Paragraph 11 (*Extra Dependant's pension*)) had he survived for the remainder of those five years (excluding increases under Paragraph 13 (*Pension increases*) both before and after death), over
 - (ii) the aggregate of any lump sum payable under Paragraph 10 and any instalments of pension or allowance paid to the Member or to his Eligible Dependant or Children or under Paragraph 11;

and this lump sum will so far as possible be treated as a defined benefits lump sum death benefit as defined in paragraph 13 of Schedule 29, unless the Member had specified that it was to be treated as a pension protection lump sum death benefit instead in accordance with paragraph 14 of that Schedule.

8. LIMITATIONS ON ELIGIBLE DEPENDANTS' PENSIONS

8.1 Young widow/widower/Civil Partner

The Trustees may reduce the FS Survivor's Pension payable to a Member's widow, widower or Civil Partner who is more than 20 years younger than the Member and married him or entered into civil partnership with him less than a year before his death by such amount as the Trustees determine, not exceeding 2.5% for each complete year by which the difference in their ages exceeds 10 years. However, the Trustees must not reduce the FS Survivor's Pension to less than the GMP.

Schedule 1: Frozen FS Members

8.2 Fixed-term pension etc

The Trustees may determine that an FS Survivor's Pension payable to a Member's Eligible Dependant who is not his widow, widower or Civil Partner will be payable for the lesser of the remainder of that person's life and such other period as they determine or will be of such increased or reduced amount as they think fit after consulting the Actuary.

9. AMOUNT OF CHILDREN'S ALLOWANCES

If a Frozen FS Member dies and is survived by his Child or Children, an allowance will be payable for so long as there continues to be a Child or Children of the Member. Whilst there is only one such Child, the allowance will be payable to that Child and will be of an amount calculated on the basis that its initial amount was equal to one-quarter of the Member's relevant FS Pension. Whilst there are two or more such Children, the allowance will be payable to them in equal shares and will be of an amount calculated on the basis that its initial amount was equal to one-half of the Member's relevant FS Pension. For these purposes, the Member's "**relevant FS Pension**" is:

- (a) (if the Member's FS Pension is in payment at the time of death) the FS Pension which the Member was then receiving or would have been receiving but for any commutation under Paragraph 10 (*Cash sum option*); or
- (b) (if the Member's FS Pension has not yet come into payment) the FS Pension by reference to which the amount of the Member's Eligible Dependant's pension is calculated (or would have been calculated if the Member had been survived by an Eligible Dependant other than a widow, widower or Civil Partner).

10. CASH SUM OPTION

A Member may commute (that is, exchange) the whole or part of his FS Pension for a cash sum as follows:

- (a) This option may be exercised only when the FS Pension comes into payment (unless the Trustees agree an alternative date and the cash sum, if paid at that date, would be a pension commencement lump sum as defined in paragraph 1 of Schedule 29).
- (b) The amount of pension to be commuted to provide a particular lump sum will be decided by the Trustees after consulting the Actuary.
- (c) The amount of the cash sum must not exceed the Cash Sum Limit.
- (d) The Trustees may in any case restrict the amount of the cash sum as they see fit so that the pension payable from GMP Payment Date will not be less than the Member's GMP.

Schedule 1: Frozen FS Members

11. EXTRA DEPENDANTS' PENSIONS

A Frozen FS Member may surrender part of his FS Pension in order to provide pensions payable on his death to Dependants nominated by him, subject as follows:

- (a) This option may be exercised only when the Member's FS Pension comes into payment.
- (b) This option may be exercised only with the consent of the Trustees who may require evidence of the Member's state of health.
- (c) The Dependants' pensions will be equal in value to the part of the Member's pension surrendered and will become payable on his death.
- (d) Any such pension payable to a Dependant who, at the time of the surrender, is under age 18 or such older age as may be specified for this purpose by the Member (the "**specified age**") will be payable only until he attains that age.
- (e) This option may not be exercised so that:
 - (i) a Dependant's pension would be Trivial,
 - (ii) the Member's FS Pension would be less than his GMP, or
 - (iii) the aggregate annual amount of the Dependants' pensions exceeds the Member's pension after surrender but before commutation under Paragraph 10 (*Cash sum option*).
- (f) The Member's FS Pension after surrender will not be affected by a nominated Dependant dying or attaining the specified age after the Member's pension has become payable.

12. INCAPACITY PENSIONS – REDUCTION/SUSPENSION

The Trustees may in their absolute discretion at any time before Eligible Payment Date reduce or suspend the whole of a pension payable under Paragraph 3(b) (*Early payment – Incapacity*) if the Member:

- (a) does not, when so requested, supply evidence satisfactory to the Trustees of his continued Incapacity, or
- (b) earns an income from any employment or self-employment.

No suspension or reduction will result in the Member receiving after Eligible Payment Date an FS Pension of an annual amount less than that calculated in accordance with Paragraph 2 (*FS Pension payable at Eligible Payment Date*) (reduced as the Trustees may think appropriate having regard to payments made to the Member before then), nor will it result in the Member's FS Pension after GMP Payment Date being less than his GMP.

Schedule 1: Frozen FS Members

13. PENSION INCREASES

13.1 Annual increase

On 1 April in each year, each FS Pension and FS Survivor's Pension then in payment under this Schedule (excluding any GMP as described in Paragraph 14.2 (*GMPs*)) will be increased in accordance with this Paragraph 13.1.

If the FS Pension or FS Survivor's Pension has been in payment for at least one year, it will be increased by a percentage equal to the lesser of:

- (a) 5%, and
- (b) the percentage increase between the figures in the Retail Prices Index for the beginning and end of a year selected by the Trustees but ended during or after the immediately preceding November.

If the FS Pension or FS Survivor's Pension has been in payment for less than one year, it will be increased proportionately for each complete month it has been in payment.

