

DATED: 1st April 2008

STM FIDECS PENSION TRUSTEES LIMITED

DEFINITIVE TRUST DEED AND RULES

**THE STM FIDECS CENTRALISED
GROUP PENSION SCHEME**

THIS DECLARATION OF TRUST is made the 1st day of April 2008

By **STM FIDECS PENSION TRUSTEES LIMITED** whose registered office is situated at Montagu Pavilion, 8 – 10 Queensway, Gibraltar (“the Trustees”).

WHEREAS:-

The Trustees have decided to establish a centralised retirement benefit scheme to be known as The STM Fidecs Centralised Group Pension Scheme (“the Centralised Scheme”) for the purpose of providing pensions and other relevant benefits for employees of employers joining the Centralised Scheme by way of Deed of Adherence.

NOW THIS DEED WITNESSETH as follows:-

1. The Trustees **HEREBY DECLARE** the existence of the Centralised Scheme and of the Trust Fund.
2. The Trustees hereby transfer the sum of £100 to the Trust Fund.
3. The Trustees **HEREBY IRREVOCABLY DECLARE** that they shall henceforth hold the assets of the Trust Fund comprising all Members’ contributions and other moneys including accruals to be paid to the Trust Fund on trust for the purpose of providing relevant benefits to the Members of the Centralised Scheme in accordance with the Rules annexed hereto in the First Schedule as amended from time to time but as modified by the provisions contained in the specimen deeds of adherence which are annexed hereto as the Second Schedule.
4. The Trustees **HEREBY DECLARE** that the provisions of this Deed, the Rules and the Schedules shall comprise the entire provisions of the Centralised Scheme.
5. This Deed and the Rules shall be interpreted and construed in accordance with the laws of Gibraltar.

IN WITNESS whereof these presents have been executed the day and year first before written.

**THE COMMON SEAL of STM
FIDECS PENSION TRUSTEES
LIMITED** was hereunto affixed in the presence of:-

Director

Director/Secretary

FIRST SCHEDULE before referred to

RULES

of

THE STM FIDECS CENTRALISED GROUP PENSION SCHEME

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FIRST SCHEDULE

THE RULES

SECTION 1 - GENERAL PROVISIONS OF THE SCHEME

1.1 Introduction

Section 1 contains the general provisions of The STM Fidecs Centralised Group Pension Scheme. The remaining sections contain the detailed Rules and regulations of the Scheme.

It is intended that the Scheme will:-

- (a) be capable of treatment as an approved Scheme for the purposes of Rules 3(17), 3A, 5(1)(h) and 21 of the Income Tax (Allowances, Deductions and Exemptions) Rules 1992 (hereinafter referred to as "the ADE Rules"), 6A of the Income Tax Act and statutory modification or re-enactment thereof for the time being in force;
- (b) comply with any preservation requirements as may be required by any Act enactment or resolution of the Gibraltar Parliament in respect of Members who leave employment or the Scheme prior to becoming entitled to immediate benefits;
- (c) comply with any requirements as to equal access for men and women as may be required by any Act enactment or resolution of the Gibraltar Parliament.
- (d) qualify as a Qualifying Recognised Overseas Pension Scheme ("QROPS") in accordance with the provisions of section 150(8) and section 169(2) of the UK's Finance Act 2004

Insofar as the provisions of succeeding sections of these Rules lay down the details to give effect to paragraphs (a), (b) and (c) above they will have overriding effect.

The Scheme is not to be considered as contracted-out of any State Earnings Related Pension Scheme existing at the date of these presents or introduced at any later date.

The Scheme is established under a single irrevocable trust. Each member and, where appropriate, Employer must enter in a binding agreement by deed with the Administrator not to require withdrawal of trust funds or income of those trust funds otherwise than for the payment of benefits under the Plan at the time and in the form and in the circumstances provided by the Rules.

1.2 Commencement and duration

The Scheme commenced on the commencement date as specified in Section 1.3

1.3 Definitions

In these Rules the words and expressions following will unless inconsistent with the subject or context have the following meanings:-

ACCOUNTING DATE means 31st December in each year (or such other date as the Trustees with the consent of the Administrator may from time to time decide).

ACTUARIAL ADVICE means advice obtained from an actuary who is:-

- (a) appointed to advise either generally or in any particular case by the Trustees; and
- (b) is in business as a consulting actuary; and
- (c) is a Fellow or a firm of Fellows of the Institute of Actuaries or a Fellow or a firm of Fellows of the Faculty of Actuaries or a person with other actuarial qualifications who is approved as such by the Commissioner of Income Tax.

ADMINISTRATOR means the person or company appointed to act as Administrator of the Scheme under the provisions of Rule 3.10.

ARRANGEMENT means an arrangement made by a Member and/or, where applicable, the Member's employer with the Administrator to providing benefits under these rules.

CHILDREN means the lawful, adopted, legitimate, illegitimate or stepchild or child or children of a Member.

COMMENCEMENT DATE means 1st January 2008

COMMISSIONER OF INCOME TAX means the Commissioner charged with the administration of the Income Tax Act and the accompanying rules and regulations (hereinafter referred to as the "CIT").

DEATH INSURANCE BENEFITS means life assurance payable under any policy or contract taken out by the Trustees with an Insurance Company on the life or lives of a Member or Members in relation to contributions made under Rule 9.7.

DEED OF ADHERENCE means a deed of adherence to be executed by an Employer in the style and form contained in the Second Schedule, as the case may be, and as annexed hereto.

DEPENDANT means any child of the Member or any person who was financially dependant on the Member at the date of his death.

DISCRETIONARY TRUSTS has the meaning of any sum or sums directed to be held on such trusts with regard to a deceased Member or Pensioner.

EMPLOYEE means any person who is employed by an Employer and includes all full-time and part-time staff.

EMPLOYER means the current employer of a Member who has made an arrangement under the Plan for the provision of benefits for one or more employees.

EXEMPT APPROVED SCHEME means a scheme which is approved under the Tax Code and is treated as an exempt scheme thereunder.

FUND means the pension fund constituted under the Rules.

INSURANCE COMPANY means any insurance company or branch licensed or authorised to carry on life assurance business by any Member State of the European Union or any other state whose regulatory system is considered adequate by the CIT.

JOINING DATE means the date contributions commence for each Employer and/or Member

LONG SERVICE BENEFITS has the meaning given to that expression in Rule 13.2.

MEMBER means an individual who has made an arrangement under the Scheme for the provision of benefits.

MEMBER'S ACCOUNT means that part of the assets of the Fund, which is certified for the time being by the Trustees as being attributable to the Member and includes all contributions made by or in respect of a Member; receipts in respect of a Member's transfer; proceeds of any Death Insurance Benefit or other insurance relating to a Member or any increases in the pension. The cost of providing or securing any benefits for, or relating to the membership of the Member will be deducted from the Member's Account.

The funds in a Member's Account may be in excess if:-

- (i) after the Trustees have paid or secured all benefits arising, a particular Member's Account is not exhausted;
- (ii) the Trustees are satisfied, on Actuarial Advice if appropriate, that any Member's Account is at such a great level that continued approval of the Scheme as an Exempt Approved Scheme may be prejudiced or the Scheme may become liable to tax; or
- (iii) the Trustees agree with a Member that his Member's Account may be reduced.

Where any of (i) (ii) or (iii) above apply, the Trustees will give written notice to the Employer of the surplus. The Employer may then:-

- i) direct that the surplus within 3 months be applied wholly or partly under Rule 15.3 and/or in augmentation of other Members' Accounts, as specified by the Employer; and/or
- ii) apply any surplus resulting from the application of Rule 13.10 and Rule 11.5 and which relates to contributions paid under Rule 9.1 by the Employer towards the discharge of the Employer's obligation under Rule 9.1 in respect of other Members; and/or
- iii) subject to the prior consent of the CIT and any required deduction of tax under the Tax Code, any balance of such surplus not so applied will be paid or transferred to the relevant Employer or Employers, in shares as determined by the Employer.

MEMBERSHIP LETTER has the meaning given to that expression in Rule 6.4.

NOMINATED BENEFICIARY means a person in whose favour an allocation under Section 12 is made, being either the spouse of the Member, some Dependant or other individual or body selected by the Member.

NON-PENSIONABLE EMPLOYMENT means an employment where the employee is not a member of an Occupational Pension Scheme.

NORMAL RETIREMENT DATE means the selected retirement age specified in the Membership Letter. The CIT, may at his discretion, allow a Member to retire after reaching such a date provided that the Member's age does not exceed seventy years.

PENSIONABLE SERVICE includes all periods of service whilst a Member of the Scheme.

PENSIONER means a person who is for the time being receiving a pension out of the fund.

PENSIONS ACT means the Social Insurance Act and where appropriate the regulations made thereunder and any amendment or re-enactment thereof.

PERPETUITY PERIOD means the period of 100 years from the Commencement Date plus such further period (if any) as may be lawful including any period during which the trusts of the Scheme may be exempt for whatever reason from the application of the Rule against perpetuities.

PROPRIETARY DIRECTOR means a director of the Employer who with his spouse or children is or becomes the beneficial owner of shares which when added together carry more than 20% of the voting rights in the Employer or a company which controls the Employer.

QUALIFYING SERVICE means the aggregate of:-

- (a) actual service whilst a Member of the Scheme and any additional periods which count as pensionable service and which do not fall within paragraphs (b) and (c) below; qualifying service will not be interrupted if there is a break in service of one month or less (even if the Member has received a return of his contributions and thereby his right to count service in respect of which he has received a refund as pensionable service has been lost);
- (b) any prior period of at least five years qualifying service whilst a Member of the Scheme in respect of which a Member remains entitled to Short Service Benefits;
- (c) actual periods of service in any previous employment during which the Member was a Member of any Transfer Scheme and in respect of which the Trustees have received a transfer payment;
- (d) such other period or periods as the Trustees, with the consent of the Employer, may allow either generally or in any particular case.

RELATIVE means and includes in relation to any deceased Member:-

- (a) the widow or widower of the Member or Pensioner;
- (b) the father or mother or grandparents (whether lawful or adoptive) of the Member or Pensioner and the widow or widower of such father or mother or grandparents;
- (c) any person (except such Member or Pensioner) who is the child or remoter issue (whether lawful or adoptive) of such father or mother or grandparents, and the spouse or widow or widower of any such person; or
- (d) any person who has been the wife or husband of the Member or Pensioner.

RULES means these Rules or other the Rules for time being in force, having regard to any alterations made therein, including any appendices hereto.

