

AIRWAYS PENSION SCHEME (the “SCHEME”)
OPERATING RULES OF THE SCHEME PAYS FACILITY

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1. INTRODUCTION

The ‘Scheme Pays’ facility was introduced by sections 237A to 237B of the Finance Act 2004 which have effect for tax year 2011/12 and subsequent tax years.

Under Rule 26(b) of the Airways Pension Scheme Rules, in every case where the Management Trustee is liable (jointly and severally with a relevant Member or Pensioner) to account to the Commissioners of HM Revenue and Customs for the

Annual Allowance Charge having received a Scheme Pays Notice in respect of such Member or Pensioner, or if the Management Trustee otherwise agrees to a Member's or Pensioner's request to meet all or part of his Annual Allowance Charge from his benefits under the Scheme, the Management Trustee shall have power to reduce the benefits payable or prospectively payable to or in respect of such Member or Pensioner accordingly, in such manner as the Management Trustee deems appropriate.

These Operating Rules set out the manner in which the Management Trustee shall reduce benefits in respect of Scheme Pays Notices.

The previous Scheme Pays Operating Rules were replaced in relation to the Scheme (having consulted the Actuary) by these Operating Rules with effect on and from 1 August 2018 to amend paragraph 5.5 to provide members the option to crystallise existing debts arising from Scheme Pays Notices received before 1 August 2018 and calculated by reference to the Scheme Pays Account and for all debts under paragraph 5.5 on and from 1 August 2018 to be settled by adjustment to main Scheme benefits.

These Operating Rules may be amended by the Management Trustee at any time, having consulted the Actuary with regard to any financial implications.

2. DEFINITIONS

2.1 Subject to paragraphs 2.2 to 2.8 below, in these Operating Rules, terms beginning with capital letters shall have the same meaning as defined in the Scheme Rules.

2.2 "Adjusted Scheme Pays Account"

Has the meaning given to it in paragraph 5.5.

2.3 "Annual Allowance Charge"

The charge to income tax arising under section 227 of the Finance Act 2004.

2.4 "Charge Effective Date"

Where an Annual Allowance Charge is to be funded by reducing the main Scheme benefits of a Member or Pensioner it shall mean the effective date of the charge, which shall be:-

- a) where a Member or Pensioner requests the charge to be deducted from benefits not immediately coming into payment:

- i) if the agreement is received by the twentieth of a month, the first of the month following e.g. received 16 March, effective from 1 April; or
 - ii) if the agreement is received after the twentieth of a month the first of the next but one month following e.g. received 26 March, effective from 1 May; and
- b) Where a Member or Pensioner requests the charge to be deducted from benefits coming into payment immediately it shall be the date of retirement.

2.5 **“Individual Annual Allowance”**

In respect of any Member or Pensioner, the amount of the standard annual allowance under section 228 of the Finance Act 2004 or, if less, their tapered annual allowance under 228ZA of the Finance Act 2004.

2.6 **“PIA (Pension Input Amount)”**

The increase in the value of a Member’s or Pensioner’s accrued pension benefits during any PIP, calculated in accordance with sections 229 to 237 of the Finance Act 2004.

2.7 **“PIP (Pension Input Period)”**

With effect from 6 April 2016, an annual period starting on and from 6 April each year and ending on 5 April in the subsequent year.

Up to and including 31 March 2015, the Scheme’s PIP was an annual period starting on and from 1 April and ending on 31 March in the subsequent year. This period was nominated by the Management Trustees at the Trustees’ meeting held on 19 October 2011 in accordance with section 238 of the Finance Act 2004. Notice of the nomination was issued to Members on 15 December 2011. This was changed by the coming into force of sections 238ZA and 238ZB of the Finance Act 2004 (as inserted by paragraph 3, Schedule 4, Finance (No. 2) Act 2015) which had the following effect:

- a) the PIP that started on and from 1 April 2015 ended on 8 July 2015; and
- b) the next PIP under the Scheme started on and from 9 July 2015 and ended on 5 April 2016; and
- c) each subsequent PIP starts on 6 April and ends on the subsequent 5 April.

2.8 **“Scheme Pays Account”**

Has the meaning given to it in paragraph 5.5.

3. ELIGIBILITY

The Management Trustee will assume a joint and several liability with a Member or Pensioner to account to the Commissioners of HM Revenue and Customs for the Annual Allowance Charge under the Finance Act 2004 of those Members or Pensioners in respect of whom it has received a Scheme Pays Notice.

Additionally, the Management Trustee will assume a joint and several liability with a Member or Pensioner to account to the Commissioners of HM Revenue and Customs for the Annual Allowance Charge under the Finance Act 2004 where:

- a) the Member or Pensioner requests the Management Trustee to do so in a form prescribed by the Management Trustee from time to time;
- b) the Member or Pensioner is subject to an Annual Allowance Charge in respect of the relevant PIP equal to or more than £2,000; and
- c) the Member's or Pensioner's PIA that has accrued under the Scheme is equal to or greater than their Individual Annual Allowance.

4. WHAT THE SCHEME WILL PAY

The Management Trustee will only pay the Annual Allowance Charge in respect of a PIA that has accrued within the Scheme.

