

## Annex 10B

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### General description of which elements of remuneration are pensionable

#### Basic salary

1. The basic salary (or wages), used to calculate pensionable earnings, includes London weighting and any cash allowance made as a result of a bulk movement of staff.

Basic salary *excludes*:

- piece rates;
- bonus payments; and
- payments for overtime.

#### Service at less than full pay

2. Basic salary is the normal full-time rate of pay when the period of service includes:

- part-time service;
- sick leave on half pay (and sick leave with no pay in certain circumstances but not sick pay at pension rate);
- leave on reduced pay, including special leave without pay in certain circumstances;
- re-employed service in which re-employed salary is abated;
- service in which staff are seconded to another employer, from whom they receive their salary or wages;
- periods when pay is temporarily abated in the national interest;
- periods where pay is voluntarily surrendered, for example as part of a salary sacrifice arrangement.

#### Other pensionable allowances

3. Some allowances which are paid in addition to basic salary or wages are pensionable. A summary of the position is given below. All pensionable allowances have been specifically approved by the Scheme Manager, Cabinet Office (previously this responsibility rested with the Civil Service Department and the Treasury). There is no comprehensive list.

#### Pensionable allowances paid in addition to salary

4. Pensionable allowances have usually been granted on a permanent basis to specific posts and grades. They may be drawn by an individual employed in that post, no matter how short the employment.

Employers must refer to the Scheme Manager, Cabinet Office:

- any proposal to introduce a new pensionable allowance;
- any proposal to make an existing allowance pensionable; and
- any case where there is a doubt over whether an allowance is pensionable.

### **Payments for attendance on weekends and Bank holidays**

5. Members in overtime grades who work on a Sunday within conditioned hours are compensated by an additional payment of plain time rate. This additional payment is pensionable.

6. Members who work on Sundays outside their conditioned hours are paid:

- at plain time rate, with time off in lieu of overtime; or
- at double the plain time rate.

7. For staff who are not conditioned to work on a Saturday, Sunday or Bank or Public Holiday the payment for working on such a day (known as a premium or duty pay) paid in addition to plain time rate is pensionable. The part of any additional payment which is payment for overtime (i.e. the plain time element) is not pensionable. If staff receive a premium, in addition to time off in lieu for work on such a day they are not conditioned to work, then this premium is pensionable. If staff are conditioned to work on a Saturday, Sunday or Bank or Public Holiday then the whole of their pay (up to conditioned hours) is pensionable. If they work excess hours then only the premium paid in respect of these hours is pensionable.

#### **Example 1** Sunday working within condition hours

Member is rostered to work on a Sunday and is conditioned to work 8 hours at a rate of £20 per hour (plain time).

The member would receive the following:

Basic pay: £20 x 8 = £160 (pensionable)

PLUS

Sunday duty pay: £20 x 8 = £160

#### **Example 2** Sunday working outside condition hours

Member is asked to cover a Sunday he is not rostered to work and worked 8 hours at a rate of £20 per hour (plain time).

The member would receive the following:

Basic pay: £20 x 8 = £160 (non-pensionable or time off in lieu)

PLUS  
Sunday duty pay: £20 x 8 = £160 (pensionable)

### **Payment in lieu of annual leave**

8. A cash payment which is paid in lieu of annual leave does not count for pension purposes and is not included in pensionable earnings. Similarly, pensionable earnings are not reduced when payment is recovered from members leaving the Service who have exceeded their leave allowance.

### **Uniformed grades**

9. Members in uniformed grades may be entitled to an addition to their pensionable earnings, which is normally calculated as 2% of their basic salary or wages (excluding other pensionable emoluments). A member must be in the uniformed grade for the whole of the 12 month period used to calculate the pensionable earnings.

**Please Note:** Uniforms may be granted on a non-pensionable basis. The pensionable earnings of members provided with a uniform on a non-pensionable basis are not increased by 2%.

### **‘Assumed pay’**

10. In certain situations where members are receiving less than their normal rate of pay (or even no pay), they are treated for pension purposes as if they were receiving their normal pay. This is known as ‘assumed pay’. Assumed pay applies in the following circumstances.

- a) **Service with the Reserve Forces under the Reserve Forces Acts, 1980 and 1996** counts as special leave without pay and is treated as reckonable service provided that it does not reckon under the Armed Forces Pension Scheme. Pensionable earnings during this period are the pay and pensionable emoluments which members would have received had they not been called out.

This includes:

- normal increments;
- performance-related increments; and
- pay increases.