RELEVANT BENEFITS means any pension, lump sum or other similar benefits, gratuity or other like benefits given or to be given on retirement, injury or on death or in anticipation of retirement or in connection with past service whether before or after retirement or injury or death, or to be given on or in anticipation of or in connection with any change in the nature of Service of the Employee in question.

SALARY means the basic annual fixed Gibraltar salary payable to a Member by the Employer and will not include fluctuating emoluments unless the Employer expressly decides otherwise. For the purposes of this paragraph "fluctuating emoluments" will include directors fees, bonuses, commissions, overtime or other fluctuating emoluments if the Employer in its absolute discretion so decides.

SCHEME means the Scheme governed by these Rules and known as the STM Fidecs Centralised Group Pension Scheme

SERVICE means service with any of the employers and service will be deemed continuous although performed partly with one of the employers and partly with another or others of the employers, and service will not be deemed for the purpose of the Rules to have been terminated if any break in service does not exceed one month, or in the case of a female Member does not exceed the length of the leave entitled to her by law (if any) but any actual period of such absence will not be counted as a period of service.

SHORT SERVICE BENEFITS will have the meaning ascribed to that expression in Rule 13.2.

TAX CODE means the Income Tax Act as amended and where appropriate any regulations made thereunder or any conditions which the CIT lays down for the approval of Schemes thereunder.

TOTAL REMUNERATION has the meaning ascribed to it in Section 14.

TRANSFER SCHEME means a Scheme which is approved under the Tax Code, any statutory Scheme or any other fund, scheme or arrangement approved for the purposes of Rule 7.1 or Rule 13.11 by the CIT or other competent taxation authorities.

TRUSTEES means the trustees or trustee for the time being of the Scheme having been duly appointed in accordance with the Rules.

YEAR means in relation to the calculation of benefits for a Member, a completed Scheme year as agreed by the Trustees, Employer and/or Member.

1.4 Interpretation - General provisions

All words importing the singular number will include the plural, and vice-versa, and words importing the masculine, the feminine or neuter genders will, unless the context otherwise requires include a reference to either or both of the other genders.

Words importing persons will include corporations.

All references to any enactment, other than a reference to any definition contained in any enactment, will be deemed to include a reference to any statutory modification or re-enactment thereof for the time being in force.

1.5 Effect of headings and marginal notes

The arrangement of Rules, headings to rules and any marginal notes will not form part of the Rules and will not affect the interpretation of any one or more of the Rules.

SECTION 2 – CONSTITUTION

2.1 Constitution of the fund

The investments, cash and other assets held by the Trustees for the purposes of the Scheme constitute the Fund and will include:-

- (a) investments, cash and other assets transferred by the trustees of any fund pursuant to Rule 7. I;
- (b) all contributions by Members pursuant to the Rules;
- (c) all amounts contributed or paid by the Employers to the Trustees;
- (d) the interest, dividends and income of the fund and any donations, legacies or other exceptional receipt.

2.2 Declaration of Trust

The Trustees will hold the fund upon trust to provide benefits for Members and their Dependants and Relatives becoming eligible in accordance with the Rules as from time to time in force.

SECTION 3 – ADMINISTRATION

3.1 Appointment and removal of Trustees

The fund is vested in the Trustees as trustees. Subject to as mentioned below the following powers of appointment and removal will be vested in the Trustees:-

- (i) the power at any time of appointing new trustees;
- (ii) the power at any time to remove the Trustees or any future or other trustees from office for any reason which it considers adequate;
- (iii) the power at any time to appoint an additional trustee or another corporate body as sole trustee (whether or not it is a trust corporation)

PROVIDED THAT:-

- (a) it is confirmed that a person is not prevented from being appointed or acting as a Trustee of the Scheme due to the fact that he is not resident nor domiciled in Gibraltar or is not of British nationality;
- (b) if all the Trustees are resident outside Gibraltar they will appoint a person resident in Gibraltar to act on their behalf as Administrator and to discharge all duties imposed upon the Administrator of the Scheme by statute or by the CIT and any such appointment will satisfy the necessary requirements of the CIT.

3.2 Retirement of Trustees

The Trustees may retire at any time without assigning any reason and without being responsible for any costs occasioned by such retirement provided that prior notice is given to the Employers and Members.

3.3 Trustees to have control of fund

The Trustees will, subject to these Rules, have sole and absolute control of the Fund and the administration thereof and determine (within the limits laid down by these Rules) the investments which it will hold from time to time.

3.4 Trustees may appoint nominee to hold investments

All investments will be taken in the names of the Trustees or in the sole name of any nominee or nominees appointed by the Trustees to act as their nominee or nominees.

3.5 Remuneration of Trustees

The Trustees will be entitled to such remuneration (if any) as may from time to time be agreed between the Trustees and the Employers and Members. Such remuneration will be a charge on the fund except to the extent that the Employers may from time to time agree to pay it.

Any associated company of the Trustees will, without being liable to account for any profit or fees thereby made, be entitled:-

- (a) to act as investment manager or adviser to the Trustees;
 - (b) to carry out the administration of the Scheme on behalf of the Trustees;
 - (c) perform any services on behalf of the Scheme or of the Trustees;
- and make any charge commensurate with the services so provided.

3.6 How Trustees may act

(a) Corporate Trustees

A Corporate Trustee may act by resolution of its board of directors, and any consent, decision, notice or other document or instrument of whatsoever nature will be deemed to be sufficient to comply with the Rules if signed on behalf of the Trustees by any two directors of the Trustees, or any one director and the secretary.

(b) Trustees in general

- (i) The Trustees may meet and regulate their meetings as they will think fit, or may conduct their business by agreement in correspondence. A quorum for a meeting will be two Trustees present in person, unless a corporate body is appointed sole Trustee hereof, or unless otherwise determined. In the event of the number of Trustees being reduced below two, the remaining Trustee will forthwith appoint a person or persons as new Trustees hereof to restore the number to not less than two.
- (ii) The decision of a majority of the Trustees who are present and vote at a duly convened meeting of the Trustees at which a quorum is present will be binding on all the Trustees.
- (iii) The Trustees will cause proper minutes to be kept and formally recorded together with any resolutions and proceedings.

3.7 Members as directors of corporate Trustees

No Member or Employee or officer of an Employer who is or will be for the time being a director or other officer of the Trustees will be disqualified from exercising any power of discretion vested in the Trustees by this or any other Rule by reason of his dual capacity.

3.8 Secretary

A secretary of the Scheme may from time to time be appointed by the Trustees for such period and generally upon such terms as they will think fit and the secretary will have an office, the address of which will be notified to members and at which notices may be served on him and enquiries may be made.

3.9 Actuary

The Trustees will appoint an actuary to the fund and will appoint a new actuary if and so often as there may be a vacancy in that office. The Trustees will have power to supersede any actuary so appointed whenever they will think fit.

3.10 Administrator

The Trustees may at any time and from time to time appoint an Administrator of the Scheme, who will be a person or company ordinarily resident in Gibraltar, for the purpose of managing the Scheme and who will be responsible to the CIT for the payment of benefits and of tax on benefits and who will furnish the CIT with returns, accounts and reports, as may be required by him from time to time. Unless and until any appointment is made the Trustees will act as administrator. In the event of an appointed Administrator ceasing for whatever reason to be the appointed Administrator, a new Administrator will immediately be appointed with the approval of the CIT.

3.11 Expenses of Administration

The Trustees will be repaid out of the fund for all liabilities costs and expenses incurred by them in the execution of the trusts hereof and in the management and administration of the Scheme, but may from time to time agree with the Employers that the employers will bear such of the liabilities, costs and expenses of managing and administering the Scheme as the Employers will, in its absolute discretion, decide.

3.12 Books of Account

Where necessary, the Trustees will cause proper books of account to be kept showing all the dealings with the fund, and an account and balance sheet of the fund made up to the accounting date in each year will be prepared and audited by an auditor to be appointed by the Trustees. The Trustees will provide a copy of the audited accounts to the CIT.

3.13 Record of Members and relevant matters

The Trustees will keep a record of all Members of the Scheme and of all matters relevant to the administration of the Scheme and will keep accounts to show the position of the Scheme and the amounts contributed to the Scheme on behalf of each Member including those amounts to be disbursed as costs, charges and expenses under the terms of this Deed. All books of account and records of the Trustees will be kept at the registered office of the Trustees or at such other place as the Trustees think fit.

3.14 Investment

All moneys belonging to the fund will either be placed on current or deposit account with a bank or invested in the name or under the legal control of the Trustees in the purchase of or at interest upon the security of such stocks, funds, shares, securities or other investments or property of whatsoever nature and wheresoever situate and whether involving liability or not, and whether producing income or not, or upon such personal credit with or without security, as the Trustees will in their absolute discretion think fit, to the extent that the Trustees will have the same full and unrestricted powers of investing and transposing investments in all respects as if they were absolutely and beneficially entitled thereto and so that without prejudice to the generality of the foregoing, trust money may:-

- (i) be invested in or upon any securities the holding of which is restricted to a particular class of persons, the Trustees being members of that class, and the Trustees will, in making any such investment which requires an indemnity to be given by the Trustees against liabilities arising in the event of the fund losing its status as an exempt approved Scheme, have power to bind the fund, notwithstanding that such indemnity may only become operative by reason of some act or omission which constitutes a breach of trust on the part of the Trustees;
- (ii) be lent (with or without security) to any body corporate which is for the time being a trustee of the fund or an agent of the Trustees and whose business comprises the business of banking, without such trustee being liable to account for any profits made in respect thereof;
- (iii) be used for entering into underwriting contracts of all kinds, whether resulting in the actual investment of trust moneys or not;
- (iv) be invested by effecting with one or more Insurance Companies managed fund contracts, deferred annuity policies, annuity policies or contracts for the purpose of providing pensions or benefits, whether immediate or future and whether contingent or otherwise, for the purposes of the Scheme, and the Trustees will have full power to deal with and dispose of any policy effected by them whether by sale, surrender or otherwise in such manner in all respects as the Trustees will in their absolute discretion think fit;
- (v) be used to sell, purchase or create any option contract traded on any recognised option market or financial future markets. The Trustees must comply with any requirement necessary with regard to such contracts.

