Cambridge University Assistants' Contributory Pension Scheme

The following amendments to the Rules of the Cambridge University Assistants' Contributory Pension Scheme ("**Scheme**") (as adopted by a Grace dated 3 December 1999) are made by the University with the approval of at least two-thirds of the Managing Committee pursuant to Rule 5 of the Rules of the Scheme.

Save as mentioned below, the amendments set out below have effect from 28 March 2008 being the effective date of the Grace dated 19 March 2008 by which they were adopted by the University and apply to Members and Former Members of the Scheme but not so as to reduce a Member's or Former Member's subsisting rights (as defined in section 67A(6) of the 1995 Act) as at the said effective date.

RECITALS

(A) Immediately before 6 April 2006, the Scheme was an exempt approved scheme for the purposes of Chapter I Part IV of the Income and Corporation Taxes Act 1988. The Rules contain limits and restrictions (whether express or by necessary implication including without limitation those set out in Schedule 1 to the Rules) required by HM Revenue & Customs so that the Scheme could be so approved.

(B) On and from 6 April 2006 the Scheme has been for tax purposes a registered pension Scheme ("**Registered Scheme**") under Part 4 of the Finance Act 2004 as amended ("**FA 2004**").

(C) The Registered Pension Schemes (Modification of the Rules of Existing Schemes) Regulations 2006 have had effect since 6 April 2006 to continue the limits and restrictions on benefits which applied before that date.

(D) The main purpose of this document is to incorporate into the Rules the effect of some of the said regulations, to make certain amendments in the light of changes to the pensions tax regime brought about by the FA 2004 and to make amendments in consequence of the Civil Partnership Act 2004, the Employment Equality (Age) Regulations 2006, section 264 of the Pensions Act 2004 and in relation to paternity leave and adoption leave.

(E) Doubt having arisen as to the validity of certain previous amendments to the Scheme on account of possible procedural defects the University wishes to ratify those amendments.

(F) On the assumption that those previous amendments were valid (and otherwise save for certain amendments made by Clause 2 below) the alterations to be effected by this document are alterations to which the subsisting rights provisions of the Pensions Act 1995 (as defined in section 67 of that Act, as amended by the Pensions Act 2004) do not apply (by virtue of regulations made under section 67) or which are not "regulated modifications" (as defined in section 67A of the Pensions Act 1995).

(G) The Actuary has confirmed in writing that the previous amendments which are hereby ratified would not have affected, and that this document does not affect, continued satisfaction by the Scheme of the statutory standard in accordance with section 12A of the Pension Schemes Act 1993 or the conditions of section 9(2)B of that Act.

(H) Words and expressions used in this document have the same meanings as they do in the Rules save where the context otherwise requires.

OPERATIVE CLAUSES

1 Word and expressions have the meanings given to them in the Rules, unless the context otherwise requires. In particular:

(a) "Defined Benefits Lump Sum Death Benefit" has the meaning given by paragraph 13 of Schedule 29 to FA 2004;

(b) "HMRC Modification Regulations" has the meaning referred to in recital (C) above;

(c) "IR12" means the Revenue's previously published practice for the approval of any exempt approved scheme for the purpose of Chapter 1 of Part XIV of the Income and Corporation Taxes Act 1988 (together with such terms or arrangements as may have been specifically agreed by the Revenue to apply in respect of the Scheme or to specific members of it) as it applied to the Scheme immediately before 6 April 2006;

(d) "Lifetime Allowance" has the meaning given by section 218 of FA 2004;

(e) "Lifetime Allowance Charge" has the meaning given by section 214 of FA 2004;

(f) "Pension Protection Lump Sum Death Benefit" has the meaning given by paragraph 14 of Schedule 29 to FA 2004;

(g) "Relevant Benefit Accrual" has the meaning attributed to that expression by paragraph 13 of Schedule 36 to FA 2004;

(h) "Revenue" means Her Majesty's Revenue & Customs (or previously the Inland Revenue);

(i) "Unauthorised Payment" has the meaning given by section 160(5) of FA 2004.

2 **<u>Ratification of previous amendments</u>**

The University with the approval of at least two-thirds of the Managing Committee:

(a) confirms and ratifies the amendments made to the provisions governing the scheme on and after 3 December 1999 including those made by Graces dated 3 December 1999, 22 November 2000, 17 July 2002, 21 July 2003 and 24 March 2004; and

(b) if and to the extent that those amendments were invalid or ineffective, hereby makes amendments with the same effects and the same effective dates that those amendments purported to have.