Pensionable earnings also take account of the following:

- members on temporary promotion or deputising at the date of call-out – pensionable earnings are the pay of the higher grade (or pay band) for the period over which the member’s employing department considers that the temporary promotion or deputising allowance would have continued had the member not been called out;

- members who were notified in writing before the date of call-out of the date of taking up promotion – pensionable earnings are calculated as if the promotion had gone ahead.

**Please Note:** It is for the member's employer to determine what his or her pensionable earnings would have been.

b) **'Family' leave.** This applies where a person is on:

- ordinary adoption leave;
- ordinary maternity leave;
- shared parental leave; or
- paternity leave;

and/or are receiving:

- statutory adoption pay;
- statutory maternity pay
- ordinary statutory paternity pay; or
- statutory shared parental pay

as defined under the Social Security Contributions and Benefits Act 1992.

**Please Note:** It is for the employer to determine what the salary (or wages) and pensionable emoluments would have been.

In all of the above circumstances, ASLCs are based on the member's normal salary (or wages) and pensionable emoluments.

Member contributions (including WPS contributions) are based on the actual pay the member receives (be it contractual or statutory). It is the actual pay that is used to determine the member contribution band that applies.

- c) **Sick absence on reduced pay.** When a member is on sick absence and receiving less than their normal rate of pay (other than sick pay at pension rate or no pay), they are treated for pension purposes as if they were receiving their normal rate of pay. ASLCs are based on the member's normal rate of pay. Member contributions (including WPS contributions) are based on the actual pay the member receives. It is the actual pay that is used to determine the member contribution band that applies.
- d) **On unpaid leave for a period which the Scheme Manager, Cabinet Office has agreed can count as reckonable service.** For example where the member is allowed time off to undertake public duty such as service as a magistrate. ASLCs are based on the member's normal rate of pay.

- e) **Receiving reduced pay due to the abatement rules.** ASLCs are based on the member's normal rate of pay. Member contributions (including WPS contributions) are based on the actual pay the member receives. It is the actual pay that is used to determine the member contribution band that applies.
- f) **On secondment to a different employer where the employee remains an active member of the Civil Service pension arrangements,** even if the member is actually paid by the borrowing employer, both the ASLCs and all member contributions are calculated using the member's normal Civil Service pay.
- g) **When pay is voluntarily surrendered in whole or in part** the member is treated for pension purposes as if they were receiving their normal rate of pay. Both the ASLCs and all member contributions are calculated using the member's normal rate of pay.

An example of this would be 'salary sacrifice'. A salary sacrifice happens when an employee gives up the right to receive part of the cash pay due under his or her contract of employment. Usually the sacrifice is made in return for the employer's agreement to provide the employee with some form of non-cash benefit. The "sacrifice" is achieved by varying the employee's terms and conditions of employment relating to pay. Salary sacrifice is a matter of employment law, not tax law, although it can lead to a reduction in the tax and national insurance payable. Where an employee agrees to a salary sacrifice in return for a non-cash benefit, they give up their contractual right to future cash remuneration. Employers who are thinking of entering into such arrangements would be well advised to obtain legal advice on whether their proposed arrangements achieve the desired result.

### **Effect on pensions of varying pay and pay related terms**

11. Changes in pay and pay-related terms and conditions of service can affect pension entitlement in an excessively beneficial or a detrimental way because benefits under the PCSPS (**classic, classic plus, premium** and Club transferred in or linked final salary benefits in **nuvos**, or in **alpha**, banked PCSPS service) are based on final salary.

12. Basic pay normally increases each year, and the ASLC mechanism ensures that you pay the increased pension costs associated with such increases. **However, where basic pay is significantly increased or, for example, allowances or bonuses are made pensionable, the payment of ASLCs may not be sufficient.** The value of the extra benefit to the member could be considerable, particularly for those likely to leave the scheme within a couple of years. Likewise, the pension cost to the department or agency could also be high.

13. ASLCs assume average pay progression and are not designed for step changes in pensionable earnings. Where such changes take place, the ASLC will cover the future service pension cost, but not the liability arising in respect of earlier reckonable service. For example, for an individual in classic aged 59 with 39 years' service, a £1,000 one-off increase in pensionable earnings will lead to an increase in

pension of  $\text{£}1000 \times 39/80 = \text{£}487.50$ , whereas for an individual with short service the impact on pension would be much less. The capitalised value of the impact on accrued benefits is known as the "past service cost" and, for individuals with long service, can be very significant. In this example, the past service cost of the  $\text{£}487.50$  increase in pension is estimated at around **£8,000**. This would not be covered by the ASLC. Where pay restructuring results in large past service costs, CSPD will bill employers for this extra liability.

