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THIS TRUST DEED is made the day of 20
BETWEEN THE DIRECTOR OF
TELECOMMUNICATIONS REGULATION whose office is
situated at Block DEF, Irish Life Buildings, Lower Abbey Street, Dublin 1
(hereinafter called "the Company" which expression where the context so
admits shall include any other company person or firm which as a result of
any amalgamation or reconstruction or otherwise may carry on or succeed
to the business of the Company) of the one part AND MICHAEL
FOY of 34 Taney Road, Dublin 14 and MAURICE MacMAHON
of Barrockstown, Maynooth, Co. Kildare (hereinafter called "the Trustees"
which expression shall include the survivors or survivor of them or other
the trustees or trustee for the time being hereof) of the other part

WHEREAS :

- (a) This Deed is supplemental to, inter alia, a Deed dated the 28th June 1999 and made between the Company of the one part and the Trustees of the other part (hereinafter called "the Interim Deed") whereby the Company established the Retirement Benefits Scheme therein referred to as the **"Office of Director of Telecommunications Regulation Pension Plan"** (hereinafter called "the Scheme") for the purposes of providing some or all Relevant Benefits for such employees of the Company and of any Associated Employers (as therein defined) as should be admitted to the Scheme.
- (b) Clause 4 of the Interim Deed provides that the Scheme is to be administered in accordance with the provisions of a definitive deed and rules which the Company undertook to execute within the period of twenty four months from the date of the Interim Deed or such extended period as the Revenue Commissioners shall permit.
- (c) It is intended that this Trust Deed shall be the said definitive deed and that the rules (hereinafter called "the Rules") set out in the Schedules hereto shall be the said rules.

NOW THIS TRUST DEED WITNESSETH as follows :-

1. **TRANSITION TO DEFINITIVE DEED**

- (a) This Trust Deed shall be read and construed and shall take effect as if it had been executed on the same day as and immediately after the Interim Deed and should anything contained in this Trust Deed or in any alteration amendment extension or modification thereof be inconsistent with the Interim Deed the provisions of this Trust Deed or any alteration amendment extension or modification thereof shall prevail.
- (b) The establishment of the Scheme by the Interim Deed is hereby confirmed and it shall be administered by the Trustees in accordance with the provisions contained herein and in the Rules.

2. **INTERPRETATION AND DEFINITIONS**

In this Trust Deed where the context so admits words importing the masculine gender shall include the feminine, words importing the singular number shall include the plural and vice versa, any reference to any statute (or a particular chapter, part or section thereof) shall mean and include any subsequent statutory modification or re-enactment thereof for the time being in force and the marginal notes and headings to this Trust Deed and the Rules are for the convenience of reference only and are not to be construed as part of the Trust Deed or the Rules. Words and expressions defined in the Rules shall have the meanings ascribed to them in the Rules, this Trust Deed shall be construed in accordance with the laws of the Republic of Ireland and the following words and expressions shall have the following meanings :-

"Act" means Chapter I of Part 30 of the Taxes Consolidation Act 1997 as amended from time to time.

"Actuary" means such person as is qualified for appointment as an actuary for the purposes of the Pensions Act as the Trustees with the consent of the Company appoint from time to time to be the Actuary to the Fund except that in connection with any benefits in respect of which the Trustees have effected annuity policies or contracts with an Insurance Company pursuant to the provisions of Clause 4 of the Trust Deed it means the Actuary for the time being of that Insurance Company unless the Trustees direct otherwise.

"Associated Employer" means any body corporate, authority, Company, person or firm which is or may become directly controlled by the Company.

"Auditor" means such person or firm as is qualified for appointment as an auditor for the purposes of the Pensions Act as the Trustees with the consent of the Company appoint from time to time to be the Auditor to the Scheme.

"Chairperson" means the person (if any) selected or nominated for appointment as a Trustee of the Scheme and as chairperson of the Trustees in accordance with the Pensions Act or where no such person has been selected or nominated means the Trustee nominated by the Company to be chairperson of the Trustees.

"Commencement Date" means the 1st day of June 1999.

"Employee" means an employee of the Employers who is normally resident in the Republic of Ireland or in such other country as may be agreed by the Trustees with the approval of the Revenue Commissioners and shall be deemed to include a director.

"Employers" means and includes the Company and any Associated Employer which has been admitted to participation in the Scheme and "Employer" shall mean that one of the Employers by which any Employee is employed at the relevant date.

"Exempt Approved Scheme" "Relevant Benefits" and "Retirement Benefits Scheme" shall have the meanings ascribed to them by the Act.

"Fund" means all moneys property or investments from time to time held by or on account of the Trustees and for the time being subject to the trusts powers and provisions of the Scheme together with the income thereof and contributions thereto and all moneys property and investments from time to time added thereto by capital appreciation.

"Insurance Company" means an insurance company, society or institution which is authorised under the European Communities (Life Assurance) Regulations 1984 (S.I. No. 57 of 1984) or is authorised or permitted under the terms of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994) to carry on in the State the business of life assurance as defined therein.

"Investment Manager" means the investment manager of the Scheme appointed under Clause 4 of the Trust Deed.

"Long Service Benefit" means the benefits payable at or after retirement under a Retirement Benefits Scheme to or in respect of a member of that scheme.

"Member" means any Employee who has been admitted to membership of the Scheme in accordance with the Rules.

"Minister" means the Minister for Public Enterprise.

"Pensions Act" means the Pensions Act 1990 and any statutory modification or re-enactment thereof for the time being in force and any statutory regulations made thereunder.

"Pensions Board" means the board established by Section 9 of the Pensions Act.

"Scheme Year" means the period commencing on the Commencement Date and continuing until 31st December 2000 and thereafter the period commencing on the 1st January each year and continuing until the next following 31st December inclusive of both dates.

3. TRUSTEES' FUNCTIONS AND DECISIONS

- (a) Subject as hereinafter provided the Trustees shall hold the Fund upon the trusts and with and subject to the powers hereinafter and in the Rules declared and contained concerning the same which Fund is resident and administered in the Republic of Ireland.
- (b) No decision of or exercise of a power by the Trustees shall be invalidated or questioned on the ground that the Trustees or in the case of the Trustees or any one of them being a body corporate any member of the board of directors of such body corporate or any individual trustee or trustees had a direct or personal interest in the result of any such decision or in the exercising of any such power provided that such member or such trustee or trustees had disclosed any such interest to the Trustees and the Company.
- (c) A Trustee, or any member of the board of directors of a body corporate which is a Trustee of the Scheme, who is or has been a beneficiary under the Scheme shall be entitled to

retain for himself any benefit to which he is entitled by virtue thereof.