3 **Adoption of HMRC Modification Regulations**

The trusts, powers and provisions of the Scheme (including the Rules) are amended as necessary so as to incorporate and adopt provisions with the same effect as regulations 3 to 8 of the HMRC Modification Regulations, provided that the limitations as to the "transitional period" set out in those regulations shall not apply. Without prejudice to the generality of the foregoing, the Rules shall be read and construed as set out in this Clause 3:

(a) Unauthorised Payments

If the Trustee is required under a provision (however framed) of the Rules to make any payment which would in whole or in part be an Unauthorised Payment, that payment shall, to the extent that it would be such an Unauthorised Payment, be payable at the discretion of the Trustee provided that, if under the Rules as drafted immediately before 6 April 2006 the consent of the University or one or more Employers is required to the making of any other discretionary payment under the Scheme, the Trustee may not exercise the discretion to make the payment unless such consent requirement is satisfied.

(b) Permitted Maximum

Any reference in the Rules (in whatever terms) to the permitted maximum as defined in section 590C of the Income and Corporation taxes Act 1988 which imposed a limit on a person to entitlement to any benefit or liability to make any contribution (whether expressly or by necessary implication) immediately before 6 April 2006 shall be read and construed, in respect of that person, on the basis that (as is the case) section 590C of the Income and Corporation Taxes Act 1988 was repealed on 5 April 2006.

(c) Revenue Limits

The restrictions and limits (in whatever terms) set out in the Rules and IR12 which were necessary for the purposes of complying with the requirements of the Scheme's exempt approval cease to apply on and from the effective date of these amendments.

(d) Lifetime Allowance Charge

The Trustee shall be entitled to reduce the benefits payable to and in respect of a Beneficiary by such amount as the Trustee shall determine if a Lifetime Allowance Charge becomes payable in respect of that Beneficiary. Provided that the value of the reduction (which shall be determined on an actuarial basis) shall not exceed the amount of Lifetime Allowance Charge for which the Beneficiary and the Trustee, are or may be, jointly or severally liable to pay to the Revenue.

4 **Disapplication of HMRC Modification Regulations**

(a) Without prejudice to the amendments made to the trusts, powers and provisions of the Scheme (including the Rules) by virtue of Clause 3 above (which amendments shall, subject to (b) below, continue to apply), the HMRC Modification Regulations shall no longer apply to the Scheme.

(b) The amendments made to the trusts, powers and provisions of the Scheme (including the Rules) by virtue of Clause 3 above shall continue to apply unless, (in respect of any or all of those amendments):

(i) otherwise (and to the extent) provided in Clause 6 onwards of this document; or

(ii) the University and the Trustee jointly determine otherwise, either in an individual case, for a category or categories of Beneficiaries, or generally.

5 **Registered Scheme**

On and from 6 April 2006, the Scheme has been a Registered Scheme. It shall be administered in such manner as to ensure that its status as a Registered Scheme is not prejudiced. Throughout the Rules, references to prejudicing "Approval" (or such similar expression, however expressed) shall (unless otherwise indicated below) be read and construed as references to the power, practice or benefit not being exercised or given in a manner which is "inconsistent with the Scheme's status as a Registered Scheme". The University and the Trustee shall jointly decide whether any power, practice or benefit (either on an individual or general basis) is consistent with the Scheme's status as a Registered Scheme.

6 **Inland Revenue Restrictions and Limits**

(a) Any reference (in whatever terms) in the Rules to a higher benefit being payable where this would not prejudice the Scheme's status as an exempt approved scheme by the Revenue shall be read and construed as a reference to such higher benefit being payable which would not be an Unauthorised Payment.

(b) In the context of winding-up the Scheme in accordance with Rule 33 the reference in Rule 33.1(g) to increasing benefits under the Scheme provided no such augmentation shall prejudice Revenue approval shall be treated as a reference to any augmentation not prejudicing the status of the Scheme as a Registered Scheme nor involving the making of any Unauthorised Payments.

7 The Rules shall be read and construed in respect of all Beneficiaries as if:

(a) every discretion or power of the Trustee or the University or any other Employer under the Scheme shall so far as practicable not be exercised so as to give an individual an entitlement to an Unauthorised Payment;

(b) the Trustee shall not be liable for the consequences (including as to tax) of any Relevant Benefit Accrual that occurs before the Trustee has received a copy of the confirmation from the Revenue that an individual has registered for enhanced protection under FA 2004;

(c) the Trustee may, with the consent of the University and the Beneficiary, pay any part of the Beneficiary's benefits that are subject to a Lifetime Allowance Charge to the Beneficiary in the form of a lump sum that satisfies the conditions set out in paragraph 11 of Schedule 29 to FA 2004. The amount of the lump sum will be determined by the Trustee (having consulted the Scheme actuary); and

(d) the Trustee shall be entitled to reduce the benefits payable to and in respect of a Beneficiary by such amount as the Trustee shall determine if a Lifetime Allowance Charge (as defined in section 214 of FA 2004) becomes payable in respect of the Beneficiary. Provided that the value of the reduction (which shall be determined on an actuarial basis) shall not exceed the amount of the Lifetime Allowance Charge for which the Beneficiary and the Trustee are, or may be, jointly or severally liable to pay to the Revenue.