14. Conversely, a proposal to reduce basic pay in return for, say, more generous overtime payments would reduce the value of pension benefits that have already accrued, as well as those that could be earned in the future, because overtime is not pensionable. The detrimental effect in respect of pension benefits already accrued and the reduction in the value of the reward package for the future service would need to be explained to those affected, and their agreement sought.

**15. Employers must consult the Scheme Manager, Cabinet Office about the pension implications of any proposals to change pay arrangements, which would alter pensionable earnings upwards or downwards as described above, or affect the CSPS definition of pensionable earnings.**

### **Non-consolidated pay**

16. Employers should note that non-consolidated pay is normally non-pensionable. You should also note that making it pensionable may lead to significant past service costs.

17. Employers' pay proposals for non-consolidated pay to be made pensionable in full or in part under the CSPS must meet certain HMRC requirements. Only the Scheme Manager, Cabinet Office can exercise discretion on behalf of the Minister under the rules of the scheme. You must consult the Scheme Manager, Cabinet Office at an early stage if you are considering making non-consolidated elements of pay pensionable.

18. Under the tax approval rules prescribed by HMRC, fluctuating emoluments - a term defined as any part of an employee's earnings that is not paid on a fixed basis, and includes such things as non-consolidated bonuses - may only be taken into account as pensionable if they are averaged. This is essentially an anti-abuse measure to prevent the deliberate increase of pension entitlement by reference to an emolument paid in the last year of service.

### **Remuneration that is NOT pensionable**

19 The following elements of remuneration are not pensionable:

- gratuities;
- allowances intended to meet special expenses (e.g. subsistence allowances, cost of living allowances and other foreign service allowances);
- fluctuating emoluments, including overtime pay and bonus payments (other than those that the Scheme Manager, Cabinet Office have explicitly agreed can be treated as pensionable);

- other payments or allowances for casual or intermittent duties;
- recruitment and retentions allowance (other than where the Scheme Manager, Cabinet Office have explicitly agreed it can be treated as pensionable);
- free uniforms that are expressly provided on a non-pensionable basis; and
- any benefits paid under the Civil Service Compensation Scheme (including Compensation in Lieu of Notice – CILON).

## Contributions

20. All elements of pensionable earnings are used to calculate the employer contributions – the Accruing Superannuation Liability Charge (ASLC).

21. Similarly, all elements of pensionable earnings are used to calculate the member contributions for members of **classic plus**, **premium**, **nuvos** and **alpha**.

22. For members of **classic**, the position is a little more complicated. Members' contributions are calculated in two parts in **classic**:

- i) Widow(er)'s Pension Scheme (WPS) contributions – this is the first 1.5% of the member's contributions; and
- ii) Further contributions – this is that part of the member's contributions that are in excess of the 1.5% WPS contributions, which have been payable since 1 April 2012.

23. A **classic** member's 'further contributions' are calculated using all elements of pensionable earnings in the same way as ASCLs and member contributions in the other parts of the Civil Service pension arrangements.

24. However, for historical reasons, a **classic** member's 'WPS' contributions exclude certain pensionable allowances.

25. The pay used to calculate a **classic** member's 'WPS' contributions includes:

- London weighting or London Allowance;
- recruitment and retention allowance 1;
- amounts paid within the pay range, or on a mark-time basis;
- allowances paid as part of basic pay (such as payment to members employed on ADP duties);
- increases for temporary promotion;
- deputising allowance;
- arrears of pay, including retrospective pay awards; and
- statutory sick pay received in respect of a sick absence on full or half-pay terms.

The following payments are not included:

- payments for additional responsibilities;
- payments for long hours;
- payments in lieu of emoluments in kind.

**Please note:** These are not comprehensive lists.

#### Example

A member of **classic** has gross monthly basic pay of £2,500. In addition, they receive the following monthly pensionable allowances: 'recruitment and retention allowance 1' (£150), and 'responsibility allowance' (£100).

Their contributions would be calculated as follows:

- 'WPS' contributions =  $(£2,500 + £150) \times 1.5\% = \mathbf{£39.75}$
- 'Further contributions' =  $(£2,500 + £150 + £100) \times 3.95\%^* = \mathbf{£108.63}$

*\* based on member contribution rates in force in 2017/18, i.e. 5.45 % - 1.5%*

If the individual had been a member of, say, **alpha**, their contributions would be calculated as follows:

- Contributions =  $(£2,500 + £150 + £100) \times 5.45\% = \mathbf{£149.88}$

26. It is the employers responsibility to ensure that the pension implications of any allowances they pay their staff are held correctly on their payroll systems. Employers will be required to make a statement to that effect on the annual Accounting Officer Certificate (AOC).

**Please Note:** anything that is pensionable under the PCS/PS/alpha is also pensionable under **partnership** and must be included in the **partnership** contributions.