For the purpose of this Paragraph 13.1, an FS Pension which has been in payment for less than a year under Paragraph 2 (*FS Pension payable at Eligible Payment Date*), 3 (*Early payment*) or 4 (*Late payment*) will be deemed to have been in payment since the Freezing Date. An FS Survivor's Pension or allowance which has been in payment under Paragraph 7 (*Death after retirement*) for less than a year will be deemed to have been in payment since the date on which the relevant Member's FS Pension came into payment.

13.2 GMP

In calculating any increase under Paragraph 13.1, an FS Pension or FS Survivor's Pension payable to a Member who has attained GMP Payment Date or to a Member's widow, widower or Civil Partner will exclude the GMP. (Paragraph 14.6 (*Increases in payment*) provides for GMPs accrued after 5 April 1988 to be increased in accordance with legislation.)

13.3 Increase at GMP Payment Date

This Paragraph 13.3 applies where a Member's FS Pension comes into payment on or after Eligible Payment Date but before GMP Payment Date. If at GMP Payment Date the overall Scheme increase is less than the overall GMP increase, an increase will be given to the Member's FS Pension equal to the difference between those two amounts. For this purpose:

- (a) "**overall Scheme increase**" means the difference between:
 - (i) the annual amount of the Member's pension when it came into payment, and

Schedule 1: Frozen FS Members

- (ii) the annual amount of the Member's pension immediately before GMP Payment Date;
- (b) **"overall GMP increase"** means the difference between:
 - (i) the Revalued GMP at the date on which his pension came into payment, and
 - (ii) the Revalued GMP at GMP Payment Date.

Where the Member has commuted or surrendered part of his FS Pension under Paragraph 10 (*Cash sum option*) or Paragraph 11 (*Extra Dependents' pensions*), both annual amounts will be those which would have been payable but for such commutation or surrender.

13.4 Notional increase – Eligible Dependant's pension

This Paragraph 13.4 applies where a Member dies after Eligible Payment Date but before GMP Payment Date in receipt of a pension which came into payment on or after Eligible Payment Date. If at the date of the Member's death the overall Scheme increase is less than the overall GMP increase then, for the purpose only of calculating the amount of any pension payable to his Eligible Dependant, the pension to which the Member was entitled will be increased by the difference between those two amounts.

For this purpose, the **"overall Scheme increase"** and the **"overall GMP increase"** will be calculated in accordance with Paragraph 13.3, but substituting references to the date of the Member's death for references to GMP Payment Date in paragraph (ii) of each definition.

14. CONTRACTING-OUT

14.1 General

This Paragraph 14 applies in respect of Contracted-out Service of Frozen FS Members. Words in this Paragraph will have the meanings given in the Pension Schemes Act.

Members' GMPs will be provided in accordance with Paragraph 14.2 to 14.8 below and with the requirements of the contracting-out provisions of sections 7 to 68 of the Pension Schemes Act.

14.2 GMPs

If a Frozen FS Member has a guaranteed minimum in relation to his FS Pension in accordance with section 14 of the Pension Schemes Act:

- (a) the Member will be entitled to a pension under the Scheme, in respect of the Member's Pensionable Service prior to 6 April 1997, which will from GMP

Schedule 1: Frozen FS Members

Payment Date be paid at a rate equivalent to a weekly rate of not less than the guaranteed minimum;

- (b) if the Member is a man and dies leaving a widow, she will be entitled to a pension under the Scheme, in respect of the Member's Pensionable Service prior to 6 April 1997. That pension will during any period such as is mentioned in section 17(5) of the Pension Schemes Act be paid at a rate equivalent to a weekly rate of not less than half that Member's guaranteed minimum; and
- (c) if the Member is a woman and dies leaving a widower, or if the Member dies leaving a Civil Partner, he will be entitled to a pension under the Scheme, in respect of the Member's Pensionable Service prior to 6 April 1997, in the circumstances and for the period prescribed by regulations made under section 17(6) of the Pension Schemes Act. That pension will be payable at a rate equivalent to a weekly rate of not less than half of that part of the Member's guaranteed minimum which is attributable to earnings for the tax year 1988/89 and subsequent tax years.

An FS Pension or FS Survivor's Pension payable to a Member, widow, widower or Civil Partner under this Schedule includes any GMP and will be increased to the extent (if any) necessary for the total pension to be equal to the GMP.

14.3 Late retirement

If the commencement of a Frozen FS Member's GMP is postponed for any period as a result of Service continuing after GMP Payment Date, the GMP will be increased to the extent, if any, specified in section 15 of the Pension Schemes Act, as amended from time to time.

14.4 Increases in deferment

If a Member ceased to be in Contracted-out Service before GMP Payment Date, the GMP to which he will be entitled at GMP Payment Date will be calculated on the basis that the GMP that has accrued up to termination of Contracted-out Service will be increased:

- (a) by the percentage by which earnings factors for the tax year in which such termination occurred are increased by the last order under section 148 of the Social Security Administration Act 1992 to come into force before the tax year in which GMP Payment Date (or earlier death of the Member) occurs ("**Section 148 Orders**"); or
- (b) by such rate as may be prescribed under section 16 of the Pension Schemes Act at the time of such termination for each complete tax year between such termination and GMP Payment Date or earlier death ("**fixed rate revaluation**").

During any period, except where otherwise permitted under section 16 of the Pension Schemes Act, only one of the above methods can be in force and only that method

Schedule 1: Frozen FS Members

will apply to a Member whose Contracted-out Service terminates during that period. The Trustees may change the method in force from any date with the Company's consent. Fixed rate revaluation will apply until such a change.

14.5 Transfers

The making or receiving of transfer payments under Clauses 14 (*Transfers in*) or 15 (*Transfers out*) involving accrued rights to GMPs or Section 9(2B) Rights must be on terms which comply with the relevant requirements of section 20 of the Pension Schemes Act. Accordingly, a GMP transferred to the Scheme may be increased during the Member's Contracted-out Service otherwise than by reference to Section 148 Orders. If so, it will continue to be increased separately if the Contracted-out Service terminates before GMP Payment Date.