4. INVESTMENT POWERS OF TRUSTEES

- (a) The Trustees with the prior approval of the Company may at any time appoint one or more Investment Managers of the Fund and may subject to the terms of any agreement with such manager revoke or terminate any such appointment. The Trustees may empower any such Investment Manager either unconditionally or subject to any terms conditions and provisions to exercise all or any of the powers and discretions of the Trustees in regard to the selecting making changing and realising of investments or arising from or in connection with the holding of investments. Any investments of the Fund may be made in the name of or transferred or delivered to or otherwise vested in such Investment Manager his nominee or one or more sub-nominees and may be left indefinitely or for any period or periods in the name or possession of or vested in that manager nominee or sub-nominee. Any appointment of any Investment Manager in accordance herewith shall be on such terms and subject to such conditions and provision for remuneration, indemnities from the Fund, termination of the appointment and otherwise howsoever as may be agreed with such Manager by the Trustees with the prior approval of the Company.
- (b) The Trustees may retain in any bank account such moneys as they may from time to time consider proper and shall have power to invest all or any part of the moneys coming into their hands on account of the Scheme and to transpose and vary any such investments into any form of investment which the Trustees could make if they were absolutely and beneficially entitled thereto whether involving liability or

not and whether or not specifically authorised by law for the investment of trust moneys. In particular and without prejudice to the generality of the foregoing the Trustees may invest all or any part of the assets of the Fund:-

- (i) In any contract or policy including policies of life assurance effected with any Insurance Company as the Company may approve and the Trustees may think fit on terms that all sums payable under such contracts or policies shall as and when received by the Trustees be held by them upon trust for the purposes of the Scheme
- (ii) In stocks shares debentures bearer securities or other investments
- (iii) In any interest in land or property
- (iv) In units in unit trusts or mutual funds
- (v) In underwriting sub-underwriting or guaranteeing the subscription of any stocks shares debentures or other investments
- (vi) By placing the same on deposit or current account with any local authority or bank or insurance company or building society or finance company at such rate of interest (if any) and upon such terms as the Trustees shall think fit
- (vii) By participating in any unit linked arrangement, scheme of deposit administration or any managed funds administered by any Insurance Company or other financial institution

- (viii) By entering into contracts to buy or sell financial futures or any other futures
 - (ix) In the purchase or acquisition of options, futures contracts or rights of any nature relating to assets of any kind
 - (x) In the purchase or sale for receipt on delivery at any future date of assets of any kind, or
 - (xi) In the granting or acquisition of call or put options over assets of any kind.
- (c) Without prejudice to the generality of sub-Clause (c) of this Clause and without prejudice to the power of the Trustees to transfer to a policy in the name of the Member under Clause 17 of the Trust Deed the Trustees may purchase from such Insurance Company as the Company may approve a non assignable immediate or deferred annuity contract providing benefits which are payable under the same conditions as benefits receivable under the Scheme and any such contract shall at all times and for all purposes be treated as part of the assets of the Fund except where the contract is purchased under Clause 21 hereof.

5. **ADVISERS AND GENERAL EXPENSES**

- (a) The Trustees may in relation to this Trust Deed and the Rules obtain and rely upon the advice or opinion (whether or not obtained by them) of any lawyer broker actuary accountant investment adviser or other professional person and shall not be responsible for any loss occasioned thereby. The cost of obtaining any such advice or opinion shall form part of the expenses incurred by the Trustees in connection with the Scheme.

- (b) The Employers shall furnish to the Trustees the Actuary and the Auditor, and the Trustees shall furnish to the Actuary and the Auditor such information as they may reasonably request for the purposes of performing their functions and duties under this Trust Deed, the Rules or the Pensions Act.

- (b) The Employers shall if called upon by the Trustees to do so pay all necessary expenses incurred by the Trustees in connection with the Scheme in such proportions as the Trustees shall determine to be equitable.

6. GENERAL DUTIES OF TRUSTEES

Without prejudice to the duties of trustees generally and in addition to any other duties prescribed elsewhere in this Trust Deed or in the Rules or by law the Trustees shall ensure that

- (a) the Scheme is registered with the Pensions Board and that the Pensions Board is provided with all necessary information in this regard;

- (b) arrangements are made for the payment of benefits payable under the Rules as they become due and in so far as is reasonable that contributions payable under Clause 18 hereof and Rule 11 of Schedule I to the Rules, periodic contributions (where relevant) under Schedule II to the Rules and contributions payable under Rules 10 and 13 of Schedule III to the Rules are received;

- (c) provision is made for the proper investment of the Fund in accordance with this Trust Deed and the Rules;

- (d) if the Scheme is wound up, resources are applied in discharging their liabilities without undue delay in accordance with this Trust Deed and the Rules;
- (e) information is furnished in accordance with the Pensions Act on the constitution of the Scheme, on the administration and finances of the Scheme (including the accounts and reports specified in Clause 9 hereof), the rights and obligations that arise or may arise under the Scheme and such other matters as may be prescribed by the Pensions Act to
 - (i) Members and prospective Members,
 - (ii) the spouses of Members and of prospective Members,
 - (iii) persons within the application of the Scheme and qualifying or prospectively qualifying for benefits thereunder and
 - (iv) any trade union representing the Members to which a negotiation licence has been issued under Part II of the Trade Union Act 1941

PROVIDED THAT where so provided by the Pensions Act the Trustees shall not be bound to furnish any of the information specified to any of the persons specified unless so requested by such persons;

- (f) information is furnished at the Employer's request in relation to the administration of the Scheme and in relation to the benefit entitlements of any Member to the Employer of that Member;
- (g) no information is furnished to any person, including any Member or former Member, in respect of any matter relating

to the business and affairs of the Employers, the Scheme, any Member or other beneficiary of the Scheme of which the Trustees become aware by reason of their position as Trustees of the Scheme except as required under sub-Clause (e) or sub-Clause (f) hereof or where the information relates to a Member with the consent of such Member or where the information relates to any other matter with the consent of the Company.

7. GENERAL POWERS OF TRUSTEES

- (a) Subject as otherwise provided herein the Trustees shall have and be entitled to exercise all powers rights and privileges in connection with the Scheme requisite or proper to enable them to carry out all or any transaction act deed or thing arising under or in connection with this Trust Deed or the Rules PROVIDED THAT the Trustees shall not without the consent of the Company or of the Member or other beneficiary concerned be entitled to information regarding the salary of or the benefit payable to or in respect of any individual Member but shall be entitled in carrying out their duties under this Trust Deed to rely upon a certificate from the Auditor or the Actuary that the benefits payable to or in respect of any Member have been correctly calculated and paid in accordance with the provisions of this Trust Deed and the Rules.

- (b) The Trustees shall make all necessary arrangements for dealing with receipts and payments under the Scheme and may by any memorandum signed by all of them (or in the case of the Trustees being a body corporate by any two members of the board of directors of such body corporate) authorise that cheques may be drawn or endorsed by such one or more of such Trustees or directors or by such other person if any as they may appoint for the purpose and may

give vary and revoke instructions as to the custody and disposal of any policies and securities and as to the signature of proposal forms and certificates of membership and the giving of receipts and discharges (whether or not for policy moneys or payments) in connection with the Scheme on behalf of the Trustees.