PROVIDED that the following restrictions will apply:-

- (i) no loans will be made to Members or Proprietary Directors of the Employers or a company which controls any Employer or to any other person having a contingent interest under the Scheme;
- (ii) no residential property will be purchased except in Gibraltar and any such property shall not be for the beneficial occupation by Proprietary Directors or their relatives;
- (iii) no investment will be made in the share capital of the Employers or associated companies including preference shares unless prior approval has been obtained from the CIT;

The value of the Fund at any one time invested in aggregate in the following is restricted to 50%:-

- (i) loan capital or debentures of the Employers or connected persons;
- (ii) the value of residential property in Gibraltar owned by the pension fund;
- (iii) the value of property owned by the fund and occupied by Employers for business purposes.

All investments made in unquoted securities will be subject to an independent valuation made on behalf of the Trustees and all investments must be at arms' length and at commercial rates.

3.15 Power to delegate investment functions

The Trustees will have power from time to time to delegate their powers of making and managing investments and of keeping a register thereof to any person firm or company whom they consider competent to do so, and to pay to such person firm or company such fees as may be agreed, provided the Trustees consider such fees to be reasonable in all the circumstances.

3.16 Power to borrow

The Trustees will have power to raise any money required for the purposes of the Scheme by sale, conversion, calling in or mortgage or charge of all or any part of the trust property for the time being in their possession, in the same manner and to the same extent as if the Trustees were the absolute and beneficial owner thereof, and, generally will have power to borrow for the purposes of the Scheme.

3.17 Power to open bank accounts

The Trustees will open any necessary banking account or accounts for, and in the name of, the Scheme with whichever bank or banks the Trustees see fit and will be entitled to operate that account or those accounts and to sign, endorse or otherwise deal with cheques, bills and other negotiable and restricted instruments as they think fit. They will be entitled to exercise all powers, rights and privileges to enable them to carry out any transaction, act, deed or thing arising hereunder or in connection with the Scheme, without the consent or agreement of either the Employers or the Members.

3.18 Power to insure

The Trustees will have power to insure against loss or damage by fire and such other risk as they in their absolute discretion think fit any property for the time being held pursuant to the Scheme to its full value and to pay the premiums therefor out of any monies for the time being held pursuant to the Scheme and so that any monies received by the Trustees under any policy of such insurance may (in the absolute discretion of the Trustees) be applied in making good the property insured or treated as if they were the proceeds of sale of such property.

3.19 Power to employ agents and rely on advisers

The Trustees may act on the opinion or advice of any accountant, actuary, lawyer or any other professional person or agent employed or instructed in the carrying out of the business of the Scheme. This may include the receipt and payment of pensions and other such benefits. The Trustees will not be responsible for the default of any agent if employed in good faith.

3.20 Notices

Any notice to the Trustees or to any Member, Pensioner or other person in receipt of a pension or annuity or entitled to any other benefit hereunder may be given by sending the same through the post in a letter addressed to him at his last known place of abode, and any notice so sent will if sent by post to a Gibraltar address be deemed to be served on the day following that on which it is posted and in any other case on the fourth day following that on which it was posted.

3.21 Members to give notice of addresses

Every Member, Pensioner and annuitant will give notice in writing to the Trustees of his place of residence at the time he becomes a Member or entitled to a pension out of the fund and, thereafter, will give immediate notice of any change of residence.

3.22 Indemnity

The Trustees will be indemnified against all liabilities incurred by them in the execution of the trusts hereof and the management and administration of the Scheme, and will have a lien on the fund for such indemnity and no trustee will be liable for anything whatever other than a breach of trust knowingly and willfully committed; and further, the Trustees may enter into such agreements and give such undertakings indemnities or guarantees which are binding on the fund, as the Trustees will, in their absolute discretion, decide are necessary and proper for the efficient administration of the Scheme.

3.23 Payment of pensions

The following administrative provisions will apply to the payment of pensions:-

- (a) all pensions and annuities will be payable at such periods as the Trustees will from time to time, either generally or in any particular case, decide and any pension or annuity may be paid in advance if the Trustees think fit;
- (b) pensions will not be apportioned until the date of death or the date upon which they otherwise cease to be payable and, if paid in arrears or partly in arrears, the Pensioner or annuitant concerned and his personal representatives will have no claim against the trustee or the fund for payment up to the cessation of the benefit, provided that not more than one month's payments of pension are in arrears;
- (c) pensions and annuities are payable only to a bank account maintained by the Pensioner or annuitant or in such other manner as the Trustees think fit, and any agreement for a payment through the post, or otherwise, which may in any particular case be made by the Trustees, will be at the risk of the Member or annuitant concerned;
- (d) before making or sanctioning any payment out of the fund, the Trustees may require the production of a certificate, or such other evidence as they may think fit, of the birth, marriage, continued existence or death of the person claiming benefit or of a Member, his spouse or Dependants or the identity of any person named in a certificate or any other material fact;
- (e) if the Trustees are of the opinion that any person entitled to benefit is incapable of managing his affairs due to physical or mental infirmity (whether or not he is a patient for the purposes of the Mental Treatment Act), the Trustees will be entitled at their discretion to pay any such benefit to any person approved by them who undertakes to apply such benefit to or for the maintenance or benefit of the person concerned, and the Trustees will not be under any obligation to see to the application of any benefits so payable and actually paid to such person as aforesaid.

3.24 Claims only in accordance with Rules

No Member, Pensioner or annuitant will have any claim or right to any benefit save if and so far as the Scheme allows and in accordance with the Rules.

3.25 Termination of employment

Nothing herein will in any way restrict the rights of the Employer or its appropriate officials to determine the employment of any Member and the benefits to which a Member might claim to be entitled under the provisions hereof in respect of a period after his contract of service could lawfully be terminated will not be used as a ground for increasing damages in any action brought by such Member against the Employer.

3.26 Annuity in satisfaction of Member's rights

The Trustees, acting on Actuarial Advice if appropriate, may at any time, and from time to time, if and when they will for any reason consider it convenient in any particular case, purchase from any Insurance Company any policy of insurance or annuity contract for the purpose of answering or satisfying any benefits which may be paid to any person under the Rules, whether immediately or prospectively, on terms which as nearly as may be correspond to the terms on which such benefits would otherwise be payable under the Rules. Any policy or contract so purchased will be purchased in the name or names of the person or persons to whom the benefits purchased are to be paid, or in the name of the Trustees for him or them, and will be paid or applied for the purposes and in the manner to and for and in which the said benefits in respect of which the same was purchased is payable or applicable in accordance with the Rules.

No Member or person on whose behalf any such policy or contract is purchased under the provisions of this Rule will thereafter have any claim upon or interest in the fund.

3.27 Effect of misstatements

If any Member or Dependant of a Member will make any misstatements as to any of the matters referred to in the preceding Rules, the Trustees, on discovering the misstatement, will have power, acting on Actuarial Advice if appropriate, to make such arrangements as they will consider fair by way of adjustment of any pension, annuity or other money payable out of the fund.

3.28 Information to be available

Every person having any rights under the Scheme being a present or former Employee or Member will on demand be entitled to inspect a copy of the Rules during normal office hours, and of all amendments thereof and the latest statement of accounts and balance sheet.

3.29 Acts of the Employer

Unless otherwise provided for in the Rules any discretionary power or obligation conferred or imposed on the Employer may be exercised or complied with:-

- (a) by the board of directors of an Employer on acting by resolution, or by a written document signed by all the members thereof, or
- (b) as an alternative to (a) above, by some person duly nominated in manner aforesaid by the Employer to exercise the powers and discretions conferred upon it.

3.30 Liability of employers

The Employers will not be under any liability whatsoever in connection with the Scheme, except as expressly provided in the Rules.

3.31 Arbitration

In the case of any dispute or difference arising between any person or persons interested in the fund (whether actually or prospectively or contingently) and the Trustees or the Employer concerning the exact meaning or construction of any of these Rules or any rights or liabilities thereunder, it will (so far as the decision or determination of such dispute or difference is not otherwise effectively provided for by the Rules) be referred to arbitration by a single arbitrator (to be appointed, failing agreement between the parties, by the Leader of the Gibraltar Bar) in accordance with the provisions of the Arbitration Act or any modification or re-enactment thereof for the time being in force.

SECTION 4 - ALTERATIONS IN AND ADDITIONS TO RULES

4.1 Power of alteration

The Trustees may at any time, and subject only to the following Rules of this Section, by deed, alter or repeal all or any of the Rules for the time being in force or make any new Rules to the exclusion of or in addition to all or any of the existing Rules aforesaid, and any Rules so made will be deemed to be Rules of the same validity as if originally embodied herein and will be subject in like manner to be altered or modified.

4.2 Effect on existing benefits

No alteration or addition will prejudice or affect any pension or annuity then payable under the Scheme.

4.3 Alterations not to affect purpose of the Scheme

There will be no alteration which will have the effect of altering the purpose of the Scheme, which will continue to be the provision of Relevant Benefits for Employees, either on retirement at a specified age or on death or incapacity at some earlier age.

4.4 Alterations not to contravene any laws or regulations

There will be no alterations which will contravene any law or regulation of Gibraltar for the time being applicable to the conduct of pension schemes, or whereby the same will cease to be an approved scheme pursuant to Rules 3(17), 3A, 5(1)(h) and 21 of the ADE Rules or Section 6A of the Income Tax Act and statutory modification or re-enactment thereof for the time being in force.

There will be no alteration which will contravene the requirements necessary to ensure the scheme remains a QROPS.

4.5 No return to Employer of any part of fund

There will be no alteration which will result in the return to the Employer of any part of the fund but subject to the provisions of Rule 18.5.

4.6 Consent of Trustees

There will be no alteration without the consent in writing of the Trustees and of the CIT.

SECTION 5 - PARTICIPATION BY EMPLOYERS

5.1 Participation by employers

Every Employer or company registered or administered in Gibraltar which is a subsidiary company of or is associated with the Principal Employer which has employees eligible for membership and which desires to participate in the Scheme will, if not already participating on the Commencement Date, and subject to the approval of the CIT, participate on entering into a deed of adherence with the Trustees to abide by and comply with the Scheme and the Rules so far as they relate to it and to its employees who become members.

5.2 Special provisions on first participation

An Employer on first participating in the Scheme may, by deed and with the consent of the Trustees who will act, if necessary, on Actuarial Advice:-

- (a) exclude from eligibility for membership any class of Employee whatsoever;
- (b) in relation to Employees then in its service who are eligible for membership exclude, vary or modify any provision of the Scheme contained in the Rules and substitute or add any other provision to the Scheme in respect of those Employees.