14.6 Increases in payment

GMPs will, insofar as they are attributable to earnings in the tax years from and including 1988/9, be increased in accordance with the requirements of sections 109 and 110 of the Pension Schemes Act and to the extent of any order made under those sections.

14.7 Anti-franking

Except as provided in sections 87 to 92 of the Pension Schemes Act, no part of a Member's, widow's, widower's or Civil Partner's pension under the Scheme may be used to frank an increase in the Member's, widow's, widower's or Civil Partner's GMP under Paragraphs 14.3, 14.4 or 14.7. The Trustees may however frank such an increase to the extent that those sections are not infringed.

15. EPBs

The provisions of rule 30 of the 2010 Trust Deed and Rules (*Equivalent Pension Benefits*) will apply in respect of Frozen FS Members.

SCHEDULE 2 CHANNEL ISLANDS

1. INTRODUCTION

This Schedule modifies the Trust Deed and Rules in respect of employment or former employment in Jersey or Guernsey. A Member employed in Jersey or Guernsey is referred to as a "**Jersey Member**" or "**Guernsey Member**" as appropriate. The Employer's decision will be final as to whether a person is a Jersey Member or a Guernsey Member.

2. "WORKERS"

The definition of "Worker" in the Appendix (*Defined terms and interpretation*) is deleted and replaced by the following:

"**Worker**" means a permanent employee or a director of an Employer. The decision of the Employer will be final as to whether a person is a Worker. An Employer may at its discretion determine that a temporary employee will count as a Worker."

3. APPROVAL

Clause 14 of and annex I to the 2006 Trust Deed and Rules (*Revenue Limits*) will continue to apply, with the modifications described in paragraphs 2, 4 and 14 of appendix A to the 2006 Trust Deed and Rules (*Differences for Channel Islands*). Benefits cannot be paid if the circumstances, recipient or amount would be such as would prejudice approval ("**Approval**") of the Scheme by the Jersey or Guernsey tax authorities. References to the requirements of Schedule 28 and Schedule 29 will be deemed to be replaced by reference to any applicable requirements of the Jersey or Guernsey legislation and tax authorities.

4. MEMBERS' CONTRIBUTIONS

A Member's contributions to the Scheme and other retirement benefit schemes must not in any year exceed 15% of such of his remuneration, income, gains and benefits in that year as are allowed for this purpose by the Jersey or Guernsey tax authorities. Voluntary contributions must be reduced or discontinued if, in the opinion of the Trustees, benefits would otherwise prejudice Approval.

5. MINIMUM PENSION AGE

Minimum Pension Age will be 50.

Schedule 2: Channel Islands

6. RULES

6.1 Eligibility and joining

Rules 2 and 3 (*Auto-enrolment, Opting in and joining*) are deleted and replaced by the following:

"2. ELIGIBILITY

Subject to the other provisions of the Rules, a Worker is eligible to become an Active Member if:

- (a) he is aged at least 16; and
- (b) he has completed three months' Service.

3. JOINING

3.1 Becoming an Active Member

An eligible Worker will become an Active Member only if he first properly completes and returns such forms as the Trustees may require (which may include a form indicating the Member's choices for the purpose of Clause 4.3 (*Money purchase investments*) and Rule 6.2 (*Applicable Contribution Basis*). Membership will take effect from a date determined by the Trustees.

3.2 Late joining

If a person does not become an Active Member at the first opportunity, he may become an Active Member on a later date only with the consent of both the Company and the Trustees and on such terms and subject to such conditions as the Company and the Trustees may think fit."

6.2 Contribution rates

An Active Member's options under Rule 6.1 (*Member's options*) will not include Contribution Basis 1 (which provides for Own Account Contributions of 1% or 1.25%, and Matching Contributions of 2%).

6.3 Applicable Contribution Basis

Rules 6.2(b) and (c) (*Applicable Contribution Basis*) are deleted and replaced by the following:

- "(b) A person who becomes an Active Member on or after 1 January 2013 must choose the Contribution Basis which will apply as from the start of his Active Membership."

Schedule 2: Channel Islands

6.4 Opting out

Rule 8 (*Opting out – one-month window*) will not apply.

6.5 Leaving benefits

Rule 14.2(a) (*Less than two years' Qualifying Service*), which confers a right to a transfer payment, will not apply.

6.6 Death before retirement

Rules 15.1(c) and (d) (*Members who die before retirement*) are deleted and replaced by the following:

"(c) subject to Revenue Limits, the Trustees will apply in accordance with Clause 17 (*Death benefit trusts*) an amount from the Retirement Account not exceeding:

(i) four times the Member's Salary, plus the accumulated value of the Member's contributions as determined by the Trustees, or

(ii) such greater amount as the Trustees may allow; and

(d) the Trustees will apply any balance of the Retirement Account on behalf of such one or more of the Dependants, and if more than one in such shares, as the Trustees choose. The Trustees will allocate a notional share of the balance to each person chosen by them, and will use that notional share to provide benefits under Rule 17."

6.7 Member's lump sum

Rule 16.2 (*Lump sum*) is deleted and replaced by the following:

"16.2 Lump sum

If the Member so requests, the Retirement Account will be used to pay the Member a lump sum not exceeding the Cash Sum Limit."

6.8 Drawdown

Rule 16.4 (*Drawdown*) will not apply.

7. FROZEN FS MEMBERS

7.1 RPI

References in Schedule 1 (*Frozen FS Members*) to the General Index of Retail Prices published by the Office for National Statistics are deleted and replaced by references to the General Index of Retail Prices or other comparable Index published in Jersey or in Guernsey as appropriate.

Schedule 2: Channel Islands

7.2 Guaranteed Minimum Pensions

Paragraph 14 of Schedule 1 (*Contracting-out*) and references in that Schedule to GMPs do not apply to Jersey or Guernsey Members.