- (c) Unless specifically provided for in the Pensions Act, in this Trust Deed or in the Rules the consent of the Members or of the Company or either of them shall not be necessary for the making exercise or performance by the Trustees of any decision power or act pursuant to this Trust Deed or the Rules or any of the trusts powers and provisions thereof.
- (d) Any reference to the exercise of their discretion by the Trustees throughout this Trust Deed or Rules shall be deemed to include the exercise of their absolute discretion.
- (e) In the event of all or part of the Member's contributions under the Rules (if any) being repaid to a Member during his lifetime or in any case in which a cash sum is paid under the Rules in relation to which (or to some part thereof) any liability to tax arises or the Trustees (and/or Administrator) have any liability (including any secondary liability) the Trustees (and/or Administrator) shall be entitled to deduct therefrom any such tax.
- (f) The Trustees may pay from the Fund to the Pensions Board any fees or levies due under the Pensions Act.
- (g) The Trustees may borrow any moneys for the purposes of the Scheme and may also charge all or any part of the Fund with the due repayment and payment of interest on any moneys so borrowed.

- (h) The Trustees may accept donations and bequests as part of the Fund.

8. ACTIONS BY TRUSTEES

- (a) The Trustees may meet together for the dispatch of business adjourn and otherwise regulate their meetings as they think fit. The chairman of every meeting of the Trustees shall be the Chairperson or in the event of there being no such Chairperson or in the event of the Chairperson not being present at the meeting shall be agreed by the Trustees present at the meeting from among their number, or in the absence of such agreement shall be decided by lot. The procedure and conduct of each such meeting shall be determined by the chairman and all other business brought before a meeting shall be decided by a majority of the votes of the Trustees present and voting thereon and, in case of an equality of votes, the chairman shall have a second or casting vote. A decision made or a resolution passed at a meeting of the Trustees shall be binding on all the Trustees, and all the Trustees shall be obliged to join in taking such action (including the signing of authorities and the execution of deeds) as may be necessary or expedient to carry such decisions or resolutions into effect provided that a resolution in writing signed by a majority of the Trustees but of which notice shall have been given to all of the Trustees individually shall be as effectual as if it had been passed at a meeting of the Trustees held at the time of the first signature and may consist of one or more documents in similar form each signed by one or more of the Trustees. Where a majority of the Trustees of the Scheme for the time being are present at a meeting they shall form a quorum (save where a corporate body is acting as sole Trustee in the manner hereinafter appearing) and a Trustee or (in the case of a Trustee being a body corporate) any member of the board of

directors of such body corporate shall not be precluded from voting on any matter by reason of the fact that he has a personal interest in the result of such vote provided such interest has been disclosed to the Trustees and the Company.

(b) In addition to all other powers vested in them by this Trust Deed or by statute the Trustees shall have power :-

(i) to delegate any business including (but without prejudice to the generality of the foregoing) the exercise of any discretion or the formation of any opinion to any two or more of their number provided that if there is any conflict between the provisions of this paragraph and Clause 7(b) hereof the latter shall prevail;

(ii) to make such arrangements generally for the administration of the Scheme as they may think fit and in particular to employ such agents and staff including a secretary (who may be one of the Trustees) to transact any business of the Scheme including the receipt and payment of money and to pay such reasonable remuneration as they think fit to any such person or persons which remuneration shall be deemed to be part of the expenses incurred by the Trustees in connection with the Scheme.

9. ACCOUNTS ACTUARIAL VALUATIONS AND REPORTS

(a) The Trustees shall keep such accounts entries registers and records as are necessary for the proper working of the Scheme and if they think fit or if they are so required under the Pensions Act shall cause the same to be audited inspected or investigated and a report prepared thereon in

accordance with the requirements of the Pensions Act by the Auditor. The Auditor shall have access to all books papers vouchers accounts and documents and the Employers and the Trustees shall furnish such information as the Auditor may reasonably request for the purposes of performing his functions and duties under this Trust Deed, the Rules or the Pensions Act.

- (b) At intervals of not more than three years the Trustees shall cause the assets and liabilities of the Scheme to be valued by the Actuary who shall prepare a written report on the actuarial position of the Scheme for the Employer and the Trustees and shall recommend the contributions (if any) that are required thereafter from the Employers in conjunction with the future contributions of the Members (if any) and the assets of the Fund to enable the Trustees to provide the benefits under the Scheme and to preserve the solvency of the Fund. The Employers and the Trustees shall furnish such information as the Actuary may reasonably request for the purpose of performing his functions and duties under this Trust Deed, the Rules or the Pensions Act.

- (c) At intervals of not more than three and a half years the Trustees shall cause an actuarial funding certificate to be prepared by the Actuary (or such other actuary qualified for appointment as an actuary under the Pensions Act) which certificate shall certify that the Scheme satisfies, or does not satisfy the funding standard provided for in the Pensions Act and shall submit each such certificate to the Pensions Board within a period of nine months of the date to which the certificate relates provided that
 - (i) the actuarial funding certificate shall be in such form as is prescribed by the Pensions Act;

- (ii) the first such certificate shall relate to a date not later than three and a half years after its commencement; and
 - (iii) where an actuarial funding certificate certifies that the Scheme does not satisfy the funding standard, the Trustees shall submit to the Pensions Board a funding proposal in accordance with and in the form prescribed by the Pensions Act.
- (d) Not more than nine months after the end of each Scheme Year the Trustees shall prepare or cause to be prepared an annual report concerning the operation of the Scheme during that Scheme Year and containing such information as may be required under the Pensions Act.

10. CORPORATE TRUSTEE

A corporate Trustee may act through any of its directors or through an officer appointed for the purpose and so that any such appointment may be of one person or of one or more persons alternatively identified either by name or by reference to the holding for the time being of a specified office.

11. APPOINTMENT AND REMOVAL OF TRUSTEES

- (a) The number of Trustees of the Scheme shall not be less than two individuals unless a corporate body is appointed as Trustee of the Scheme in which event such a corporate body may act as the sole Trustee of the Scheme or may act jointly with one or more individuals.

- (b) Subject to the provisions of the Pensions Act the Company shall have power by deed:-
 - (i) to remove any of the Trustees from office
 - (ii) to appoint a new Trustee in place of any of the Trustees who ceases to be a Trustee for any reason
 - (iii) to appoint an additional Trustee or Trustees.
- (c) A Trustee may resign or retire by giving one month's notice in writing to the Company and the other Trustees (if any) and when a Trustee resigns or retires or is removed from office he shall forthwith do all acts and things necessary to vest the property and investments representing the Fund in the joint names of the continuing or acting Trustees.
- (d) Section 10(2) of the Trustee Act 1893 shall have effect as if reference to "at least two Trustees" did not appear in paragraph (c) thereof and a reference to one Trustee shall be substituted therefor.

12. **TRUSTEES' PROTECTION AND REMUNERATION**

- (a) No Trustee hereof shall be responsible chargeable or liable in any manner whatsoever for or in respect of any loss of or any depreciation in or default upon any of the investments shares debentures securities stocks policies or other property in or upon which the moneys and assets of the Fund or any part thereof may be invested or for any delay which may occur from whatever cause in the investment of any moneys belonging thereto or for the safety of any securities documents of title or other investments relating to the Fund deposited by the Trustees for safe custody or for the exercise

of any duty, authority or discretionary power vested in the Trustees by this Trust Deed or by the Rules (including any act or omission by any committee agent staff or delegate appointed by the Trustees) or by reason of any other matter or thing except fraud or negligence so gross as to be incompatible with good faith provided that a corporate body which is a trustee of the Scheme and which is engaged in the business of providing a trustee service for a fee shall be liable for negligence.