5.3 Employer ceasing to participate

- (a) The Principal Employer, with the consent of the Trustees and the appropriate Employer if it is still associated with the Principal Employer, may by deed declare that any Employer which has been participating in the Scheme will forthwith cease to participate.
- (b) An Employer will withdraw from the Scheme if it ceases to be a subsidiary company of or associated with the Principal Employer to the extent that its involvement in the Scheme would prejudice its approval as an Exempt Approved Scheme by the CIT or goes out of business or leaves the Scheme for other reasons.

In sub-paragraphs (a) and (b) above, if any such Employer still has Employees who are Members of the Scheme the provisions of Rule 18.2 will come into operation.

SECTION 6 - ELIGIBILITY AND MEMBERSHIP

6.1 Eligibility

Any Employer has absolute discretion to invite Employees in Service to be a Member of the Scheme provided that the employee is not:-

- (a) where the Employer is a company, a Proprietary Director or the spouse of a proprietary director;
- (b) where the Employer is a partnership or a sole trader, the spouse of an individual who is the Employer or a partner of the Employer;
- (c) an active member (i.e. a member in respect of whom the employer is still making contributions) of any other retirement benefits scheme of the Employer other than a scheme which provides benefits solely on the death of a member while in the Employer's Service.

Acceptance is optional, although those Employees not wishing to join the Scheme when first invited, will only be able to join with the consent of their Employer and the Trustees. The situation is the same for those Employees who leave the Scheme and wish to rejoin. Consent is at the Employer's and Trustees' discretion and if given may be subject to any conditions as they deem necessary.

6.2 Waiver of Eligibility Conditions

The Employer and the Trustees will jointly have the right to admit to membership any Employee (including a part-time Employee) who is not otherwise eligible in accordance with Rule 6. 1. Provided that the application of this clause will not result in any person becoming a member of the scheme where that membership will result in the loss of the approved status of the scheme.

6.3 Application for membership

- (a) An Employer who wishes to admit employees into membership of the Scheme together with the individual employees must complete the application form or forms required by the Administrator, Trustees and/or Life Assurance Company which must include the following undertakings:
 - (i) the Member agrees to be bound by these Rules:
 - (ii) the Trustees agree to administer the Plan as required by these Rules.
- (b) A person can become a Member only if he or she is under age 70 and if the Trustees agree.

6.4 Membership Letter

Every Employee who has joined the Scheme will be given details in writing of the Scheme as follows.-

- (a) The main benefits as they apply to him including those:-
 - on normal retirement
 - on death in service
 - on death after retirement
 - on voluntary withdrawal from the Scheme before retirement
 - on early retirement
 - on late retirement
 - on any options at retirement
- (b) The basis of contributions by Members and the administrative arrangements for contributions;
- (c) How the Scheme is financed and the basis on which the Employer contributes to it;
- (d) The legal constitution of the Scheme;
- (e) Details of the Administrator and Trustees of the Scheme and how they are appointed or replaced; and
- (f) Brief details of the powers of amendment of benefits and Rules and how changes can be effected.

6.5 Voluntary election to withdraw

Every employee can voluntarily elect to withdraw from the Scheme at any time before reaching Normal Retirement Date by giving written notice of such an election to the Employer and the Trustees.

Benefits payable will be assessed in accordance with Rule 13.

SECTION 7 - PENSIONABLE SERVICE AND TRANSFERS

7.1 Transfers

If any Member on joining the Scheme was in his previous employment a member of a Transfer Scheme, and he elects that a transfer payment will be made by the Transfer Scheme to the Trustees, then the Trustees will be entitled in their absolute discretion to receive and hold as part of the fund from the Trustees of the Transfer Scheme such amount as may be payable therefrom in respect of such Member pursuant to the Rules of such Transfer Scheme and credit the Member with such additional pension or such additional period of pensionable service as the Trustees, acting on Actuarial Advice if appropriate, will consider appropriate and the following further provisions will then apply:-

- (a) the Trustees will be required to obtain a certificate from the administrator or trustees of the Transfer Scheme of the amount in respect of the Member's contributions and interest included in the transfer payment and only the amount so certified will be treated as the Member's contributions to the fund;
- (b) the benefits to be provided by the Scheme for a Member inclusive of the benefits in respect of the transfer payments payable from the Transfer Scheme will not exceed the appropriate limits laid down in Section 14; and
- (c) in cases where the Trustees have entered into reciprocal transfer arrangements, the Trustees will, on such transfer and notwithstanding anything herein contained, give effect to those transfer arrangements.

7.2 Additional pensionable service in special cases

The Trustees, on the recommendation of the Employer may credit a Member with additional pensionable service in such manner and upon such terms as they may decide, acting on Actuarial Advice if appropriate. Such terms will normally include provisions for the additional service to accrue over the period of the Member's membership.

7.3 Pensionable Service in cases of ill-health

In the case of absence from work due to illness or any other incapacity:-

- (a) during such period of absence as the Member will be in receipt of any remuneration from the Employer, other than at pension rate, he will continue to make the appropriate contributions pursuant to Rule 8.1 and his Pensionable Service will not cease to accrue unless he has voluntarily elected to leave the Scheme.
- (b) in the event of the death of any Member who is absent from work due to illness or incapacity the benefits payable on his death will be calculated in the manner provided for under Rules 11.1, 11.2 and 11.6.

7.4 Pensionable Service in other cases of absence including secondment

In the event of the absence of an Employee from Service for any of the reasons specified in paragraph (a) below, the absence will not be treated as a withdrawal from Service qualifying for benefits in accordance with Section 13, with the result that the Member will retain his membership for the periods specified in paragraph (b) below and such period or any part thereof may accrue as Pensionable Service if, in the case of a Member, contributions are paid in respect of him in accordance with paragraph (c) below:-

- (a) periods of absence approved by the Employer are:-
 - (i) a period of absence to enable the Member to take up work of national importance;
 - (ii) a period of absence to take a course of study or training which the Member applies to have approved within three months of starting the course and the application is granted;
 - (iii) a period during which the Member is granted leave of absence or seconded to another Employer;
- (b) a period of absence may be unlimited in a case to which sub-paragraph (i) of paragraph (a) above applies, and in other cases will not exceed three years or such longer period as the Employer, with the consent of the CIT may be prepared to agree;
- (c) the Employer may at its discretion arrange for the continuation of the contributions in respect of the Member, with the amount of the Employer's contributions being as specified by the Trustees, acting on Actuarial Advice, if appropriate. However, contributions will not, be payable if the Member becomes a Member of another pension scheme during a period of absence, in which event his membership of this Scheme will either terminate forthwith or will be suspended without accrual of Pensionable Service;
- (d) if a Member is absent due to any of the reasons in (a), in the event of his death, benefits payable will be calculated in accordance with provisions in Section 11, for a Member in Pensionable Service.

SECTION 8 - MEMBER'S CONTRIBUTIONS

8.1 Ordinary contributions

Each Member will contribute to the Scheme at the rate specified in the Membership Letter or at such rate as may be agreed.

8.2 Duration of contributions

Contributions commence with effect from the Joining Date and cease on the attainment of Normal Retirement Date or earlier termination of Service. In the case of a Member being permitted to retire after the Normal Retirement Date, contributions will cease on actual retirement. Such a Member's benefits, upon the Member reaching the age of seventy years, will be calculated accordingly or in accordance with Rule 10.3.

8.3 Additional voluntary contributions to buy additional benefits

Subject to the agreement of the Trustees, if a Member wishes to buy added benefits the Member in question will elect to make additional voluntary contributions to the fund, in accordance with tables approved from time to time by the Trustees, acting on Actuarial Advice, if appropriate, and on such terms as may be agreed between the Trustees and the Member: and on such election the following provisions will apply:-

- (a) no Member will elect while he is absent from Service through sickness or under notice to leave;
- (b) the additional voluntary contributions can be in the form of a lump sum or periodic contributions;
- (c) the lump sum must be paid within three months of the election; and periodic contributions will continue if the Member remains in the employment until retirement or for not less than five years except that the Trustees may agree to earlier termination or suspension in the case of financial and other hardship;
- (d) periodical contributions will be subject to a minimum monthly installment of such amount as the Trustees may from time to time approve;
- (e) no periodic contribution will exceed the maximum contribution;
- (f) no additional contribution will exceed a sum which will enable the benefits to be received in excess of the limits specified in Section 14;
- (g) the additional benefit may, at the discretion of the Trustees, be expressed as an additional amount of pension or as an addition to the number of years of Pensionable Service or as an additional percentage of pensionable salary;
- (h) the benefits secured by additional contributions under this Rule will be additional to all other benefits payable under the Rules, and will be in such form as may be agreed between the Trustees and the Member at the time when the contributions commence or from time to time thereafter, but subject always to the provisions of Section 14.

8.4 Deduction of contributions

Periodic contributions will be deductible by the Employer from earnings becoming payable to the Member and will be paid over to the Trustees.

SECTION 9 - EMPLOYERS CONTRIBUTIONS

9.1 Ordinary contributions

Each Employer will contribute for each Member at the rate specified in the Membership Letter or at such rate as may be determined by the Trustees acting on Actuarial Advice, if appropriate. Employers will pay contributions to the Trustees in accordance with such arrangements as may have been made between the two parties.

9.2 Additional special contributions

The Employer may at any time, and from time to time, pay any single or periodic sum or sums by way of special contribution, and on paying such sum or sums will state the purpose (which will not be inconsistent with the purpose of the Scheme in providing relevant benefits as defined in the Tax Code) for which such payment is being made, and this may be either in augmentation of the fund for the general purposes of the Scheme or otherwise; and without prejudice to the generality of the foregoing any such payment may include the provision of benefits in exceptional circumstances for an Employee or former Employee, not qualified by age and service to receive a benefit under the Scheme, or may be to increase the amount of any benefit payable pursuant to the Scheme (including the addition of added years of Pensionable Service in respect of any particular Member or Members), and in any such case the Trustees, acting on Actuarial Advice, if appropriate, will determine the amount of benefit or increased benefit provided by such payment which will not exceed the appropriate limit specified in Section 14.

If a contribution to the Scheme is not an ordinary annual contribution but a special contribution, the CIT may require the allowance to be spread forward over a period of years. This will not normally be required if the aggregate of all special contributions made by the Employer to approved schemes in the same accounting year does not exceed the greater of the Employers corresponding aggregate ordinary annual contributions or any higher amount as set by the CIT. At the date of this Scheme this higher amount is set at £10,000.