7.3 Deferred pension

Paragraph 2.1 of Schedule 1 (*Entitlement*) will be amended for a Guernsey Member as follows:

- (a) by adding "provided Approval is not prejudiced" between the words "increased" and "in accordance with Paragraph 2.2"; and
- (b) by adding the following wording:

"The pension under this Rule will be increased if necessary to make it equal to the pension payable from Eligible Payment Date which would, in the opinion of the Trustees, having consulted the Actuary, be provided by investment of his contributions to the Scheme (if any), between the Freezing Date and age 60 (in respect of the part of pension which relates to Pensionable Service before 9 March 2007) or Eligible Payment Date (in respect of the part of the pension which relates to Pensionable Service on and after that date)."

7.4 Cash sum option

In Paragraph 10 of Schedule 1 (*Cash sum option*), paragraphs (a) to (d) are deleted and replaced by the following:

- "(a) This option may be exercised only if the Member has attained age 50 and either when the FS Pension comes into payment or at or after Eligible Payment Date (if earlier).
- (b) The amount of pension to be commuted to provide a particular lump sum will be decided by the Trustees after consulting the Actuary.
- (c) The amount of the cash sum will not exceed the Cash Sum Limit."

8. CASH SUM LIMIT

The Cash Sum Limit will be 3/80ths of the Member's Salary for each year of Service (up to a maximum of 40), or such greater amount as the Trustees may in their discretion allow, but it will be restricted if necessary so that it does not exceed the Revenue Limit.

Where cash sums are payable to a Member under more than one provision, the Member may choose the Cash Sum Limit in respect of each provision, provided that the aggregate Cash Sum Limit is as described in the previous paragraph. For this purpose, a "**provision**" means any of Clause 11.3 (*Benefits from AVCs (FS Member)*), Rule 16.2 (*Lump sum*) and Paragraph 10 of Schedule 1 (*Cash sum option*).

Schedule 2: Channel Islands

9. TRIVIAL BENEFITS

Clause 19.4 of the 2006 Trust Deed and Rules (*Trivial benefits*) will apply in place of Clause 19.4 of the Trust Deed (*Trivial benefits*).

APPENDIX DEFINED TERMS AND INTERPRETATION

DEFINED TERMS

For the purpose of the Trust Deed and Rules, except where the context or a specific provision of the Trust Deed or the Rules requires otherwise, the following terms have the following meanings:

"2006 Trust Deed and Rules" means the trust deed and rules in respect of the Scheme adopted on 28 April 2006 and 9 March 2007 respectively.

"2010 Trust Deed and Rules" means the trust deed and rules in respect of the Scheme adopted on 20 August 2010.

"2012 Deed of Variation" means the deed of variation in respect of the Scheme dated 29 June 2012.

"2012 Trust Deed and Rules" means the trust deed and rules in respect of the Scheme adopted under the 2012 Deed of Variation.

"Active Member" means a Member:

- (a) who:
 - (i) immediately before 1 January 2013, is an Active Member as defined in the 2012 Trust Deed and Rules; or
 - (ii) becomes an Active Member on or after 1 January 2013 in accordance with Rule 2 (*Auto-enrolment*), Rule 3 (*Opting in and joining*) or Rule 4.1 (*Discretionary admission*); and
- (b) who has not since ceased to be Active Member, which will occur in any of the following circumstances:
 - (i) retirement;
 - (ii) leaving Service;
 - (iii) opting out under Rule 8 (*Opting-out – one-month window*) or Rule 9 (*Opting-out – outside one-month window*);
 - (iv) death; and
 - (v) any other circumstances specified for this purpose in the Rules.

"Active Membership" will be interpreted accordingly.

"Actual Basic Pay" in respect of a Member absent from work means his actual Basic Pay.

Appendix: Defined terms and interpretation

The "**Actuary**" means a person or a firm or a company appointed for the time being by the Trustees, being a Fellow of the Institute and Faculty of Actuaries, or a firm of such Actuaries (or a firm of which at least 75% of the partners are such Fellows) or a company which employs such Actuaries and which provides actuarial services.

"**Appendix**" means the appendix to the Trust Deed and Rules. The Appendix forms part of the Trust Deed.

"**Auto-enrolment Regulations**" means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010.

"**Automatic Re-enrolment Date**" in relation to an Eligible Jobholder means a date determined in accordance with regulation 12 of the Auto-enrolment Regulations.

"**Available Lifetime Allowance**" in respect of a Member means the amount of the Member's lifetime allowance which is available, determined in accordance with sections 218 and 219 of the Finance Act. For this purpose, the Member's lifetime allowance will be assumed to be the standard lifetime allowance under section 218, unless the Trustees have evidence which demonstrates to their satisfaction that the lifetime allowance is some other specific amount.

"**AVCs**" has the meaning given in Clause 11.1 (*Member's right to pay AVCs*).

"**AVC Account**" means, in respect of an FS Member, an amount equal to the realisable value of the funds which are derived from the member's voluntary contributions and which are held by the Trustees to provide benefits for the Member on a money purchase basis. These funds will consist of the amounts credited by the Trustees to the Account:

- (a) in connection with Clauses 11 (*Additional voluntary contributions*) and 14 (*Transfers in*);
- (b) in respect of investment returns; and
- (c) otherwise as the Trustees determine;

less the amounts debited by the Trustees to the Account:

- (d) in connection with the provision of benefits or Clause 15 (*Transfers out*);
- (e) in respect of investment losses or other losses to the Fund;
- (f) in respect of any amounts recovered from the Fund under Clause 7 (*Expenses*); and
- (g) otherwise as the Trustees determine.

Where all benefits have been provided for a Member in accordance with the Trust Deed and Rules, the Member's AVC Account will be reduced to zero.

Subject to the Rules, the Trustees will determine the basis on which amounts are credited and debited under (a) to (g) above. The Trustees' decision will be final as to the amount of an AVC Account.