8 **Commutation of trivial pensions**

The Rules shall be read and construed as if the provisions in the Rules referring to the commutation of pensions of a trivial amount will no longer apply and be replaced by the following:

(a) Trivial commutation lump sum

The Trustee may (provided that the Trustee is satisfied conditions set out in paragraph 7 of Schedule 29 to FA 2004 are met) commute all of a Beneficiary's benefits under the Scheme together with the benefits payable on his death in return for the payment of a lump sum.

(b) Trivial commutation lump sum death benefit

The Trustee may (provided that the Trustee is satisfied conditions set out in paragraph 20 of Schedule 29 to FA 2004 are met) commute all of the benefits payable to the person or persons entitled to a pension on the death of a Beneficiary in return for the payment of a lump sum.

(c) Winding-up lump sums

On the winding-up of the Scheme the Trustee may (subject to it being satisfied that the conditions set out (as appropriate) in paragraph 10 or paragraph 21 of Schedule 20 to FA 2004 are met) commute:

(i) all of a Beneficiary's benefits under the Scheme together with any benefits payable on his death; and

(ii) any pension in payment to a person whose entitlement derives from a Beneficiary who has died;

in return for the payment of a lump sum.

(d) Supplementary

The amount of lump sum payable under any of the above provisions shall be determined by the Trustee having consulted the Actuary. The Trustee shall deduct from the lump sum payable any tax for which the Trustee may be liable to account for to the Revenue under section 636B of the Income Tax (Earnings and Pensions) Act 2003.

9 **Ill health and Incapacity Benefits**

(a) The Trustee shall administer the Scheme's provisions for early commencement of pension on grounds of ill-health consistently with the provisions set out in paragraph 1 of Schedule 28 to FA 2004.

(b) The University and the Trustee may, to the extent consistent with the Scheme's status as a Registered Scheme, establish one or more separate arrangements under the Scheme so that any pension payable on grounds of ill-health or incapacity (whether already in payment or otherwise) to any individual Beneficiary or category or categories of Beneficiary may be divided between and paid from such separate arrangements. The University and the Trustee may agree the terms on which benefits are payable (and cease to be payable) under such arrangements.

10 **Guaranteed Minimum Pensions**

If the Trustee and University agree the provisions of the Rules shall be subject to the easements prescribed under sections 282 to 284 of the Pensions Act 2004 in relation to the commutation and early payment of guaranteed minimum pensions.

11 **Cash Lump Sums**

(a) No lump sum may be payable to a Beneficiary before he or she is entitled to his or her pension.

(b) The amount of lump sum that may be paid to a Beneficiary (on exchange of pension for lump sum when the pension begins) must not exceed the amount specified in paragraph 2 of Schedule 29 to FA 2004 (as amended where appropriate by Schedule 36 to FA 2004). Such lump sum must comply with the conditions set out in Schedule 29 as amended by Schedule 36 to FA 2004.

(c) Beneficiary who received a lump sum before 6 April 2006 (but not pension) may not receive a further lump sum when his pension begins.

(d) Where a Beneficiary has paid voluntary contributions to the Scheme (or to a previous scheme) any additional benefits may be taken as a cash lump sum (subject to the restrictions on amount and conditions referred to in (a) above).

(e) Any provision relating to the commutation of a Beneficiary's pension on grounds of serious ill-health will continue to apply except that before the lump sum can be paid the conditions set out in paragraph 4 of Schedule 29 to FA 2004 must be satisfied.

12 A Member, Postponed Pensioner or Deferred Pensioner may elect in writing to the Trustee, before his pension starts, to have any cash sum payable upon his death after commencement of pension treated as a Pension Protection Lump Sum Death Benefit. The Trustee shall deduct from the lump sum any tax for which it may be liable to account for to the Revenue under section 206 of FA 2004. If no such election is made then any cash sum paid upon his death will be paid as a Defined Benefits Lump Sum Death Benefit.

13 **Refunds of Contributions**

The Trustee may only refund to a Beneficiary excess contributions made by the Beneficiary to the extent permitted under paragraph 6 of Schedule 29 to FA 2004.