9.3 Reduction or Suspension or Termination of contributions

Subject to the provisions of Section 18 the Principal Employer may from time to time give notice to the Trustees to reduce or suspend or terminate all or any of the contributions due under the provisions of Rule 9.1 and upon such notice being given the Employer or Employers concerned will not be bound to pay any contributions, or more than the reduced contribution, as the case may be, nor will the Trustees be required to seek such payments as may be required in order to maintain benefits, but the Trustees will, acting on Actuarial Advice, be under the duty to notify the Members concerned of such suspension or reduction or termination, and to state the effects thereof upon the benefits currently and prospectively payable under the Scheme.

9.4 Arrears of contributions

If the contributions payable to the Trustees are in arrears, then the Trustees will be entitled from time to time to reduce benefits becoming payable by such amount as they, acting on Actuarial Advice, will decide to be appropriate. Reduced benefits will be paid until the time that such contributions are fully paid up and the Trustees will have the power to notify the Members concerned of the arrears and of the effects or possible effects thereof upon the benefits currently and prospectively payable under the Scheme. Furthermore, if any benefits are being funded on the basis that the full benefit provided for by the Rules is only payable when a minimum number or amount of contributions has been paid then, unless the Employers agree to pay such minimum number or amount, the benefits in question will be reduced by the Trustees by such amount as they decide to be appropriate, acting on Actuarial Advice.

9.5 Trustees powers in respect of arrears of contributions

The Trustees will, in their absolute discretion, decide whether or not to institute legal proceedings (the costs of which will be borne by the Fund) against the Employer if it has failed to pay its contributions under this Section and will not be responsible to the Members or to any of the participating Employers if they decide not to do so.

9.6 Funding of pensions payable by employers

Where any Employee or the spouse or Dependant of an Employee is for the time being receiving a pension for life or for a shorter period payable by the Employer out of revenue, the Employer may certify to the Trustees the amount which was paid to such Employee by way of pension and supply to the Trustees an actuarial certificate of the cost of funding the pension out of the fund. The Trustees, acting on Actuarial Advice, may then agree to undertake to pay the pension or pensions out of the fund in which case the Employer will become bound to pay the agreed costs either by way of lump sum or additional periodic contributions or partly in one way and partly in the other, as maybe agreed between the Employer and the Trustees, but so that any additional periodic contributions will not be reduced or suspended under Rule 9.3. The pension payable to the Employee, spouse or Dependant, as the case may be, will thereupon become payable out of the Fund, provided that the payment of a pension to which this Rule applies will give rise neither to any right to commute any part thereof under Rule 10.6 nor to any consequential benefits under the provisions of Section 11 and 12.

9.7 Insurance Contributions

Each Employer will make additional contributions to the Scheme sufficient to meet the cost of any Death Insurance Benefits taken out by the Trustees in accordance with rule 11.6.

SECTION 10 - BENEFITS ON RETIREMENT

10.1 Entitlement to benefit

Each Member who retires from Service on or after Normal Retirement Date will be entitled during his life to an annual pension commencing from actual retirement, in accordance with this Section, to lump sum benefits at his election in accordance with Rule 10.6, or to a pension for a Nominated Beneficiary in accordance with Section 12.

10.2 Calculation of pension

The Trustees, acting on Actuarial Advice will determine the amount of pension payable. In calculating this amount, any reductions made in accordance with an election under Rule 10.6 or an allocation under Section 12, will be taken into account, as well as any wishes of the Member relating to payment of benefits after his death.

10.3 Deferment of pension

In cases where the Member, although he has reached his Normal Retirement Date remains in Service with the consent of the Employer, payment of any pension may be deferred until the Member attains 70 years of age and on the pension coming into payment the Member will be entitled to receive the same pension in all respects as he would have received on attaining Normal Retirement Date, but increased by such amount as the Trustees acting on Actuarial Advice will decide.

10.4 Early retirement on the grounds of ill health

Any Member who has been in Service for at least one year and who has become in the opinion of the Employer and the Trustees incapable of discharging his duties by reason of permanent ill-health or incapacity, and who retires from Service in consequence thereof, will be entitled to an immediate pension and lump sum if appropriate calculated in the manner described in this Section (Such a Member may nevertheless opt to receive Short Service Benefits under Section 13). The Trustees, if they are not satisfied that ill health or incapacity continues, may also reduce or suspend (until the Member's Normal Retirement Date), the pension taken early in accordance with this rule.

10.5 Early retirement in other cases

Any Member who leaves Service not more than ten years before the Normal Retirement Age and not earlier than the age of 50, otherwise than in the circumstances referred to in the preceding Rules may retire subject to the approval of the Trustees, which approval will not be unreasonably withheld. On retirement he will receive a pension and, if applicable, a lump sum under Rules 10.6 and 10.7. In such case his pension will be modified in such manner as will be certified as reasonable by the actuary tendering Actuarial Advice on the modification necessary to allow for the Member's age at retirement. Any pension payable of this type must not be less than that of the Members' Short Service Benefits.

10.6 Lump sum benefits on retirement

Any Member to whom this Rule is applied who retires from Service, and who under any of the provisions of this Section becomes entitled to a pension out of the fund may, at the time when such pension commences to be payable, elect to receive a lump sum of such amount as the Member may require, but not exceeding the limits specified in Rule 14.4, and the consideration for such lump sum payment will be a reduction in the pension payable under the foregoing provisions of this Section of an amount equivalent in actuarial terms to the lump sum payable pursuant to this Rule (which will be certified as reasonable by an actuary).

10.7 Payment of lump sum benefits

In cases where retirement or payment of pension is deferred under Rule 10.3 the Member to whom that Rule applies may with the consent of the Trustees, elect to receive his lump sum benefits on attaining Normal Retirement Date, in accordance with Rule 10.6.

10.8 Additional "bought" pension

Any Member who has made additional voluntary contributions under Rule 8.3 will be entitled to such additional benefits as are secured thereby.

10.9 Payment of pension

Subject to the provisions of this Section and Section 12 any credit or balance due to a Member, as the case may be, may at any time be used by the Trustees at their discretion or (as soon as reasonably practicable) upon receipt of written request of the Member who has reached his Normal Retirement Date, to either

(i) purchase an annuity payable for the Member's life from an Insurance Company of the Members choice within such reasonable period as they will determine). Such annuity may be of a fixed amount or of a lower commencing amount but increasing from year to year and may provide for relevant Dependents' benefits or of such other amount or benefits as the Member may require but always subject to the limitations referred to in Section 14; or

(ii) pay a pension at such frequency as the member may decide and of such amount as shall be determined by Actuarial Advice; and

(iii) in lieu of either (i) or (ii) pay a lump sum equivalent to the total balance due to the member except for that element of the fund which has been transferred to the Scheme under QROPS status from the UK. In which case 70% of the fund must be used to provide a pension income or may result in the loss of QROPS status.

Save that no payment shall be made if that payment is in contravention of the Income Tax Act, any guidance notes issued by the CIT or any other legislation in force at the time of payment which is applicable to such payments.

SECTION 11 - BENEFITS ON DEATH

11.1 Lump sum benefits on death in Service

Where a Member dies in Service before Normal Retirement Date at any time or place, there will be raised out of the fund and held upon Discretionary Trusts a lump sum of an amount which does not exceed that specified in Rule 14.4.

The Trustees will pay or apply at their discretion the whole or any part of that sum to all or any of:-

- (i) the personal representatives of the deceased Member, or
- (ii) his Nominated Beneficiary, or
- (iii) such person or persons as the Trustees will in their discretion decide, in such shares as the Trustee in their discretion will decide, who fall into the class of the Member's spouse, issue, parents, grandparents, the spouse and issue of such persons and the former spouse and those who were financially dependent on the Member at his time of death.

PROVIDED THAT:-

- (i) the Trustees may hold such lump sum on trust for a period of up to two years after the death of a Member until they are able to distribute the sum; and
- (ii) if at the expiration of two years the Trustees have not distributed the lump sum, wholly or in part, whatever remains of the lump sum will be transferred to a separate account outside the Scheme to be held on trust by the Trustees for the personal representatives of the deceased Member or, if there are none, the statutory next of kin of this Member;
- (iii) the Trustees may, but without being in any way bound to do so, have regard to any document signed by the Member or Pensioner concerned expressing his wishes relating to the disposal of any sum to be held upon the Discretionary Trusts.

The Trustees will have power to declare in respect of any sum or part thereof such separate trusts, terms and limitations including maintenance, education, advancement and accumulation of income during a minority, and including such discretionary trust and powers, as the Trustees will from time to time by deed revocable or irrevocable appoint, but without infringing the Rule against perpetuities, and the Trustees will have power to appoint as trustees of such fund any two individuals or one corporate trustee as the Trustees will in their absolute discretion decide and to remove any of such Trustees and appoint any other trustee in place of any one so removed.

11.2 Spouses and Dependents' pension on death in Service

Where a Member dies in Service before the Normal Retirement Date, the Member's spouse or Dependents, subject to the provisions of Section 12 and other Rules of this Section, will be entitled to a pension or annuity in such amounts or proportions and for such duration as the Trustees will decide (subject to the limits referred to in Section 14).

Each such pension will start on the Member's death and will be payable for life in the case of a spouse. A pension payable in respect of a Child of the deceased who is not for any other reason a Dependant will cease on the later of the eighteenth birthday of the Child or the cessation of his full time education or vocational training.

11.3 Benefits whilst absent due to ill-health

When a Member dies who is absent from work due to ill-health or incapacity, the provisions of Rule 7.3 will be applicable.

11.4 Death after retirement

On the death of any Pensioner within five years after actual retirement there will be raised out of the fund and held on the Discretionary Trusts an amount equal to the balance of the pension which a Pensioner would have received during the remainder of the period of five years but without taking into account any increase in pension under Section 15 which comes into force after the date of death.

11.5 Benefit after leaving Service

Where a Member dies after leaving Service but before his Normal Retirement Date or before his pension has been paid, benefits will be payable in the same way as provided in Rule 11.1 and 11.2.

11.6 Death Insurance Benefits

The Trustees may provide (subject to the limits of Section 14) benefits payable on death in excess of those which may be provided from the Member's Account. Such benefits will be payable only to the extent that the Trustees at their discretion (or with the consent of the Employer where the provisions of Rule 9.7 applies) have taken out Death Insurance Benefits cover (indemnifying them in respect of such risk).