- (b) Subject as provided in this Trust Deed or the Rules the Trustees shall determine all questions and matters of doubt arising under this Trust Deed or the Rules and every such determination whether made upon a question actually raised or implied in the acts or proceedings of the Trustees shall so far as the law permits be conclusive and neither any persons (including any body corporate) being or having formerly been a Trustee nor the Employers shall be liable for or for the consequence of any act done or omitted to be done or any payment made or omitted to be made in good faith in pursuance or purported pursuance of any such determination as aforesaid notwithstanding that such determination shall subsequently be held to have been wrongly made.

- (c) The Trustees and each of them shall be indemnified by the Employers jointly and severally against all liabilities incurred by the Trustees in the execution of the trusts of and in the management and administration of the Scheme and of the Fund (other than liabilities arising as a consequence of fraud or negligence so gross as to be incompatible with good faith or, in the case of a corporate trustee which is engaged in the business of providing a trustee service for a fee, negligence) and shall to the extent that the Employers fail to indemnify be indemnified out of the Fund. If one or more of the Trustees commits fraud or negligence so gross as to be incompatible with good faith (or in the case of a corporate

trustee which is engaged in the business of providing a trustee service for a fee, negligence) the said foregoing indemnity nevertheless shall continue in full force and effect in favour of the other Trustees who have not been party to such fraud or negligence.

- (d) Any and every Trustee not being one of the Employers or an Employee of the Employers shall be entitled to charge and be paid such remuneration (including any commission and/or remuneration returned or allowed by stockbrokers, life offices or other agents) for services hereunder as may be agreed upon between such Trustee and the Company.

13. AUGMENTATION OF BENEFITS

The Company may with the consent of the Minister and of the Minister for Finance and of the Trustees (and upon the prior advice of the Actuary) augment any of the Relevant Benefits to which any person may be entitled under this Trust Deed or the Rules or provide Relevant Benefits not otherwise provided under this Trust Deed or the Rules but so that the amount of any such Relevant Benefits shall not be such as would cause the Scheme to cease to be an Exempt Approved Scheme under the Act.

14. ASSOCIATED EMPLOYERS

The Company may with the consent of the Trustees and having obtained the approval of the Revenue Commissioners extend the benefits of the Scheme to such Employees of any Associated Employer as are or may be eligible for membership of the Scheme **PROVIDED THAT** (A) any such Associated Employer shall enter into a deed by which it covenants with the Trustees to comply with and observe the provisions of this Trust Deed and the Rules insofar as they are applicable to it as an Associated Employer and

(B) the participation of any such Associated Employer will not prejudice the approval of the Scheme under the Act. An Associated Employer entering into such a deed thereby becomes a Participator as described in Clause 22.

15. AMENDMENTS

- (a) The Trustees may with the consent of the Principal Employer and the Minister (and the Minister for Finance in the case of Clause 13 of the Trust Deed) at any time by deed alter amend extend modify or add to all or any of the provisions of this Trust Deed **PROVIDED THAT** no such alteration amendment extension modification or addition shall be made which
- (i) would prejudice approval of the Scheme under the Act, or
 - (ii) would conflict with the provisions of the Pensions Act, or
 - (iii) would authorise the return of any part of the Fund to any of the Employers otherwise than as provided herein or in such other circumstances as may from time to time be permitted by law.
- (b) Such alteration amendment extension modification or addition may subject to not prejudicing approval of the Scheme under the Act be effective from the date (including any retrospective or future date) specified in such deed.
- (c) The Rules shall be amended as provided therein or by statute.

16. TRANSFERS INTO SCHEME

Subject to the provisions of any undertaking given by the Trustees to the Revenue Commissioners if any Member or other person is entitled to benefit under any other retirement benefits arrangement the Trustees may accept from such other arrangement (or shall accept from such other arrangement if so required by law) any cash sum or other assets which the trustees thereof or other persons having the necessary powers thereunder (hereinafter called "the Transferor") may be authorised to pay or transfer to them in respect of such Member or other person in which event the Trustees shall confer on him such additional service under the Scheme as is determined in accordance with Rule 6.1(e) of Schedule I of the Rules

PROVIDED THAT :-

- (i) Before accepting any such payment or transfer the Trustees shall satisfy themselves that such acceptance would not cause the Scheme to cease to be an Exempt Approved Scheme under the Act;
- (ii) The Trustees shall obtain confirmation from the Transferor of
 - (a) the extent (if any) to which the assets received are derived from contributions made under the other arrangement or any previous arrangement by the Member (distinguishing where appropriate between contributions made before and after the 1st January 1991),
 - (b) the amount of the assets received which represent rights accrued in the other arrangement or any previous arrangement since the 1st January 1991, and

- (c) the period of service as a member of the other arrangement or any previous arrangement being service giving rise to Long Service Benefit to which the assets received relate;
- (iii) Such part of the assets so received as the Transferor shall certify to be derived from the contributions (if any) made under the other arrangement or any previous arrangement by the Member (but only such part) shall be treated as if it had been derived from contributions by the Member to the Fund;
- (iv) Such assets shall be subject to any restrictions on refunds of contributions notified to the Trustees by the Transferor or specified under the Pensions Act; and
- (v) Where a transfer of assets is received from any other Retirement Benefits Scheme of the Company or any of the Employers or to which the Company or any of the Employers contribute or have contributed any rights to be conferred on the Members as a result of such transfer may, at the discretion of the Trustees and with the consent of the Company or if the Rules so require and always subject to the above provisos and to the provisions of the Pensions Act, be greater or less in value than the assets received.

17. TRANSFERS OUT OF SCHEME

- (a) In the event that a Member shall become a member of another Exempt Approved Scheme or of any other retirement benefits arrangement approved for the purpose of this Clause by the Revenue Commissioners or in the event that a Member shall cease to be such and shall become a member of such other Exempt Approved Scheme or other arrangement then at the request of the Member and instead

of granting the Member the benefits to which he is entitled under the Scheme in respect of himself or any other person who because of his membership of the Scheme is entitled or contingently entitled to any benefit the Trustees may transfer from the Fund (or shall transfer from the Fund if so required by law) to such other Exempt Approved Scheme or other arrangement as directed by the Member such part of the assets as the Trustees (acting upon the prior advice of the Actuary and subject to the provisions of the Pensions Act) shall determine to the intent that such Member shall become entitled to such rights under such other Exempt Approved Scheme or other arrangement as may be determined by the trustees of such other Exempt Approved Scheme or other arrangement or other person or persons authorised thereunder

PROVIDED THAT :-

- (i) The Trustees shall ascertain under which statute and section thereof such other Exempt Approved Scheme or arrangement is approved by the Revenue Commissioners;
- (ii) The Trustees shall confirm to the trustees of the other Exempt Approved Scheme or arrangement or other person or persons having the necessary powers thereunder
 - (a) the extent (if any) to which the assets transferred derive from the contributions either made or deemed to have been made by the Member to the Fund under Clause 16 of the Trust Deed (distinguishing where appropriate between contributions made before and after 1991),