5. MEANS OF PAYMENT

5.1 Default position

The default position is to reduce a Member's or Pensioner's AVC Accounts by the corresponding amount of the Annual Allowance Charge. The Member or Pensioner has the right to choose which one or more of his AVC Accounts will be reduced and may elect to have his main Scheme benefits reduced instead. If the Member or Pensioner does not make such choice or election, the Annual Allowance Charge will be deducted where possible proportionately from all the Member's or Pensioner's AVC Accounts.

5.2 Member has insufficient AVCs

If a Member or Pensioner has insufficient funds in his AVC Accounts to meet the Annual Allowance Charge in full he may elect to pay what part he can from his AVC

balance available and meet the balance by reducing his benefits in accordance with paragraph 5.5.

This would be the default position should the member not elect an option.

5.3 Unit prices

The unit price to be used when determining the amount of Mixed Portfolio Fund AVC units to be given up in lieu of the Annual Allowance Charge shall be:-

- a) for benefits immediately coming into payment, it shall be the unit price for the month of retirement e.g. a Member retires on 20th March, mid-market unit price for February announced in March (referred to as 1 March unit price); and
- b) for benefits not coming into payment immediately:-
 - i) if the agreement is received before or by the twentieth of a month, the mid-market unit price announced for that month e.g. agreement received 5 March, the mid-market unit price for March which would become known around 15 April (referred to as 1 April unit price); or
 - ii) if the agreement is received after the twentieth of a month, the mid-market unit price used for the month following receipt of the agreement e.g. received 26 March, mid-market unit price for April which would not be known until around 15 May (referred to as 1 May unit price).

Similar to any retirements, no AVC benefits could be paid until the value of the units is known.

5.4 Election to reduce benefits

If a Member or Pensioner:

- a) does not have any AVC Accounts; or
- b) elects to have the Annual Allowance Charge deducted from his main Scheme benefits

the Member's or Pensioner's main Scheme benefits will be reduced in accordance with paragraph 5.5 below.

5.5 Reduction of benefits

Scheme Pays Notice received on or after 1 August 2018

Where:

- (i) a Scheme Pays Notice is received on or after 1 August 2018; and
- (ii) all or part of an Annual Allowance Charge is to be funded by reducing the main Scheme benefits of a Member or Pensioner,

an amount will be deducted from the Member's or Pensioner's main Scheme benefits by applying such factor as the Management Trustee determines, having consulted the Actuary, from time to time.

Scheme Pays Notice received before 1 August 2018

Where:

- (i) a Scheme Pays Notice has been received before 1 August 2018; and
- (ii) all or part of an Annual Allowance Charge is to be funded by reducing the main Scheme benefits of a Member or Pensioner,

the amount of that charge shall be applied to create a separate notional account (similar to an AVC account, but of a negative value), on the assumption that the notional account is invested in the in-house Mixed Portfolio Fund ("a Scheme Pays Account"). The value of the Scheme Pays Account will be adjusted in line with the movement in the unit price of the in-house Mixed Portfolio Fund between the Charge Effective Date and the earlier of the date the Member or Pensioner leaves the Scheme, takes their main Scheme benefits, attains age 75 or the effective date of a notification in the following paragraph ("Adjusted Scheme Pays Account").

A Member or Pensioner with a Scheme Pays Account may notify the Management Trustee in writing (in such form as the Management Trustee may determine from time to time) that they wish to crystallise their Scheme Pays Account. The notice will take effect from the first day of the calendar month following the calendar month in which it is received.

An amount will be deducted from the Member or Pensioner's main Scheme benefits by applying such factor as the Management Trustee determines, having consulted the Actuary, from time to time and taking into account the Adjusted Scheme Pays Account.

General

The reduction to benefits is applied as follows:

- a) where the Management Trustee assumes a joint and several liability with a Member or Pensioner to account to the Commissioners of HM Revenue and Customs for the Annual Allowance Charge under the Finance Act 2004 of that Member or Pensioner under paragraph 3 above at the same time as that Member or Pensioner takes a transfer payment from the Scheme, the amount of any transfer payment shall be reduced;
- b) in all other cases, the deduction will be applied to the Member's or Pensioner's main Scheme benefits. If the Member or Pensioner has not reached Normal Retirement Age the reduction to the member's main Scheme benefits shall be applied before the pension has been actuarially reduced for early payment.

5.6 Flexible retirement

If a Member or Pensioner elects to take Flexible Retirement as defined at paragraph 2 of the Operating Rules for Flexible Retirement for the Scheme (the "**Operating Rules for Flexible Retirement**") the relevant Member's or Pensioner's benefits will be adjusted in accordance with paragraph 10 of the Operating Rules for Flexible Retirement.

6. ON DEATH OF THE MEMBER OR PENSIONER

- 6.1 On the death of a Member or Pensioner who has an outstanding Scheme Pays Account, the Member's or Pensioner's pension will be reduced in accordance with paragraph 5.5 above before any Adult Survivor's Pension is calculated.
- 6.2 Neither the death in service lump sum payable in respect of the Member nor their AVC Balance may be reduced in respect of an outstanding Scheme Pays Account.

7. PAYMENT OF THE ANNUAL ALLOWANCE CHARGE

- 7.1 The Annual Allowance Charge will be paid via the on-line Accounting for Tax (AFT) facility by the end of the month preceding the cut-off date required by the Commissioners of HM Revenue & Customs.
- 7.2 Any Annual Allowance Charge paid will be reported to the Commissioners of HM Revenue & Customs by the date required by legislation.