11.7 Insurance medical report

The Trustees or any Insurance Company with whom the Trustees have taken out Death Insurance Benefit cover, will be entitled at any time to require any Member to obtain written medical evidence of his state of health. If the medical evidence shows that he does not have normal expectation of life, the Trustees may decide in their absolute discretion:-

- (i) in respect of a new Member, to refuse to include him in a Death Insurance Benefits cover (either new or existing) taken out by the Trustees in accordance with this Section;
- (ii) in respect of an existing Member to refuse (either in whole or in part) to provide increased Death Insurance Benefits cover in relation to any increase in benefit which may be payable as a result of an increase in the Member's Salary

AND in any case refuse to extend Death Insurance Benefits cover to a Member who is absent from work owing to illness or injury at the time he joins the Scheme until the Member has completed two months continuous active Service after returning to work.

11.8 Insurance restriction/disclosure

Where the Trustees are unable to secure Death Insurance Benefits cover in respect of a Member covering death from certain hazardous occupations or pastimes or where such insurance cover could only be arranged at a premium which the Trustees, where the provisions of Rule 9.7 apply, the Employer will decide is excessive, then the Trustees may refuse to establish such cover or may offer such reduced or lower levels of cover as they will decide. They will as soon as reasonably possible inform the relevant Member of any restriction on the Death Insurance Benefits as well as the level of the cover and any exclusion terms on confirmation from the Insurance Company of acceptance of the Death Insurance Benefits cover.

SECTION 12 - ALLOCATION

12.1 Right to make an allocation

Subject to Rule 12.2 a Member may at any time before his pension comes into payment by written application to the Trustees surrender part of his pension (in this Section called "an allocation") in order that a deferred pension or annuity payable on his death may be provided for a Nominated Beneficiary.

12.2 Restriction on right to allocate

Any Member may make an allocation except that the Trustees will have a discretion to refuse an allocation application where a Member is granted a pension on the grounds of ill-health or incapacity or where the medical report referred to in Rule 12.8 does not indicate that he is in good health.

12.3 Type of pension

When an allocation is made under this Section, an annuity or pension will be paid to the Nominated Beneficiary so that the annuity or pension will commence on the date of the Member's death and continue until the date of the beneficiary's death or some earlier date agreed to by the Trustees.

12.4 Amount of allocation and pension

Depending on the terms of the Member's allocation, the annual amount of the annuity or pension to be paid to the beneficiary will be determined by the Trustees having regard to Actuarial Advice and having regard also to the age and sex of the Member and of the beneficiary, so that the amount of pension allocated by the Member is actuarially equivalent to the amount of annuity or pension secured for the beneficiary. A pension or annuity secured under this Rule is additional to that provided under Rule 11.2

12.5 Restrictions on amount of allocation

The annual amount of pension allocated by the Member under Rule 12.4 may not exceed in total the amount specified in Rule 14.6 inclusive of the equivalent value of any lump sum taken under Rule 10.6).

12.6 Number of allocations

A Member may make a number of allocations in favour of different beneficiaries provided that the total of all allocations and the total of all annuities or pensions payable to such beneficiaries will not exceed the limit set out in Rule 12.5.

12.7 Death of beneficiary before Pensioner

The pension payable to a Pensioner will be permanently reduced by any allocation made under this Section even in the event of the death of the Nominated Beneficiary before the Pensioner.

12.8 Medical report

The Trustees will be entitled to require the Member to obtain a written medical report into the state of health of the Member at the time when his application for an allocation is made under this Section, and may, in the event of the medical report being adverse to the extent that the Member does not have the normal expectation of life, refuse to accept the application.

12.9 Administrative arrangements

The Trustees may, in their absolute discretion, make such administrative arrangements and issue such regulations for the effective operation of this Section as they think fit.

SECTION 13 - PRESERVATION OF BENEFITS ON LEAVING SERVICE

13.1 Application of this Section

This Section will apply to a Member who (otherwise than by death) leaves Service before reaching his Normal Retirement Date, whether voluntarily or involuntarily, without an immediate pension becoming payable to him.

13.2 Entitlement to Short Service Benefits

Subject as hereinafter provided, a Member to whom this Rule applies and who on leaving Service has completed up to five years Qualifying Service, will be entitled to those benefits (hereinafter called "Short Service Benefits") whose descriptions (whether pension, annuity, lump sum or otherwise and including any option to substitute the one for the other, either in whole or in part) correspond to the benefits (hereinafter called "Long Service Benefits") which, in accordance with the Rules in force at the time of the Member's leaving Service, would fall to be paid to or in respect of all or any of the Member, his spouse, Dependants and personal representatives, if he remained in service until, and retired upon, reaching his Normal Retirement Date.

13.3 Amount of Short Service Benefits

Short Service Benefits will be computed on the same basis as the corresponding Long Service Benefits, but by reference to the Member's Pensionable Service and salary at the time of his leaving Service, provided that Short Service Benefits will, where necessary, be increased so that the value thereof, or the value of one of the alternatives thereto hereinafter provided, will, to the reasonable satisfaction of the Trustees compare with the amount of the Member's contributions made to the fund and not refunded.

13.4 Additional benefits and credits

Short Service Benefits will include all additional benefits to which the Member would be entitled as Long Service Benefits, including any additional benefit which:-

- (a) has been granted either at the time membership commenced or subsequently in respect of service prior to the date of grant, or
- (b) represents accrued rights being transferred from another scheme;
- (c) represents a transfer of accrued rights from another scheme.

13.5 Time of payment

Short Service Benefits will be payable at the same times, and upon the happening of the same events, as the corresponding Long Service Benefits would be payable.

13.6 Allocation

The provisions of Section 12 (allocation of pension for spouses or Dependants) will apply to a Member entitled to Short Service Benefits.

13.7 Pensions increases

Pension increases will be added to Short Service Benefits after Normal Retirement Date at the same time and to the same extent as to Long Service Benefits. (Under Rule 15.2 pensions increases may be added to Short Service Benefits not yet in payment).

13.8 Death before Short Service Benefits come into payment

On the death of any Member entitled to Short Service Benefits before they come into payment the provisions of Rule 11.5 are applicable.

13.9 Discretionary powers for Trustees to bring Short Service Benefits into payment

If a person who has been awarded Short Service Benefits falls ill or suffers some other incapacity before reaching the Normal Retirement Date the Short Service Benefits may be brought into payment immediately if it is established that his illness or incapacity would have led to retirement on medical grounds had he remained a Member.

13.10 Refunds of contributions

- (a) A Member who, on leaving Service, is not entitled to Short Service Benefits will be entitled to receive a refund of his own contributions whenever paid, subject to any deductions required under the current Tax Code (this would not include any contributions paid by the Employer).
- (b) Save as aforesaid, a Member entitled to Short Service Benefits will not be entitled to a refund of his own contributions.
- (c) Any refund of the contributions of a Member entitled to Short Service Benefits will be an alternative to Short Service Benefits in respect of service in relation to which such contributions were paid.
- (d) Any refund of contributions paid under this Rule 13.10 will discharge the Trustees from all obligations, to the relevant Member or other benefiting party, that exist under the Scheme.

In this Rule 13.10 references to contributions paid by a Member will include all contributions (whether ordinary, additional or voluntary contributions) paid by him to the fund and to any other scheme or arrangement in which he formerly participated and which have been transferred to the fund.

13.11 Transfers as alternative to Short Service Benefits

The Trustees may, on the application in writing of a Member to whom this Section applies, make a transfer payment in accordance with Rule 13.12 in respect of such Member, provided always that no such transfer payment will be made:-

- (a) in the case of a Member entitled to a refund of his contributions, to the extent that such refund has been made;
- (b) in cases where there is a lapse of more than twelve months (or such longer period as the Trustees may be prepared to allow) before the Member takes up employment entitling him to membership of a pension scheme;
- (c) where the Member does not apply for a transfer payment within six months of joining a Transfer Scheme which is prepared to accept a transfer payment except that a Member granted Short Service Benefits under this Section may apply for a transfer payment if he later moves to a scheme which will accept a transfer value.

The amount of any transfer payment so made will subject to Rule 13.12 (e) be such amount as the Trustees, acting upon Actuarial Advice, consider appropriate.

13.12 Provisions relating to transfers

Where any Member leaves service and makes an election which is accepted by the Trustees in accordance with Rule 13.11 hereof that a transfer payment will be made in respect of him, then the following provisions will apply:-

- (a) such a transfer payment will only be made to a Transfer Scheme;
- (b) it will be the duty of the Trustees to ascertain from the administrator or trustees of the Transfer Scheme the sections and the Act under which the Transfer Scheme is approved by the CIT or will obtain approval from the CIT for the transfer to the Transfer Scheme if not in Gibraltar ;
- (c) the Trustees will certify to the trustees or administrator of the Transfer Scheme the amount included in the transfer payment which represents the Member's contributions and interest and may require the administrator or trustees of the Transfer Scheme to undertake to treat only such amount as employees' contributions in the Transfer Scheme;
- (d) the amount of the transfer payment will in all circumstances, include any amount representing a former Employer's contributions and interest which may have been transferred to the fund pursuant to Rule 7.1, on such Member joining the Scheme;
- (e) notwithstanding the foregoing provisions, in cases where the Trustees have entered into reciprocal transfer arrangements, the Trustees will give effect to those transfer arrangements in the appropriate cases.

13.13 Additional "bought" benefits

If a Member was making additional voluntary contributions pursuant to Rule 8.3 prior to leaving service the Short Service Benefits to which he is entitled under this Rule will include the benefits secured by the amount of contributions paid by him up to the date of leaving Service and the alternatives to Short Service Benefits set out in this Section will apply if they are appropriate.

13.14 Purchase of Annuity contract or policy

The Trustees at their absolute discretion and on written request by a relevant Member, may buy out the Short Service Benefits to which the Member is entitled by purchasing from an Insurance Company a policy or annuity contract, the benefits of which will be equivalent in value to, but may be different from the Member's Short Service Benefits, so long as they are Relevant Benefits as defined in the Tax Code and within the maximum limits approvable for the Member concerned. If a policy or contract is purchased it will be purchased in the name or names of the person or persons to whom the benefits purchased are to be paid and may provide for:-

- (a) at the Member's option for an annuity to be purchased on the open market with the policy proceeds at maturity provided that such proceeds are transferred direct to another Insurance Company and that the new annuity contract contains the same restriction on commutation and further assignment as are herein mentioned;
- (b) the Member to surrender it at a later date and the surrender value transferred direct to a Transfer Scheme of a subsequent employer of which the Member becomes a member.