- (b) the amount of any assets transferred which represent rights accrued in the Scheme or any previous arrangement since the 1st January 1991, and
 - (c) the period of membership of the Scheme or any previous arrangement to which the assets transferred relate;
- (iii) The Trustees shall endeavour to ensure that only such part of the assets so transferred as represents the contributions either made or deemed to have been made under Clause 16 of the Trust Deed shall be treated in such other Exempt Approved Scheme or arrangement as if it had been derived from contributions made by the Member to such other Exempt Approved Scheme or other arrangement;
- (iv) Such transfer shall be subject to the provisions of any undertaking given by the Trustees to the Revenue Commissioners;
- (v) A policy or contract of assurance effected on behalf of the Member with an Insurance Company and approved by the Revenue Commissioners under the Act shall for the purpose of this Clause be regarded as a retirement benefits arrangement.
- (b) Notwithstanding anything to the contrary in this Trust Deed or in the Rules a Member in respect of whom a transfer is made under this Clause shall cease to be entitled to the benefits secured by such part of the assets so transferred in respect of himself, or any other person who because of his membership of the Scheme is entitled or contingently entitled to any benefit and if these assets represented the Member's entire interest in the Fund then he shall not be

entitled to any other benefit under the Scheme in respect of himself, or any other such person and the receipt of the trustees of the other Exempt Approved Scheme or other arrangement to which such transfer is made (or other person or persons authorised thereunder) shall be a complete discharge to the Trustees of all liability to or in respect of such Member in relation to the benefits arising from the assets so transferred and the Trustees shall be under no liability to see to the application of the amount transferred.

- (c) This Clause may also be applied by the Trustees
 - (i) with the consent of the Company but without requiring the consent of any Member or of any person claiming rights through a Member if a Member or group of Members cease to be Members by reason of the disposal of the whole or part of the business of any Employer, if a Member or group of Members becomes a Member or Members of another Exempt Approved Scheme of the Employer or if the Trustees decide to make a transfer in accordance with Clause 21(d) hereof, subject always to the provisions of the Pensions Act, or
 - (ii) without requiring the consent of the Member in such circumstances as are prescribed in the Pensions Act.

18. CONTRIBUTIONS BY EMPLOYER

- (a) The Employers shall pay contributions to the Fund at the rate recommended by the Actuary under Clause 9(b) of this Trust Deed or at such other rate or of such amount and at such dates as may be agreed between the Trustees and the Company and the Actuary being such contributions as are necessary (together with the contributions paid by the

Members to the Fund and any assets transferred into the Fund pursuant to Clause 16 of this Trust Deed) to secure the benefits under this Trust Deed and the Rules.

- (b) The Company may at any time (but without prejudice to its liability to pay any contribution which has become payable, its liability under Clause 5(iii) hereof, its obligations under the Rules and its obligations under the Pensions Act) terminate its liability to contribute to the Fund by notice in writing to the Trustees.

19. REPLACEMENT OF COMPANY

- (a) In any of the following events that is to say :-
 - (i) If the Company shall cease to carry on business and another body corporate person or firm (whether in contemplation of or after such cessation of business) enters into an agreement with the Trustees and with the Company to perform the obligations of the Company under this Trust Deed and the Rules; or
 - (ii) If the business of the Company is acquired by or vested in any other body corporate person or firm and such other body corporate person or firm either enters into an agreement with the Trustees and with the Company or is bound by virtue of or pursuant to any statutory provision or instrument made thereunder or any order of a court or otherwise to perform the said obligations; or
 - (iii) If the Company shall be dissolved by virtue of or pursuant to any statutory provision or any order of the Court made thereunder or otherwise and another body corporate person or firm is bound by virtue of

or pursuant to any statutory provision or any order of the Court made thereunder or otherwise to perform the said obligations; or

- (iv) If the Company shall amalgamate or enter into any arrangement having the effect of amalgamation with any other body corporate, person or firm or if the Company desires to be discharged of its duties as Company and the Revenue Commissioners shall deem any other body corporate, person or firm to be sufficiently associated with the Company and the said body corporate person or firm enters into an agreement with the Trustees and with the Company to perform the obligations of the Company under this Trust Deed and Rules;

then in any such event the Company shall be thereby released from all the said obligations and such other body corporate person or firm as aforesaid shall be deemed to be substituted for the Company as the person liable to perform the said obligations and this Trust Deed and the Rules shall henceforth have effect as if such other body corporate person or firm had been a party to and had executed this Trust Deed in place of the Company and as if the reference to the Company in this Trust Deed and the Rules were references to such other body corporate person or firm.

- (b) (i) If the Company shall cease to carry on business and if at the time of such cessation of business or at any time thereafter there shall not be any such agreement as is referred to in paragraph (i) of sub-Clause (a) of this Clause and the Trustees shall be of the opinion that there is no reasonable expectation of such agreement; or

- (ii) If the business of the Company is acquired by or vested in any other body corporate person or firm and if at the time of such acquisition or at any time thereafter there shall not be any such agreement as is referred to in paragraphs (ii) or (iv) of sub-Clause (a) of this Clause and such other body corporate person or firm shall not be bound as mentioned in either of the said paragraphs (ii) or (iv) and the Trustees shall be of the opinion that there is no reasonable expectation of such agreement or of any other body corporate person or firm becoming so bound; or

- (iii) If the Company shall be dissolved in the manner referred to in paragraph (iii) of sub-Clause (a) of this Clause and if at the time of such dissolution or at any time thereafter no other body corporate person or firm shall be bound as mentioned in the said paragraph (iii) and the Trustees shall be of the opinion that there is no reasonable expectation of any such other body corporate person or firm becoming so bound;

then in any such event the Trustees may either determine the Scheme and wind up the Fund or may without imposing any additional liability on any Employer exercise the power to alter or modify (with the exception of Clause 21 hereof) any of the trusts powers and provisions of this Trust Deed and the Rules conferred upon them by Clause 15 hereof without reference to the Company and may make such arrangements or enter into such agreement (not being arrangements or agreements of such a kind as to cause the Scheme to cease to be an Exempt Approved Scheme) as they shall (acting upon the prior advice of the Actuary) think fit for the continuance of the Scheme subject however to sub-Clause (a) of Clause 20 hereof subsequently becoming applicable.

20. CAUSES OF WINDING UP

- (a) The Scheme shall be determined and the Fund wound up in accordance with Clause 21 hereof upon the happening of any one of the following events:-
- (i) the termination by the Company of its liability to contribute to the Fund (unless the Trustees shall determine that the winding-up thereof shall be deferred);
 - (ii) the failure by the Company at any time to pay to the Trustees any sum or sums due under the Trust Deed on or within fourteen days or such extended period as the Trustees may allow after the date on which the Trustees may have required the same to be paid or any failure by the Company to observe and perform any other of its obligations hereunder or in the Rules or in any deed or agreement supplemental hereto (unless the Trustees shall determine that the winding-up thereof shall be deferred);
 - (iii) the exercise by the Trustees of the power to wind up the Fund conferred on them in certain events by Clause 19 hereof;
 - (iv) the Trustees deciding to wind up the Fund at any time after it would have been wound up under any one of sub- paragraphs (i) (ii) and (iii) of this sub-Clause but for a decision by the Trustees that such winding-up shall be deferred; and
 - (v) the Trustees deciding to wind up the Fund at any time after they might have exercised the power to

wind up the same conferred on them in certain events by Clause 19 hereof.