Appendix: Defined terms and interpretation

"**AVC Fund**" means the part of the Fund which consists of:

- (a) AVC Accounts; and
- (b) Scheme Annuities derived from AVC Accounts.

"**AVC Separate Fund**" has the meaning given in Clause 25.4 (*The AVC Separate Fund*).

"**B&Q Transferee**" means a Transferred Member or an Embryo Member as defined for the purpose of schedule C to the 2010 Trust Deed and Rules (*Terms of transfer from Old B&Q Schemes*); that is, broadly, a Member who joined the Scheme on 1 February 1988 having immediately before that been a member of, or prospectively eligible to join, the B&Q (Retail) Limited Retirement Benefits Scheme or the B&Q (Guernsey) Limited Retirement Benefits and Life Assurance Scheme.

"**Basic GMP**" means the annual amount of the Member's GMP calculated at the time he ceased to be in Contracted out Service and before any increase under Paragraph 14.3 (*Late retirement*) or 14.4 (*Increases in deferment*).

"**Basic Pay**" means (subject to any applicable provisions of Rules 10 to 12 (*Family Leave etc*)):

- (a) for a Contributory Member, his basic pay as defined in regulation 32K of the Auto-enrolment Regulations (that is, broadly, his gross earnings from employment with his Employer, disregarding commission, bonuses, overtime and similar payments, shift premium pay and certain allowances); and
- (b) for a SMART Member, the amount which the Employer determines would have applied under (a) above if the Member had not sacrificed basic pay under the SMART Arrangement.

The decision of the Employer will be final as to the amount of a person's Basic Pay.

If a Member's Basic Pay is lower than it otherwise would be due to illness, injury or other cause recognised for this purpose by the Trustees and the Employer, they may together decide to increase his Basic Pay for such purposes and to such amount as they think fit but it will not exceed the Basic Pay he would have had but for the reduction.

"**Buy-out Policy**" means a policy of insurance or annuity contract taken out in the name of a Member or Dependant, or in the name of trustees (other than the Trustees) for the benefit of the Member or Dependant, which is "appropriate" for the purpose of section 19 of the Pension Schemes Act.

"**Cash Sum Limit**" means (subject to the following paragraph) the permitted maximum as defined in paragraph 2 of Schedule 29.

Where cash sums are payable to a Member under more than one provision, the Member may choose the Cash Sum Limit in respect of each provision, provided that the aggregate Cash Sum Limit equals the permitted maximum. For this purpose, a "**provision**" means any of

Appendix: Defined terms and interpretation

Clause 11.3 of the Trust Deed (*Benefits from AVCs (FS Member)*), Rule 16.2 (*Lump sum*) and Paragraph 10 of Schedule 1 (*Cash sum option*).

"Child" of a Frozen FS Member means a person who:

- (a) was born or conceived before the Member's death;
- (b) is under the age of 18 or, if over that age, is under 23 and is receiving full-time education or vocational training and is a person whom the Trustees, in their absolute discretion, have for the time being agreed to treat as a Child; and
- (c) is a legitimate, legitimated or adopted child of the Member or is his stepchild or is an illegitimate child of the Member of whom the Member gave written notice to the Trustees before his death. The Trustees may also in their absolute discretion deem that this requirement (c) is met where they are satisfied on the evidence before them that the person is the Member's illegitimate child, even though no such written notice has been given; but the Trustees will be under no obligation to make inquiries as to the existence of illegitimate children of whom they do not have notice.

"Civil Partner" has the meaning given in section 1 of the Civil Partnership Act 2004.

"Clause" means a clause of the Trust Deed.

The **"Company"** means Kingfisher plc (registered in England under number 1664812) or its replacement for the time being in accordance with the Trust Deed.

"Contracted-out Service" means contracted-out employment by reference to the Scheme (as defined in section 8 of the Pension Schemes Act). No employment on or after the Freezing Date will be Contracted-out Service.

"Contribution Basis" means a basis for the payment of contributions to the Scheme which is permitted under Rule 6.1 (*Member's options*).

"Contributory Member" means an Active Member who is not a SMART Member.

"Dependant" in respect of a Member means any of:

- (a) the Member's widow, widower or Civil Partner;
- (b) a child of the Member who, at the time of the Member's death, is:
 - (i) under age 23, or
 - (ii) dependent on the Member because of physical or mental impairment; and
- (c) a person other than the Member's widow, widower, Civil Partner or child who, at the date of the Member's death, is:
 - (i) financially dependent on the Member,
 - (ii) in a financial relationship of mutual dependence with the Member, or

Appendix: Defined terms and interpretation

- (iii) dependent on the Member because of physical or mental impairment.

For the purpose of (b) above, a person is a "child" of the Member if he is the Member's legitimate, legitimated or adopted child or is his stepchild or is an illegitimate child of the Member of whom the Member gave written notice to the Trustees before his death. The Trustees may also in their absolute discretion deem that a person is a "child" of the Member if they are satisfied on the evidence before them that the person is the Member's illegitimate child, even though no such written notice has been given; but the Trustees will be under no obligation to make inquiries as to the existence of illegitimate children of whom they do not have notice. The Trustees will be entitled to make any decision as to a Member's Dependents on the basis of information readily available to them.

"Eligible Dependant" of a Frozen FS Member means:

- (a) in relation only to the GMP which he or she may have, the Member's widow, widower or Civil Partner (and, if the Member has two or more widows or widowers, only one will be treated as the Eligible Dependant, being the person who is recognised for State benefit purposes); and
- (b) in any other case or in relation to any excess over such GMP, the person to whom he was married at the time of his death and with whom he was, in the opinion of the Trustees, then living; if no such person survives the Member, the Trustees may in their absolute discretion treat any one or more of the Member's Dependents as the Member's Eligible Dependant.

If two or more persons are treated as the Member's Eligible Dependant, any benefit becoming payable to them will be shared between them in such shares as the Trustees may think. The Trustees will be entitled to make any decision as to a Member's Eligible Dependant on the basis of information readily available to them.