Any policy or contract so purchased will permit a lump sum to be paid only to the extent and in the circumstances permitted by these Rules; will provide for a deduction to be made of any tax due on such lump sum and will have the aggregate benefits limited as necessary to comply with the requirements of Section 14. The policy or contract must be endorsed before it is given to the Member as follows:-

- (i) to ensure that the benefits cannot be assigned;
- (ii) to ensure that the policy or contract cannot be assigned or surrendered except a surrender for the purpose of transferring the value to a Transfer Scheme of a subsequent employer to secure benefits in that scheme subject to the Insurance Company certifying to the administrator of the receiving scheme the maximum amount which can be paid out in lump sum form;
- (iii) to show the maximum extent in monetary terms to which benefits may be taken in lump sum form either by way of commutation or on death.

No Member or spouse or Dependant or Child of a Member on whose behalf any such policy or contract is purchased under the provisions of this Rule will thereafter have any claim upon or interest in the Fund and the consent of any such contingent beneficiary (other than the Member) will not be required to the purchase of such policy or contract or to the extinguishment of their rights under the Scheme notwithstanding any express or implied provision to the contrary contained in the Rules.

SECTION 14 - APPROVED LIMITS

14.1 General

Notwithstanding anything to the contrary in the Rules, the benefit payable to a Member or to his spouse, Dependants or other beneficiaries in respect of him will not, when aggregated with all benefits of a like nature provided under all other schemes established by the Employer or to which the Employer has contributed, exceed the limits set out in this Section

14.2 Definitions

For the purpose of the limits set out in this Section the following terms will have the meanings ascribed to them:-

"AGGREGATE RETIREMENT BENEFIT" means the aggregate of:-

- (i) the Member's pension under this Scheme and any Associated Scheme, and
- (ii) the pension equivalent of the Member's lump sum retirement benefit.

"ASSOCIATED SCHEME" means any other retirement benefits scheme established by the Employer or to which the Employer has contributed.

"EMPLOYEE CONTRIBUTION LIMIT" means a Member's total contribution in any year to all approved schemes, including voluntary contributions which will be limited for tax relief purposes to one sixth of the Member's assessable income (i.e. within the limits of Section 21 of the Income Tax Act). Additionally, contributions, both voluntary or otherwise, must be restricted to ensure that the Member's total benefits from his Employer's schemes do not exceed approvable limits.

"FINAL REMUNERATION" means the greater of:-

- (a) the highest total remuneration in any period of twelve months during the last five years prior to the relevant date, or
- (b) the yearly average of the total emoluments for any three or more consecutive years ending not earlier than ten years before the relevant date.

Provided that:-

- (i) where final remuneration is computed by reference to any year other than the last complete year ending on the relevant date, the Member's total remuneration for that year may be increased in proportion to any increase in the Government's index of retail prices from the last day of that year up to the relevant date;
- (ii) for the purposes of Rule 14.5 and Rule 14.6 (c) and if it produces a higher amount final remuneration may be increased by taking the rate of Salary payable at the date of death as the amount referred to in paragraph (a) of the definition of total remuneration or by taking the total earnings (including fluctuating earnings) paid to the Member during any period of twelve months in the last three years before the relevant date but ending either on the accounting date or on the date of death or a prior anniversary thereof;

- (iii) if a Member suffers a reduction in salary because of incapacity his final remuneration may be calculated as if the relevant date were the date on which the incapacity commenced.

"LUMP SUM RETIREMENT BENEFIT" means the total value of all benefits payable on retirement in a form other than non-commutable pension under this and any Associated Scheme.

"RELEVANT DATE" means the date of retirement, leaving Service or death as the case may require.

"TOTAL REMUNERATION" means the aggregate of:-

- (a) total gross salary payable to the Member without any deductions on the date of making the calculation; and
- (b) his average annual earnings by way of commissions or other fluctuating emoluments during the period of three years prior to the date of making such calculation

but will not include any salary or other emoluments in respect of which separate pension benefits are being secured for the Member except under the provisions of a scheme which is supplementary to this Scheme.

14.3 Member's aggregate retirement benefit - limits

The Member's aggregate retirement benefit will not exceed:-

- (a) on retirement at or before Normal Retirement Date, a pension of 1/60th of Final Remuneration for each year of Service with the Employer (not exceeding 40 years) or such greater amount (not exceeding two-thirds of final remuneration) as will not prejudice approval of the Scheme under the Tax Code;
- (b) on retirement after Normal Retirement Date, a pension of the greatest of:-
 - (i) the amount calculated in accordance with paragraph (a) above on the basis that the actual date of retirement was the Member's Normal Retirement Date; or
 - (ii) the amount which could have been provided at Normal Retirement Date in accordance with paragraph (a) above increased actuarially in respect of the period of deferment; or
 - (iii) where the Member's total Service with the Employer has exceeded 40 years, the aggregate of 1/60th of final remuneration for each year of Service before Normal Retirement Date (not exceeding 40 such years) and of a further 1/60th of final remuneration for each year of Service after Normal Retirement Date, with an overall maximum of 45 reckonable years, final remuneration being computed in each instance as at the actual date of retirement; but subject always to the provisions of Rule 14.7

- (c) on leaving Service before Normal Retirement Date, a pension payable at Normal Retirement Date of 1/60th of final remuneration for each year of actual Service (not exceeding 40 years) or a pension payable earlier than Normal Retirement Date as aforesaid but reduced appropriately for early payment, or, in either case, of such greater amount as will not prejudice approval of the Scheme under the Tax Code. The amount computed as aforesaid may be increased by 3% for each complete year or, in proportion to any increase in the Government's index of retail prices which has occurred, (whichever is the greater) between the date of termination of Service and the date on which the pension begins to be payable.

14.4 Member's lump sum retirement benefit - limits

The Member's lump sum retirement benefit will at all times be subject to approval to regulation by the CIT and will not exceed:-

- (a) on retirement at or before Normal Retirement Date, 25% of the capital value (as actuarially certified) of the pension as determined in Rule 14.3;
- (b) on retirement after Normal Retirement Date, the greatest of:-
 - (i) the amount calculated in accordance with paragraph (a) above on the basis that the actual date of retirement was the Normal Retirement Date, or
 - (ii) the amount which could have been provided at Normal Retirement Date in accordance with paragraph (a) above together with an amount representing interest thereon

but subject always to the provisions of Rule 14.7.

- (c) on leaving Service before Normal Retirement Date, a lump sum payable at Normal Retirement Date equal to 25% of the capital value (as actuarially certified) of the pension accrued or such lesser amount where the years of actual Service are less than twenty as may be agreed by the CIT or a lump sum payable earlier than Normal Retirement Date as aforesaid but discounted appropriately for early payment, or, in either case such greater amount as will not prejudice approval of the Scheme under the Tax Code;
- (d) the CIT will permit full commutation at 100% of a pension for non-resident Employees (excluding a "permitted individual" as defined in the Income Tax Rules) of a scheme set up by an exempt or qualifying company registered in Gibraltar (except where the fund has been transferred under QROPS status from the UK in which case 70% of the fund must be used to provide a pension).
- (e) Any lump sum commuted under clause 10.9
- (f) any other amount as will not prejudice approval of the Scheme under the Tax Code or result in the loss of QROPS status.

14.5 Lump sum death benefits - limits

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

- (a) £5,000; and
- (b) four times the Member's final remuneration less:-
 - (i) any lump sum (other than a refund of his own contributions) payable on the death of the Member under all schemes of previous employers; and
 - (ii) any lump sum Death Insurance Benefits payable on the death of the Member under a duly approved retirement annuity contract or trust Scheme

if the aggregate of such lump sums exceeds £1,000.

- (c) any other amount as will not prejudice approval of the Scheme under the Tax Code.

14.6 Dependant's pensions - limits

Any pension for a spouse or Dependant, when aggregated with the pensions, other than those provided by surrender of the Member's own pension, payable to that spouse or Dependant under all Associated Schemes, will not exceed an amount equal to 2/3rds of the aggregate retirement benefit:-

- (a) being paid to the Member at the date of his death (including any pension increases given under Rule 15.1); or
- (b) being payable to the Member at Normal Retirement Date; or
- (c) prospectively payable to the Member who dies in Service had he remained in Service up to the Normal Retirement Date at the rate of salary in force immediately before his death; or
- (d) prospectively payable to the Member who dies in Service after Normal Retirement Date on the basis that he had retired on the day before he died or such greater amount as will not prejudice approval of the Scheme under the Tax Code.

If pensions are payable to more than one Dependant of a Member the aggregate of all Dependant's pensions payable in respect of him under this and all associated Schemes will not exceed the full amount of whichever is the appropriate aggregate retirement benefit under paragraphs (a), (b), (c) or (d) above or such greater sum as will not prejudice approval of the Scheme under the Tax Code.

14.7 Pension increases - limits

The maximum amount of a pension ascertained in accordance with this Section less any pension which has been commuted for a lump sum or allocated to provide a Dependant's pension may be increased by whichever is the greater of 3% for each complete year, and the percentage increase in the Government's index of retail prices which has occurred since the pension commenced to be paid.

14.8 Member's pension - further limits in certain cases

If a Member elects under Rule 10.7 to take any part of his benefits under this Scheme in advance of actual retirement, the limits set out in Rules 14.3 and 14.4 will apply as if he had retired at the date of the election as aforesaid, no account being taken of subsequent service, save that the maximum amount of any uncommuted pension not commencing immediately may be increased actuarially in respect of the period of deferment.

SECTION 15 - PENSIONS INCREASES

15.1 Increases in current pensions

Any pension or annuity currently payable out of the fund may from time to time be increased by such amount and at such times as the Trustees, acting on Actuarial Advice, and with the consent of the Employer, will decide, provided always that the Employer provides or has provided the additional funding (if any) required by the Trustees, acting on Actuarial Advice.

15.2 Increases in Short Service Benefits

The amount of any Short Service Benefit determined under Section 13 which has not come into payment may from time to time be increased by such amount as the Trustees, acting on Actuarial Advice, will decide and so that, without prejudice to the generality of the foregoing, the increases in such benefits need not correspond to the increases in pensions in course of payment under Rule 15.1.

15.3 Augmentation of pensions

The Trustees with the consent of the Employer, will have power at their absolute discretion to augment any benefit by such amount as does not cause the limits set out in Section 14 to be exceeded, and on such terms as to payment therefor, whether by way of lump sum or increased contributions by the Employer or the Member or both of them, as the Trustees, acting on Actuarial Advice, will decide.