- (b) Upon the Scheme being determined the liability of the Employers to contribute thereto shall terminate but without prejudice to the liability of the Employers for the payment of any contribution then payable or accrued and the Fund shall be held upon the trusts declared by the next following Clause.

21. **DISTRIBUTION ON WINDING UP**

- (a) Upon the determination of the Scheme the Trustees shall notify each Member thereof and before applying the Fund in accordance with sub-Clause (b) of this Clause the Trustees shall be entitled to reserve thereout such amount as they consider may be necessary to meet any expenses related to and associated with the determination and winding up of the Scheme and Fund respectively which in their opinion may not be recoverable from the Employers and to meet any tax for which they may be accountable.
- (b) In the event of the Scheme at any time being determined as aforesaid the Trustees shall apply the Fund:-

FIRST in securing (insofar as they have not already done so) the benefits required to be secured as a first priority on winding up by sub-paragraph (a)(i) of Section 48 of the Pensions Act

SECOND in securing (insofar as the Trustees have not already done so) the benefits required to be secured as a second priority on winding up by sub-paragraph (a)(ii) of Section 48 of the Pensions Act

THIRD in paying all costs, expenses and liabilities which have been incurred in the administration and management of the Scheme which in the opinion of the Trustees may not be recoverable from the Employers

FOURTH in securing (insofar as the Trustees have not already done so)

- (1) for each such person who is entitled to a preserved pension and a preserved lump sum at the date of determination of the Scheme an annuity or other benefit payable from, or at, age 60 equal to the balance (not already secured under the previous paragraphs of this Clause) of the preserved pension and preserved lump sum to which each such person is prospectively entitled under the Rules at the date of the determination thereof
- (2) for each such person who is an active Member at the date of determination of the Scheme an annuity or other benefit payable from, or at, age 60 equal to the balance (not already secured under the previous paragraphs of this Clause) of the preserved pension and preserved lump sum to which each such person would have been prospectively entitled under the Rules had he left the employment of the Employer on the date of the determination of the Scheme disregarding any provision requiring the completion of a minimum period of membership under the Rules
- (3) contingent annuities and other payments for the benefit of any surviving spouses, children, other dependants or legal personal representatives (as appropriate under the Rules) and payable upon the respective death of the person entitled to preserved benefits and an active Member referred to in

paragraphs (1) and (2) of this paragraph equal in amount to the balance (not already secured under the previous paragraphs of this Clause) of the pensions and other payments which would have been payable under the Rules to any such surviving spouses, children, other dependants or legal personal representatives

PROVIDED THAT:-

- (i) Subject to proviso (iii) of this sub-Clause the pension to be secured in respect of a person under this sub-Clause shall include such contingent pensions in favour of the spouse and children of such persons and other payments (if any) as would have been payable under the Rules had the pension in favour of such persons been payable under the Rules;
- (ii) Where any pension (including the pension equivalent of any benefit not in pension form) payable under this sub-Clause would when aggregated with all the benefits of a like nature provided under all other schemes of the Employers or to which the Employers contribute or have contributed not exceed the value of a pension of £260 per annum (or such higher figure permitted by the Revenue Commissioners) or the person entitled thereto is in exceptional circumstances of serious ill-health the Trustees may elect to pay a lump sum in lieu thereof such lump sum to be paid at the date when the pension would otherwise have been paid;
- (iii) Pensions which have not been commuted under proviso (ii) of this sub-Clause shall be non-assignable and non-commutable except as provided in the Rules and may be secured by policies effected

with any Insurance Company which said policies in the case of any Member referred to in this sub-Clause may be on such terms (consistent with approval under the Act) as to the payment of any benefit on the death of the Member in respect of whom the policy is issued as the Trustees shall in their absolute discretion think fit to arrange but not so that the value of the pension and of any benefit so secured shall together be in excess of the value of the Member's interest as aforesaid;

- (iv) Where under paragraphs FIRST or SECOND or THIRD or FOURTH of this sub-Clause the assets constituting the Fund do not permit the Trustees to secure in full the benefits specified in that paragraph, the benefits to be secured under each sub-paragraph of the relevant paragraph and in respect of each person to whom that sub-paragraph applies shall be abated on a pro rata basis.
- (c) If after having provided the benefits under paragraphs FIRST, SECOND, THIRD and FOURTH of sub-Clause (b) hereof any balance of the Fund then remains unexpended the Trustees shall refund such balance to the Employers in such proportions as the Trustees shall determine.
- (d) The Trustees may notwithstanding the provisions of sub-Clause (b) of this Clause transfer to another Exempt Approved Scheme or to another retirement benefits arrangement the whole or such part of the assets of the Fund as they shall determine to be just and equitable having regard to the actuarial interest in the Fund of the Members being transferred in accordance with and subject to the provisions of Clause 17 of this Trust Deed.

22. RESPONSIBILITIES OF PARTICIPATOR

- (a) So long as Employees of any of the Employers other than the Company (any such Employer being referred to in this Clause as a "Participator") remain Members of the Scheme all the covenants agreements and provisions contained in this Trust Deed and the Rules to be performed and observed by the Company in relation to its Employees shall be binding upon and be performed and observed by the Participator in relation to its employees.

- (b) The participation of a Participator and its Employees in the Scheme shall cease and determine upon the happening of one or more of the following events:-
 - (i) On the expiry of the notice if the Participator gives to the Trustees notice in writing of its intention to discontinue its participation in the Scheme and to terminate its liability to contribute to the Fund;

 - (ii) If the Participator shall fail to perform and observe the covenants agreements and provisions referred to in sub-Clause (a) of this Clause unless the Trustees otherwise resolve in any particular instance;

 - (iii) If in the case of a Participator which is a company an order is made or an effective resolution is passed (other than for purposes of reconstruction or amalgamation) for the winding up of the Participator;

 - (iv) If in the case of a Participator which is an individual person or firm such person or a member of such firm is declared bankrupt;

 - (v) If the degree of association with the Company ceases to be such that the participation of the Participator is

satisfactory for the purposes of approval of the Scheme under the Act but so that notwithstanding such cessation the Participator may continue to participate in the Scheme for such period (if any) not extending beyond the anniversary of the Commencement Date next but one following the date of such cessation as the Company, the Participator and the Trustees shall agree.

- (c) In the event of a Participator so ceasing to participate in the Scheme a portion of the Fund shall be applied *mutatis mutandis* in accordance with Clause 21 hereof **PROVIDED** that if the Participator and the Trustees shall so agree the assets constituting such portion of the Fund shall continue to be held by the Trustees upon and subject to the trust powers and provisions of this Trust Deed and the Rules and the same shall be administered as a separate closed fund (with the former Participator having the rights and duties of the Company but without any further liability on the part of the former Participator to contribute thereto unless otherwise agreed by the former Participator and the Trustees) until such date as the Trustees may determine not being later than the date of the winding up of the Scheme.
- (d) The portion of the Fund to be applied in accordance with the provisions of sub-Clause (c) hereof shall be the lesser of
 - (i) the value as determined by the Actuary of the amount of pension or other benefit which would have been payable under the Rules of the Scheme to or in respect of the Employees of the Participator in relation to service completed to the date upon which such Participator ceases to participate in the Scheme, had such Participator not so ceased to participate, and

- (ii) the portion of the Fund applicable to Employees of the Participator as determined by the Actuary

PROVIDED THAT in relation to this sub-Clause if the amount determined under paragraph (ii) shall exceed the amount determined under paragraph (i) the portion to be applied as aforesaid may with the prior consent of the Company be increased but not so that the amount applied exceeds the amount so determined under paragraph (ii).