"Eligible Jobholder" means a Jobholder:

- (a) who is aged at least 22;
- (b) who has not reached State pension age; and
- (c) to whom earnings of more than the prescribed amount are payable by the Employer in the relevant pay reference period.

Terms used in this definition have the meanings which apply for the purpose of section 3 of the Pensions Act 2008. The "prescribed amount" is the amount which applies for the time being under section 3(1)(c).

"Eligible Payment Date" means:

- (a) in respect of a B&Q Transferee or a Senior Executive Member, the last day of the month in which he attains age 60; and
- (b) in respect of any other Frozen FS Member, Normal Retirement Date.

Appendix: Defined terms and interpretation

"Employer" means the Company and such other firms and companies as may have become Employers in accordance with the Trust Deed. In relation to a Worker, the Employer is the company or firm by which the Worker is employed.

"Entitled Worker" means a Worker:

- (a) who is working or ordinarily works in Great Britain under a worker's contract with an Employer;
- (b) who is aged at least 16;
- (c) to whom qualifying earnings are not payable by the Employer in the relevant pay reference period; and
- (d) who is not an active member of a pension scheme which satisfies the requirements of section 9 of the Pensions Act 2008.

Terms used in this definition have the meanings which apply for the purpose of section 9.

For the avoidance of doubt, a Worker who meets the requirements of (a) to (d) above but has reached age 75 will be an Entitled Worker, and will be deemed to be eligible to give a joining notice for the purpose of Rule 3.2 (*Entitled Workers joining*).

"Family Leave" means any period during which a person is absent from work because he has a right to one of the following types of leave under the Employment Rights Act 1996 or under his employment contract:

- (a) maternity leave;
- (b) adoption leave;
- (c) paternity leave; and
- (d) parental leave.

The decision of the Employer will be final as to whether a person is on Family Leave.

"Finance Act" means the Finance Act 2004.

"Freezing Date" means 30 June 2012.

"Freezing Date Pension" in respect of a Frozen FS Member means a pension under KPS-FS determined as at the Freezing Date in accordance with clause 1 of the 2012 Deed of Variation (*Freezing of KPS-FS*).

"Frozen FS Member" means a Member who was an FS Active Member for the purpose of the 2010 Trust Deed and Rules as at the Freezing Date.

"FS Fund" means the Fund other than the AVC Fund and the MP Fund.

Appendix: Defined terms and interpretation

"FS Member" means a person immediately or prospectively entitled to benefits under KPS-FS.

"FS Pension" means a pension payable under Schedule 1 (*Frozen FS Members*) to a Frozen FS Member.

"FS Separate Fund" has the meaning given in Clause 25.5 (*The FS Separate Fund*).

"FS Survivor's Pension" means a pension or allowance payable under Schedule 1 (*Frozen FS Members*) to a Frozen FS Member's Eligible Dependant or Child.

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

"GMP" means the whole of a guaranteed minimum pension payable or prospectively payable under the Scheme by reason of a Member having been in contracted-out employment, as mentioned in Paragraph 14 of Schedule 1 (*Contracting-out*).

"GMP Payment Date" of a Member means the date he attains age 65 (if male) or age 60 (if female).

"HMRC" means HM Revenue & Customs.

"Identified Beneficiary" has the meaning given in Clause 24.1 (*Identified Beneficiaries*).

"Incapacity" means ill-health or disability which permanently prevents the Member from following his normal or similar employment and which, in the opinion of the Trustees, seriously impairs his future earning capacity.

The decision of the Trustees will be final as to whether a Member is suffering from Incapacity. Their decision must be supported by evidence from a registered medical practitioner but subject to this the Trustees will be entitled to such medical evidence as they think fit.

"Insurance Company" means a United Kingdom branch or agency of an insurance company to which Part II of the Insurance Companies Act 1982 applies and which is authorised by or under sections 3 or 4 of that Act to carry on ordinary long term insurance business as defined in that Act.

"Interest" on a Member's contributions to the Fund made during a year ending on a 31 March will accrue over the period commencing on the day after that 31 March and ending on the date on which a refund of those contributions becomes payable (or date of the Member's death). Such Interest will be compounded on each 31 March and will, during a year ending on a 31 March or during a part of such a year, be at a rate equal to the lesser of:

- (a) 5% per annum; and
- (b) the average rate of increase between the figure in the Retail Prices Index for the month of March immediately preceding that year and that for the month of March

Appendix: Defined terms and interpretation

occurring during that year (or, in the case of part of a year, the month immediately preceding that in which such part ends).

For this purpose, an amount treated as a Member's contributions to the Fund after a transfer of assets has been accepted from another pension scheme will be deemed to have been paid to the Fund on the date on which the transfer was made.

"Investment Expenses" means all costs and expenses relating to the investment of the Fund, dealings with the Fund's assets and all other matters mentioned in Clause 4 (*The Fund*).

"Jobholder" means a Worker:

- (a) who is working or ordinarily works in Great Britain under a worker's contract with an Employer;
- (b) who is aged at least 16 and under 75; and
- (c) to whom qualifying earnings are payable by the Employer in the relevant pay reference period.

Terms used in this definition have the meanings which apply for the purpose of section 1 of the Pensions Act 2008.

"KPS-FS" means the final salary section of the Scheme. KPS-FS was established within the Scheme with effect from 1 April 2004. Assets and liabilities of the Scheme on 31 March became assets and liabilities of KPS-FS with effect from 1 April 2004. The accrual of benefits under KPS-FS ceased on the Freezing Date in accordance with the 2012 Deed of Variation.

"KPS-MP" means the money purchase section of the Scheme. KPS-MP was established within the Scheme with effect from 1 April 2004.

"Lifetime Allowance" means the standard lifetime allowance under section 218 of the Finance Act for the relevant tax year.

"LSDB-only Member" has the meaning given in Rule 5.1 (*Qualification*). An LSDB-only Member is not a "Member" unless so stated in Rule 5.2 (*Deemed to be Members for certain purposes*).