14 **Payment of benefits**

(a) Subject to the preservation requirements (as defined in section 181 of the Pension Schemes Act 1993), a Member's, Postponed Pensioner's or Deferred Pensioner's pension will not start before age 75 unless the Beneficiary in question has provided evidence to the satisfaction of the Trustee of the amount of personal Lifetime Allowance (as defined in FA 2004) that is available to him (if any).

(b) If a Member, Postponed Pensioner or Deferred Pensioner reaches age 75 and his pension has not yet come into payment and the Trustee is unable to verify the amount of Lifetime Allowance remaining available to the Beneficiary in question, the Trustee may reduce the said person's prospective entitlement to benefits under the Scheme, determined as if the whole of his benefits were chargeable to a Lifetime Allowance Charge, and will then account to the Revenue for the tax due as if the said person had no personal Lifetime Allowance available.

15 **Normal Minimum Pension Age**

The Rules shall be read and construed with effect from 6 April 2010 as if no pension may be paid to a Member, Postponed Pensioner or Deferred Pensioner before the individual reaches age 55 (unless the Beneficiary in question is entitled to receive a pension before reaching that age on the grounds of ill-health or incapacity).

16 **Additional Voluntary Contributions – 15% limit**

Rule 26.4 is amended, following the repeal of section III of the Pension Schemes Act 1993 from 6 April 2006, by:

(a) deleting the opening words and substituting:

> "The following arrangements apply to the payment of Additional Voluntary Contributions"; and

(b) deleting the wording in paragraph (d) and substituting:

> "the upper limit for Additional Voluntary Contributions is 15% of the Member's remuneration from his Employer, ignoring any remuneration in kind, in respect of the year to 5 April in which the contributions are paid".

17 **Additional Voluntary Contributions – transfers-out**

Rule 30 {transfers from the scheme} is amended by adding a new Rule 30.10 reading as follows:

> "30.10 The Trustee may with the consent of the University and of the Member, Postponed Pensioner or Deferred Pensioner in question

transfer the value of the additional voluntary contributions paid by the Member, Postponed Pensioner or Deferred Pensioner under Rule 26.2 to an Other Scheme chosen by the Member, Postponed Pensioner or Deferred Pensioner and Rules 30.3(b) and 30.8 shall apply."

18 **Member Contributions**

Rule 45.1(a) is amended with effect from 1 August 2004 by substituting 6% for 1% of Pensionable Salary in relation to Member Contributions to the Fund.

19 **Death in Retirement – 5 year guarantee**

Rule 62 {death of pensioner or postponed pensioner} is amended by adding a new Rule 62.8 in place of the one deleted by Clause 22 below reading as follows:

"62.8 If Rule 62.2(a) applies on the death of a Pensioner on or after age 75 the Trustee shall have a discretion to pay a lump sum pursuant to Rule 25 {discretionary trust of lump sums) subject to any charge to tax which may arise and/or to apply the instalments of pension which would otherwise have been paid to the Pensioner during the remainder of the five year period to or among the person or persons selected by the Trustee under Rule 25 as though each instalment was a lump sum."

20 **Children's pensions**

(a) The following proviso is added to the definitions of Child and Eligible Child in Rule 1:

"Provided that the foregoing shall be read and construed so as not to exceed the scope of the definition of "dependant" in paragraph 15 of the Finance Act 2004 and this proviso has effect from the effective date of the Grace by which it was adopted in relation to Rule 61 {death of a member} and otherwise only in respect of Pensionable Service on and after that effective date."

(b) The amendment in Clause 20(a) will not take effect to the extent that it would affect subsisting rights (as defined in section 67A(6) 1995 Act) as at the said effective date or would be outside the scope of Rule 5 {amendment power}

21 **Civil Partnership Act 2004**

The Rules shall be read and construed as if following the death of a Member, Postponed Pensioner, Deferred Pensioner or Pensioner on or after 5 December 2005, who does not leave a spouse who is entitled to benefits under the Scheme, but instead leaves a civil partner (being an individual who has entered into a civil partnership with the Beneficiary in question in accordance with the provisions of the Civil Partnership Act 2004) any benefit under the Scheme that would have been payable to a spouse of the said Beneficiary will be paid to the civil partner provided that:

(a) the civil partner must meet any requirements in the Rules which would have applied to the spouse before such benefit can be paid; and

(b) any benefit which is reduced by reason of a benefit being payable to a spouse will be likewise reduced if the benefit is payable to a civil partner.

22 **Employment Equality (Age) Regulations 2006**

(a) Members who remain in employment after Normal Pension Age shall be treated in the same way as Members aged under 65 years and Rule 61.1 {death in service} is amended by deleting the words "before Normal Pension Age" and substituting "before, on or after Normal Pension Age".