- (e) Sub-Clause (c) and sub-Clause (d) of this Clause shall also have application where a part of the business of any of the Employers is acquired by or vested in any other body corporate person or firm and shall be interpreted as if any reference to Participator therein was a reference to such part of the business of any of the Employers.

23. RIGHT TO TERMINATE MEMBER'S EMPLOYMENT

Nothing in this Trust Deed nor the Rules shall in any way restrict the right of any of the Employers to terminate the service of a Member or be used in aggravation of damages in any action counterclaim or suit brought by such Member against any of the Employers in respect of the termination of his employment.

24. EVIDENCE

No person who is entitled to a benefit under the Rules shall be entitled to claim such benefit or any instalment thereof more than six years after it has fallen due if the reason for the non-payment of that benefit or instalment within the said period of six years was the failure of that person to claim it or the lack of knowledge by the Trustees of the existence or whereabouts of that person or of any

fact or facts giving that person the right thereto but the Trustees may pay any such benefit or instalment or any part thereof if in their absolute discretion the Trustees think fit so to do.

25. EMPLOYER'S DECISIONS

Any power, right or discretion conferred on an Employer by the Trust Deed or the Rules shall be exercisable by the Director of Telecommunications Regulation and a document purporting to be a copy resolution of such person shall (except in the case of a power or right exercisable by deed) be sufficient evidence of the exercise of the power, right or discretion thereby involved.

In exercising any power given to it by the Trust Deed or the Rules (including without limitation the granting of any consent or exercising of any discretion) the Employer shall not be required to act in a fiduciary capacity and shall not be obliged to take into consideration the interests of the Members, the Trustees or any other persons in exercising that power.

26. PENSIONS ACT/FAMILY LAW ACTS

This Trust Deed and the Rules shall be subject to the provisions of the Pensions Act, and the Family Law Acts or other Act of the Oireachtas relating to Retirement Benefits Schemes and any regulations made thereunder. The duties of the Employers, the Trustees and the Actuary shall be regulated thereby and carried out in accordance therewith and this Trust Deed and the Rules shall be applied subject to any modification necessary to comply therewith.

27. POWER TO INSURE

The Company may insure any benefits payable under this Trust Deed and the Rules.

IN WITNESS whereof this Trust Deed was duly executed by the parties hereto the day and year first above written.

SIGNED SEALED AND DELIVERED
by the said **DIRECTOR OF**
TELECOMMUNICATIONS REGULATION

in the presence of:

ETAIN DOYLE

Witness _____

SIGNED SEALED and DELIVERED
by the said **MICHAEL FOY**

in the presence of :

MICHAEL FOY

SIGNED SEALED and DELIVERED
by the said **MAURICE MacMAHON**

in the presence of :

MAURICE MacMAHON

SCHEDULE I

OFFICE OF DIRECTOR OF TELECOMMUNICATIONS REGULATION SUPERANNUATION SCHEME

1. SHORT TITLE

The Rules in this Schedule may be cited as the Office of Director of Telecommunications Regulation Superannuation Scheme (hereinafter in this Schedule called the Main Scheme).

2. COMMENCEMENT

The Main Scheme will commence with effect from 1st June 1999, which shall be known as the date of commencement.

3. DEFINITIONS AND INTERPRETATIONS

In the Main Scheme save where the context otherwise requires:

3.1 "The Company" means the Director of Telecommunications Regulation

3.2 "Minister" means the Minister for Public Enterprise.

3.3 "Member" means a pensionable employee to whom the Main Scheme applies.

- 3.4 "Old Age (Contributory) Pension" means the contributory old age pension payable under the Social Welfare Acts.
- 3.5 "Retirement Pension" means the retirement pension payable under the Social Welfare Acts.
- 3.6 "Invalidity Pension" means an invalidity pension payable under the Social Welfare Acts.
- 3.7 "Disability Benefit" means disability benefit payable under the Social Welfare Acts.
- 3.8 "Unemployment Benefit" means unemployment benefit payable under the Social Welfare Acts.
- 3.9 "years" means a figure determined by the formula $A + \frac{B}{365}$
where A is the number of completed years in the period in question and B is any number of days additional to a completed year or a number of completed years in that period, and "year" shall be construed accordingly.
- 3.10 "Local Authority" has the meaning assigned to it in the Local Government (Superannuation) (Consolidation) Scheme, 1998 and in addition includes any body to which schemes and regulations made under the Local Government (Superannuation) Act, 1980 (No. 8 of 1980) apply.
- 3.11 "Job-Sharing" means the sharing of a whole-time post by two employees under any scheme or arrangement which has been approved by the Minister.
- 3.12 "the Local Government Superannuation Code" means any scheme or regulation made under the Local Government (Superannuation) Act, 1980 (No 8 of 1980) other than the Local Government (Superannuation) (Gratuities)

Regulations 1984 (as amended) or the provisions of Part V of the Local Government (Superannuation) (Consolidation) Scheme 1998.

- 3.13 "Actual Pensionable Service" means service as defined in paragraphs (a) to (f) of sub-Rule 6.1.
- 3.14 "Transfer value Payment" under the Local Government Superannuation Code means a payment calculated in accordance with such tables as are approved and in such manner as is determined by the Minister for the Environment.
- 3.15 "Reckonable Service" means service which is reckonable under Rule 6 hereof.
- 3.16 "Social Welfare Acts" means the Social Welfare (Consolidation) Act, 1993 including any enactment which amends or extends any or all of that Act and any regulation, warrant or order made thereunder.
- 3.17 "fully State-insured Member" means a Member who is insurable for all benefits under the Social Welfare Acts.
- 3.18 "Knock-for-knock Agreement" means an agreement under articles 279(8) and 280 of the Local Government (Superannuation) (Consolidation) Scheme 1998.
- 3.19 Words importing the masculine gender shall, unless the contrary intention appears, also import the feminine gender.

4. MEMBERSHIP

- 4.1 For the purposes of the Main Scheme

- (a) "pensionable employee" means a person who is employed in a whole time capacity by the Company in a pensionable post;
- (b) "pensionable post" means a whole time post with the Company which:
 - (i) in the case of a post existing on the date of approval of the Main Scheme, is a post which is declared within three months from the date of approval by resolution of the Company to be a pensionable post;
 - (ii) in any other case is a post which is declared in the Conditions of Service attaching to it to be a pensionable post.

4.2 Membership of the Main Scheme shall not apply to persons

- (a) who are in membership of a retirement benefit scheme of any body associated with the Company, or
- (b) whose Actual Pensionable Service on attaining age 65 would be less than 5 years, or
- (c) who do not satisfy the Company (either at the time of first appointment, or at such time thereafter as the Company may determine), that they are in good health and free from any physical defect or any disease which may interfere with the proper discharge of their duties.