"Matching Contributions" means contributions in respect of an Active Member at the rate which applies under Rule 6.2 (*Applicable Contribution Basis*), payable by the Employer.

"Member" means an FS Member or an MP Member.

"Minimum Pension Age" means age 55.

"MP Fund" means the part of the Fund which consists of:

- (a) Retirement Accounts; and
- (b) Scheme Annuities derived from Retirement Accounts.

Appendix: Defined terms and interpretation

"MP Member" means a person immediately or prospectively entitled to benefits under KPS-MP.

"MP Separate Fund" has the meaning given in Clause 25.3 (*The MP Separate Fund*).

"Normal Basic Pay" in relation to a Member absent from work means the Basic Pay which, in the Trustees' opinion, the Member would have had if he had been working normally.

"Normal Retirement Date" of a Member means the last day of the month in which the Member attains age 65.

"Normal Salary" in relation to a Member absent from work means the Salary which, in the Trustees' opinion, the Member would have had if he had been working normally.

"Ordinary Leave Period" means an ordinary maternity leave period or ordinary adoption leave period under the Employment Rights Act 1996.

"Own Account Contributions" means contributions in respect of an Active Member at the rate which applies under Rule 6.2 (*Applicable Contribution Basis*), payable by the Active Member if he is a Contributory Member, or by the Employer if he is a SMART Member.

"Paragraph" means a paragraph of a Schedule.

"Partial Termination" means a Termination other than in circumstances of Total Termination.

"Pension Credit" means a credit under section 29(1)(b) of the Welfare Reform Act.

"Pension Credit Rights" means rights to future benefits under the Scheme or any other scheme which are attributable (directly or indirectly) to a Pension Credit.

"Pension Debit" means a debit under section 29(1)(a) of the Welfare Reform Act.

"Pension Schemes Act" means the Pension Schemes Act 1993.

"Pension Sharing Order" means any order or provision as is mentioned in section 28(1) of the Welfare Reform Act.

"Pensionable Service" of a Member means his period of Active Membership, including any FS Active Membership or MP Active Membership as defined for the purpose of the 2010 Trust Deed and Rules.

"Postponement Period" in respect of a Worker means a period of deferral of auto-enrolment which applies under section 4 of the Pensions Act 2008 by virtue of a notice given to the Worker by his Employer, and which ends immediately before the deferral date as defined in section 4.

"Preservation Requirements" has the meaning given in section 69 of the Pension Schemes Act.

"Qualifying Benefit" has the meaning given in section 31(3) of the Welfare Reform Act.

Appendix: Defined terms and interpretation

"Qualifying Service" means pensionable service, service in recognised employment by reference to the Scheme and linked qualifying service under another scheme. This definition will be construed in the same way as for the Preservation Requirements and **"two years' Qualifying Service"** will have the meaning given in section 71 of the Pension Schemes Act.

"Recent Opter-out" means a Worker who has opted out of Active Membership within the previous 12 months and who does not have a right to be re-enrolled or to opt into the Scheme under section 5, section 7 or section 9 of the Pensions Act 2008 (as applicable).

"Registered Scheme" means a pension scheme registered under Chapter 2 of Part 4 of the Finance Act.

"Relevant Medical Condition" means ill-health, disability or reduced life expectancy or a medical condition which may give rise to any of those things.

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

"Retirement Account" means, in respect of an MP Member, an amount equal to the realisable value of the funds held by the Trustees to provide benefits for the Member on a money purchase basis. These funds will consist of the amounts credited by the Trustees to the Account:

- (a) in connection with Rules 6 (*Contributions*), 13.2 (*Incapacity retirement*) and 15.1(a) (*Members who die before retirement*) and Clauses 12 and 14 (*Special benefits, Transfers in*);
- (b) in respect of investment returns; and
- (c) otherwise as the Trustees determine;

less the amounts debited by the Trustees to the Account:

- (d) in connection with the payment of benefits or Clause 15 (*Transfers out*);
- (e) in respect of investment losses;
- (f) in respect of any amounts recovered from the MP Fund under Clause 7 (*Expenses*); and
- (g) otherwise as the Trustees determine.

Where all benefits under KPS-MP have been provided for a Member in accordance with the Rules, the Member's Retirement Account will be reduced to zero.

Appendix: Defined terms and interpretation

Subject to the Rules, the Trustees will determine the basis on which amounts are credited and debited under (a) to (g) above. The Trustees' decision will be final as to the amount of a Retirement Account.

"Revaluation Requirements" means the requirements of sections 83 to 86 of the Pension Schemes Act.

"Revalued GMP" at any date (the **"said date"**) after a Member has ceased to be in Contracted-out Service means the annual amount of the guaranteed minimum which the Member would have in relation to his pension from GMP Payment Date (or, if the said date is after GMP Payment Date, from any later date on which his pension comes into payment) if increases to the guaranteed minimum were made in accordance with Paragraph 14.3 (*Late retirement*) and 14.4 (*Increases in deferment*) as if:

- (a) references in paragraphs (a) and (b) of Paragraph 14.4 to GMP Payment Date were references to the said date;
- (b) where the said date is not the date of the Member's death and occurs before the beginning of the last complete tax year before GMP Payment Date:
 - (i) in Paragraph 14.4(a), the word "last" were deleted and the word "before" were substituted by the word "during", and
 - (ii) for the purposes of Paragraph 14.4(b), the period between the end of Contracted-out Service and the beginning of the next tax year were a complete tax year; and
- (c) where the said date is after GMP Payment Date and the Member is still living but his pension has not yet come into payment, his pension came into payment on the said date.

"RPI" has the meaning given in the definition of "Retail Prices Index" above.

"Rule" means a provision of the Rules.

"Rules" means the rules attached to the Trust Deed, as modified by the Schedules and as amended from time to time.