(b) Rule 61.6 is deleted, Rule 62.8 {death of pensioner} is deleted and Rule 55 {late retirement} shall be construed as though any references to Members were deleted.

(c) Rule 61.6 is replaced by the following:

"61.6 On the death of a Member aged over Normal Pension Age Rule 61.3(a) shall be read and construed as if the reference to the pension which would have accrued to the Member at Normal Pension Age were replaced by a reference to the pension to which the Member would have been entitled had he retired on the day before his death."

23 **Early leavers: transfers and refunds of contributions**

Rules 46 – 51 {withdrawal from pensionable service and preservation of benefits} shall be deemed to be amended to incorporate the provisions of Chapter 5 of Part IV of the Pension Schemes Act 1993 in relation to Members with at least three months of pensionable service at the date when their pensionable service ends.

24 **Maternity leave – amendments to Rule 47**

Rule 47 is brought up to date by:

(a) deleting Rule 47.6 and replacing it as follows (the amendments being shown in italics):

"47.6 Rules 47.6 to 47.13 apply to any Member:

(a) *who is absent from work for her Employer* in exercise of her right to maternity leave pursuant to Part VIII 1996 Act and regulations made pursuant to that part, or

(b) *who is absent from work for her Employer* during any period when she has the right to return to work pursuant to Part VIII 1996 Act or regulations made pursuant to that part and where necessary has informed her Employer of her intention to exercise that right; *or*

(c) whose employment with her Employer has terminated but where the Employer is obliged to continue to pay her Statutory Maternity Pay ("SMP") notwithstanding the termination of her employment."

(b) deleting Rule 47.8(b) and replacing it as follows (the amendments being shown in italics):

"(b) any period for which she is receipt of *SMP (whether or not her employment with the Employer has terminated)*; and"

(c) deleting Rule 47.9(c) and replacing it as follows (the amendments being shown in italics):

"(c) for Members whose expected week of childbirth *was between 6 April 2003 and 30 March 2007*:

(i) the SMP period is up to 26 weeks; and

(ii) the OML period is up to 26 weeks (or, if longer, any compulsory maternity leave period following the birth)."; and

(d) Adding Rule 27.9(d) as follows:

"(d) for Members whose expected week of childbirth is on or after 1 April 2007:

(I) the SMP period is up to 39 weeks; and

(ii) the OML period is up to 26 weeks (or, if longer, any compulsory maternity leave period following the birth)."

25 **Family Friendly Rights**

The heading immediately before Rule 67 is altered to read "Pension Sharing and Family Friendly Rights" and the following Rules are added following Rule 68:

"69 Paternity Leave

69.1 A Member who is absent from work for his Employer during any period of paid paternity leave as defined in paragraph 5A(4) of Schedule 5 to the Social Security Act 1989 will be treated as continuing in Membership as though he were working normally and receiving the remuneration likely to be paid for doing so but he shall only be required to pay Member Contributions on the amount of contractual remuneration or statutory paternity pay actually paid to or for him in respect of that period.

69.2 A Member who returns to work at the end of the period of absence under this Rule may within 12 months of returning to work or within such longer period (being not longer than the period of such suspension) as the Trustee may allow pay in one lump sum or by instalments in respect of any period of unpaid paternity leave an amount equal to the Member Contributions which he would have paid had he been in receipt of the Pensionable Salary from his Employer which he was receiving at the start of the period of absence and if he does so he shall be credited with Pensionable Service in respect of that period. If he does not do so his future Pensionable Service following his return to work shall be treated as continuous with the period of Pensionable Service which ended last before his return".

"70 Adoption Leave

70.1 A Member who is absent from work for his Employer during any period of paid adoption leave as defined in paragraph 5B(4) of Schedule 5 to the Social Security Act 1989 will be treated as continuing in Membership as though he were working normally and receiving the remuneration likely to be paid for doing so but he shall only be required to pay Member Contributions on the amount of contractual remuneration or statutory adoption pay actually paid to or for him in respect of that period.

70.2 A Member who returns to work at the end of the period of absence under this Rule may within 12 months of returning to work or within such longer period (being not longer than the period of such suspension) as the Trustee may allow pay in one lump sum or by instalments in respect of any period of unpaid adoption leave an amount equal to the Member Contributions which he would have paid had he been in receipt of the Pensionable Salary from his Employer which he was receiving at the start of the period of absence and if he does so he shall be credited with Pensionable Service in respect of that period. If he does not do so his future Pensionable Service following his return to work shall be treated as continuous with the period of Pensionable Service which ended last before his return."