SECTION 16 - FORFEITURE, COMMUTATION AND ALIENATION

16.1 Lien and forfeiture

Notwithstanding anything herein contained, the Employer will be entitled to a charge or lien on or set off against or to forfeit (as may be appropriate) any benefit to which the Member is or may become entitled under the provisions of the Rules (other than benefits attributable to transfer payments under Rule 7.1), for the purpose of enabling the Employer to obtain the discharge by the Member of some monetary obligation due to the Employer, and arising out of a criminal, negligent or fraudulent act or omission by the Member, provided that:-

- (a) in respect of any such obligation, the amount recovered or retained out of the fund will be limited to the actuarial value of the Member's actual or prospective benefits at the time of such recovery or retainer (other than the benefits attributable to transfer payments) or the amount of the obligation, whichever will be less (subject to any different agreement in writing between the Employer and the Member);
- (b) the Member will be entitled to a certificate showing the amount retained recovered or forfeited and its effect on his benefits or prospective benefits; and
- (c) in the event of any dispute as to the amount to be retained or recovered, the Employer will not be entitled to enforce any charge, lien, set off or forfeiture except after the obligation has become enforceable under an order of a competent court, or the award of an arbitrator to be appointed (failing agreement between the parties) by the Registrar of the Supreme Court of Gibraltar.

16.2 Restrictions on alienation and forfeiture

Subject as provided for in the Rules, no benefit arising under the Scheme will be capable of being assigned or applied for the benefit of any one other than the person entitled, or prospectively or contingently entitled, thereto, and

- (a) every assignment of, or charge on, any such benefit and any agreement to assign or charge the same will be void; and
- (b) on the bankruptcy of any such person, such benefit will not pass to any trustee or other person acting on behalf of the creditors of the person so entitled.

The Trustees will be entitled to forfeit any benefits which have become the subject of any attempted assignment by operation of law, and will apply the same to or for the benefit of all or any one or more of the Member or other annuitant entitled or any Dependants or relatives of the Member, in such shares and in such proportions as they will, in their absolute discretion, think fit.

16.3 Total commutation - serious ill-health

At the time when a pension first becomes payable to a Member, the Trustees may, in their absolute discretion commute for a lump sum payment, not exceeding the actuarial equivalent of the pension payable to such a Member. The Member must satisfy the Trustees, by seeking medical advice, that such commutation is justified owing to exceptional circumstances of serious ill-health, but so that, for the purpose of calculating the actuarial equivalent of the pension to be commuted, the recipient will be deemed to be in normal health.

16.4 Forfeiture of unclaimed benefits

Any sum which may have become due to a Member or other person entitled to benefit under the Rules will be forfeited if it has not been claimed during a period of at least six years from the date upon which that sum became due, but, if the sum formed one payment of a pension or annuity, the right to such pension or annuity will not thereby be extinguished.

SECTION 17 - STATUS OF THE SCHEME AND TAXATION

17.1 Status of the Scheme

The Scheme is treated as an Exempt Approved Scheme and complies with the requirement of the Income Tax Act and with all other Acts enactments or regulations including any preservation requirements of the Gibraltar Parliament as these are amended from time to time.

17.2 Undertakings to the Commissioner

For the purpose of enabling the Scheme to continue to be treated as an Exempt Approved Scheme as aforesaid the Trustees or Administrator may give to the CIT such undertaking or undertakings as may be required from time to time and may vary any such undertaking or undertakings.

17.3 Effect of undertakings

The provisions of any undertaking which may be given pursuant to the foregoing provision of this Section will be deemed to be incorporated in the Rules, and, to the extent that they are inconsistent with any other provisions of the Scheme (including any apart from this Rule which otherwise would have the effect of overriding it), they will override that provision.

17.4 Taxation deductions

The Administrator will account to the CIT for all taxation for which they may be liable in accordance with all relevant sections of the Income Tax Act or any modifications thereto and will be entitled to deduct from any payment being made to a Member or other person entitled under the Rules the amount for which they are so accountable except that in a case of the refund of contributions, the Trustees may in their absolute discretion elect to pay the tax out of the fund and for the avoidance of doubt it is expressly agreed that such deductions will not confer on any Member or his personal representatives any right to a repayment of income tax.

SECTION 18 - TERMINATION AND WINDING-UP

18.1 Power of determination

The Scheme may be terminated by the Trustees. From the expiration of such notice or the termination of the Scheme for any other reason, the Employers will not be liable for any further payments to the fund, but without prejudice to any liability for payments due on or before the date of such determination. Upon such termination, the Trustees will give notice thereof to the Members. The Scheme will thereupon be wound up, unless the Trustees, with the consent of the Administrator decide to continue it as a closed Scheme. A "closed scheme" for the purpose of this rule means one in which no new members will be admitted and no further contributions paid.

18.2 Withdrawal of an individual Employer

For the purposes of this Rule a "retiring Employer" means a participating Employer in respect of which one or more of the following conditions will have been fulfilled, namely.-

- (a) an order will have been made, or effective resolution passed, for the winding up or dissolution thereof, otherwise than for the purpose of reconstruction or amalgamation with any other Employer, or
- (b) it has been found by such Employer or the Trustees to be impracticable or inexpedient for it to continue to participate in the Scheme, and, on an Employer becoming a retiring Employer, it will cease to participate in the Scheme; and in any such case, the Trustees will appropriate for the benefit of the Employees and any former Employees of the retiring Employer such portion of the fund as may be certified by the Trustees, acting on Actuarial Advice, to be fair having regard to the amount contributed by the retiring Employer and by the Members concerned and then remaining in fund, and the assets so appropriated will be disposed of by the Trustees in accordance with the following Rules in this Section.

18.3 Total winding-up of the Scheme

If the contributions will be terminated in accordance with Rule 18.1 and the Scheme will not be continued as a closed fund, or if the Trustees will at any time be of the opinion that the objects for which the Scheme was established no longer exist or that the administration thereof cannot conveniently be carried on, the Scheme will thereupon be wound up and the trusts upon which the fund was formerly held will cease. The Scheme will in any event be wound up if the perpetuity period will expire.

18.4 Entitlement to benefit

On the winding up of the Scheme, Members then in Service who have not attained Normal Retirement Age will be treated as if their Service had then terminated and they were Members to whom Section 13 applied, and the provisions of this Section will be applied accordingly, provided that no Member will become entitled to a refund of his contributions.

18.5 Application of fund on a winding-up

Upon the winding up of the Scheme, then, unless there is a transfer of assets in specie to another Transfer Scheme pursuant to this Rule, the assets of the fund will be realised and the fund converted into money and, subject to the payment of all costs charges and expenses which may then be owing, the entire proceeds of such conversion will be applied by the Trustees in satisfying the following obligations in the order in which they are set out below:-

- (a) in securing the continuance as if under the Scheme of any pensions and annuities which have then actually commenced (including pensions in course of payment to persons in receipt of Short Service Benefits), pensions prospectively payable to Members who are in Service after Normal Retirement Date and benefits payable on the death of any such Pensioner or Member, provided that no account will be taken of further pensions increases which might have been payable under the provisions of Rule 15.1;
- (b) in the provision under Actuarial Advice of benefits for Members and other prospective annuitants and beneficiaries entitled in anticipation to benefits, including Short Service Benefits not then in payment, regard being had to the respective prospects of becoming entitled to such benefits had the Scheme continued in existence;
- (c) at their discretion, in augmenting, subject to the restrictions laid down in Section 14, the pensions and annuities referred to in paragraph (a) above, and in augmenting, subject to the like restrictions, the benefits referred to in paragraph (b) above, and it will be a requirement that the Trustees will have regard to Actuarial Advice in deciding on a proper measure of augmentation;
- (d) at their discretion and subject to the restrictions laid down in Section 14, but without prejudice to the provisions of paragraph (c) above in making provision for future increases in the benefits referred to in paragraphs (a) and (b) above, and further it will be a requisite that the Trustees will have regard to Actuarial Advice in deciding on the proper provision to make;
- (e) in paying any balance remaining in their hands, after satisfying their obligations under the preceding paragraphs, to the employers in such shares and proportions as the Trustees, acting on Actuarial Advice, will decide which will be treated as revenue for tax purposes under the Income Tax Act.

18.6 Transfer payments on a winding-up

In relation to any amount becoming payable under Rules 18.4 and 18.5 the following provisions will have effect in relation to transfer payments:-

- (a) if all or any of the Employees of the Employer becomes entitled to join a Transfer Scheme (including another scheme of the same Employer) the Employer may, in its absolute discretion, direct that a transfer payment or payments will be made to such Transfer Scheme in respect of each Employee or former Employee or group of Employees or former Employees, in accordance with the provisions of this Rule and, insofar as they are not in conflict with the provisions of this Rule, the provisions of Rule 13.11 and 13.14;

- (b) a transfer payment will only be made with the consent of each individual Member except that transfers may be made without the Member's consent if:-
 - (i) the transfer payment is to another scheme relating to the same employment or another employment with the same Employer or his successor or if the transfer payment is made in circumstances not giving rise to entitlement to Short Service Benefits; and
 - (ii) the rights allowed in the Transfer Scheme are in the opinion of the administrator of the Transfer Scheme at least equal in value to the rights transferred;
- (c) the amount of the transfer payment will be of such amount or amounts as the Trustees, acting on Actuarial Advice, will decide, regard being had to the assets available on the winding-up.

18.7 Securing of benefits on a winding-up

In cases where a transfer payment is not made in respect of a Member pursuant to Rule 18.6, his benefits will be secured by the purchase of an annuity or other insurance policy or contract from an Insurance Company which will be endorsed to show:-

- (a) that the annuity contract or policy is non-commutable and non-assignable except as shown in paragraph (b) below;
- (b) the amount in monetary terms available by way of commutation or on death;
- (c) the earliest date from which the pension is payable; and
- (d) that any lump sum payable under the contract or policy will be appropriately discounted in the event of the pension becoming payable before his Normal Retirement Date.

18.8 Payment of benefits on a winding-up

All annuities purchased pursuant to Rule 18.7 will commence to be payable not earlier than the earliest date on which a pension or annuity could have been payable under the provisions of the Rules had the Scheme continued in existence, and all annuities will be non-assignable and non-commutable. The annuity contract or policy may provide for benefits different from his Short Service Benefits, without the Member's consent, so long as the benefits are equivalent as far as possible to the Short Service Benefits.