"Salary" means (subject to any applicable provisions of Rules 7 to 9 (*Family Leave etc*)):

- (a) for a Contributory Member, his basic salary plus such other contractual payments as the Employer determines, but not profit sharing, bonuses, overtime or other variable payments; and
- (b) for a SMART Member, the amount which the Employer determines would have applied under (a) above if the Member had not sacrificed salary or other contractual payments under the SMART Arrangement.

The decision of the Employer will be final as to the amount of a person's Salary.

Appendix: Defined terms and interpretation

If a Member's Salary is lower than it otherwise would be due to illness, injury or other cause recognised for this purpose by the Trustees and the Employer, they may together decide to increase his Salary for such purposes and to such amount as they think fit but it will not exceed the Salary he would have had but for the reduction.

"Schedule 28" means schedule 28 to the Finance Act.

"Schedule 29" means schedule 29 to the Finance Act.

"Schedule" (except in the terms "Schedule 28" and "Schedule 29") means a schedule attached to the Rules. The Schedules form part of the Rules.

"Scheme" means the Kingfisher Pension Scheme.

"Scheme Annuity" means an annuity in the name of the Trustees which secures benefits from an AVC Account or Retirement Account.

"Section 9(2B) Rights" means rights under the Scheme relating to a Member's Contracted-out Service on or after 6 April 1997 (other than rights attributable to any voluntary contributions made by the Member).

"Senior Executive Member" means a person who, as at the Freezing Date, was a Senior Executive Member for the purpose of schedule B to the 2010 Trust Deed and Rules (*Differences for Senior Executive Members*); that is, broadly, a Member notified by the Employer in writing that he was a Senior Executive Member.

"Separate Fund" has the meaning given in Clause 25 (*Separate Fund*).

"Service" means service as a Worker.

"SMART Arrangement" means a salary sacrifice arrangement operated by an Employer for pension purposes, whereby an Active Member sacrifices basic salary or other contractual payments but is in return relieved from the obligation to pay Own Account Contributions.

"SMART Member" means an Active Member who participates in a SMART Arrangement. The Employer's decision will be final as to whether an Active Member is a SMART Member.

"Staging Date" in relation to an Employer means the date which applies to that Employer under section 12 of the Pensions Act 2008.

"Starting Day" in relation to an Eligible Jobholder has the meaning given in section 4(8) of the Pensions Act 2008; that is, broadly:

- (a) (if he is in Service at the Staging Date) the Staging Date;
- (b) (if he enters Service after the Staging Date) the date of entering Service; or
- (c) (if he becomes an Eligible Jobholder after entering Service and after the Staging Date) the date of becoming an Eligible Jobholder.

Appendix: Defined terms and interpretation

"Statutory Pay" means any of the following types of pay to which a Member has a right under the Social Security Contributions and Benefits Act 1992:

- (a) statutory maternity pay;
- (b) statutory adoption pay; and
- (c) statutory paternity pay.

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

"Termination" means a termination of the liability of an Employer for all or any one or more of its Workers under Clause 22 (*Termination*) and/or Clause 23 (*Employer's default*).

"Termination Date" has the meaning given in Clause 22 (*Termination*).

"Total Incapacity" means ill-health or disability which permanently prevents the Member from performing any employment (but the Trustees may at their discretion ignore employment which in their view is nominal or trivial in nature).

The decision of the Trustees will be final as to whether a Member is suffering from Total Incapacity. Their decision must be supported by evidence from a registered medical practitioner but subject to this the Trustees will be entitled to such medical evidence as they think fit.

"Total Incapacity Cover" means eligibility for benefits under Rule 13.2(b) (*Incapacity retirement*), subject to the conditions in that Rule. The term "cover" does not imply that there is any contract or policy of insurance as between a Member and the Trustees.

"Total Termination" means a Termination in respect of all Workers of all Employers.

"Trust Deed" means the operative provisions of the trust deed governing the Scheme, as amended from time to time.

"Trust Period" in respect of a Member means:

- (a) (if the Member died before 1 July 2010) a period of 24 months beginning with the date of the Member's death; or
- (b) (if the Member dies on or after 1 July 2010) a period of 24 months beginning with the date on which the Member's death comes to the attention of the Trustees.

"Trustees" means the trustee or trustees for the time being of the Scheme.

"Uncapped Member" means a Member who, as at 5 April 2006:

- (a) was a Member; and
- (b) was not subject to the permitted maximum, as defined in section 590C(2) of the Taxes Act.

Appendix: Defined terms and interpretation

If an Uncapped Member re-enters Active Membership on or after 6 April 2006, he will not be an Uncapped Member in respect of the new period of Active Membership.

"Welfare Reform Act" means the Welfare Reform and Pensions Act 1999.

"Worker" means an individual who, in relation to an Employer, is a worker as defined in section 88 of the Pensions Act 2008 (that is, broadly, an individual who has entered into or works under a contract of employment or a contract to do work or perform services personally). The Employer's decision will be final as to whether an individual is a Worker.

See also Paragraph 2 of Schedule 2 (*Channel Islands – "Workers"*) in respect of Jersey and Guernsey.

INTERPRETATION

For the purpose of the Trust Deed and Rules, except where the context or a specific provision of the Trust Deed or the Rules requires otherwise:

- (a) words in the singular will include the plural (and vice versa),
- (b) words of one gender (except "male", "female", "widow" and "widower") will include the other,
- (c) references to legislation will include modifications, pre-enactments and re-enactments of and regulations made under that legislation, and
- (d) references to benefits payable for a Member will include benefits payable to the Member and benefits payable by reason of his membership to his family, dependants and other persons after his death.

The headings in the Trust Deed and Rules are for ease of reference only, and will not affect interpretation.

SIGNED as a deed by ,)
Director, and ,)
Secretary/~~Director~~, duly authorised for and)
on behalf of KINGFISHER PLC)



SIGNED as a deed by ,)
Director, and ,)
Secretary/Director, duly authorised for and)
on behalf of KINGFISHER PENSION)
TRUSTEE LIMITED)