4.3 Membership shall be compulsory for all pensionable employees declared eligible by the Company, other than those referred to in sub-Rule 4.2.

4.4 The Company shall decide upon eligibility for membership of the Main Scheme. The Company shall notify an employee of his admission to membership of the Main Scheme and shall furnish him with a copy of the terms of the Main Scheme.

4.5 A Member may not continue in membership after he has attained the age of 65.

5. PENSIONABLE REMUNERATION

5.1 Salary

“salary” means the annual basic rate of remuneration payable from time to time as determined or approved by the Company excluding any sums paid in respect of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment towards or in respect of such emoluments.

5.2 Allowances

“allowances” means such allowances in the nature of pay as are designated as pensionable by the Company but excluding any sums paid in respect of overtime, commission, gratuity, special fees, travelling allowance, subsistence allowance and the like, the money equivalent of any emolument or benefit in kind (including motor car or other vehicle) or any payment towards or in respect of such emoluments.

5.3 **Remuneration**

“remuneration” means the aggregate of salary and allowances.

5.4 **Net Remuneration**

“net remuneration” means the amount by which remuneration exceeds twice the rate of Old Age (Contributory) Pension payable from time to time to a person who has no adult dependant or qualified children.

5.5 **Retiring Salary**

“retiring salary” means the salary of the Member at the date of retirement or death where :

- (a) a Member has had the same scale of salary and has been in the same grade for the last three years of his pensionable service, or
- (b) a Member who is under 62 years of age dies in service, or
- (c) a Member retires or is retired on grounds of ill-health before 60 years of age.

In any other case retiring salary shall be taken as the total calculated by multiplying by 1/1095 the annual rate of salary appropriate on the last day of pensionable service for each grade in which the Member served during the last three years of pensionable service, and multiplying the result by the number of days of his employment in each grade during those years, subject to the retiring salary so taken not

exceeding the annual basic rate of remuneration payable at the time of retirement or death.

5.6 Pensionable Allowances

“pensionable allowances” means the annual average of any allowances paid to the Member during his last three years of pensionable service.

5.7 Pensionable Remuneration

“pensionable remuneration” means the aggregate of retiring salary and pensionable allowances provided that in the case of a Member who is Job-Sharing at retirement, pensionable remuneration shall be deemed to be the pensionable remuneration applicable in his case if he was not Job-Sharing.

5.8 Net Pensionable Remuneration

“net pensionable remuneration” means the amount by which pensionable remuneration exceeds twice the rate of Old Age (Contributory) Pension payable on the last day of pensionable service to a person who has no adult dependant or qualified children.

6. PENSIONABLE SERVICE

6.1 Pensionable service shall, subject to a maximum of 40 years, be the aggregate of the following, counting any period only once:

- (a) paid service as a pensionable employee given on and from the date of commencement, and while the Member was under 65 years of age, and in respect of

which contributions have been paid provided that any period during which a Member was or is Job-Sharing shall reckon as to one-half that period only;

- (b) any whole-time paid service in a pensionable post in the Civil Service or any other service which remained reckonable by them for pension purposes by reference to Civil Service superannuation regulations;
- (c) any service reckonable in accordance with Section 4 of the Superannuation and Pensions Act 1963;
- (d) actual service which is capable of being reckoned under the Local Government Superannuation Code;
- (e) in the case of a Member in respect of whom a transfer value in respect of superannuation benefits in a former employment other than employment referred to in paragraphs (a), (c) and (d) of this sub-Rule, is received by the Company such additional service as the amount of the transfer value will purchase on the basis of actuarial tables approved by the Minister for Finance;
- (f) whole-time paid service with the Company prior to the date of commencement, in respect of which contributions have been paid;
- (g) in the case of a Member whose service by age 65 would be less than 40 years, extra years of pension credit, subject to limits to be determined by the Company, with the approval of the Minister and in consultation with the Minister for Finance, which he opts to purchase at full cost to himself on the basis of actuarial tables approved by the Minister for Finance

(the current scheme is included for reference as Schedule II of the Rules);

(h) such additional period of notional service (to be referred to as "professional added years") as may be granted by the Company in accordance with conditions determined by the Company with the approval of the Minister and the consent of the Minister for Finance (the current scheme is included for reference as Schedule IV of the Rules);

(j) notional service purchased under the provisions of Part V of the Local Government (Superannuation) (Consolidation) Scheme 1998;

(k) Where under the Local Government Superannuation Code, a superannuation award is made by a local authority to or in respect of a former member of this Scheme and, in determining the amount thereof, any period of service with the Company has been reckoned, the Company shall, in the absence of a Knock-for-Knock Agreement, make a single transfer value payment or a series of contributions to the local authority, as may be agreed between the local authority and the Company, and such payment or contributions shall be in accordance with such tables or rates as may be approved by the Minister for the Environment and Local Government.

6.2 (a) A Member who retires, or is retired on medical grounds may, at the discretion of the Company, have a period of notional service (to be referred to as "ill-health notional service") added to his pensionable service, provided that the aggregate of pensionable service and ill-health notional service does not exceed 40 years.

- (b) The ill-health notional service shall be calculated on the following basis:
- (i) a Member whose Actual Pensionable Service is between 5 and 10 years will be allowed an equivalent amount of ill-health notional service, such amount of notional service not to exceed the difference between the amount by which the pensionable service he would have had if he served to age 65 exceeds his pensionable service at retirement;
 - (ii) a Member whose Actual Pensionable Service is between 10 and 20 years will be allowed the more favourable of :
 - (A) an amount of service equal to the period by which 20 years exceeds the said pensionable service, the added service not to exceed the amount by which the pensionable service he would have had if he served to age 65 exceeds his pensionable service at retirement; or
 - (B) 6 years and 243 days, the ill-health notional service not to exceed the amount by which the pensionable service he would have had if he had served to age 60 exceeds his pensionable service at retirement;
 - (iii) a Member with more than 20 years of Actual Pensionable Service at retirement will be allowed to add whichever is the lesser of:

- (A) 6 years and 243 days, or
 - (B) the amount by which the pensionable service he would have had if he had served to age 60 exceeds his pensionable service at retirement.
- (c) Where a Member who has purchased service (as defined in sub-Rule 6.1(g)) qualified for ill health notional service the purchased service shall be credited so that the service arising under this sub-Rule is equal to the service which would have been so credited if he had not purchased service.

7. **BENEFITS**

7.1 **Pension**

- (a) A Member who has completed two years' Actual Pensionable Service and who retires after attaining the age of 60 years, or who retires or is retired before or after reaching the age of 60 on grounds of ill health which, in the opinion of the Company, is likely to be permanent, shall be eligible to receive a pension of an amount per annum calculated at the rate of 1/80th of pensionable remuneration, or in the case of a fully State-insured Member of net pensionable remuneration, for each year of pensionable service subject to a maximum pension of 40/80ths.
- (b) (i) Where a fully State-insured Member retires, or is retired on medical grounds, or retires after attaining the age of 60 years the Company may at its discretion, pay a

supplementary pension the amount of which shall not exceed

- (A) the difference between the pension payable to such Member under the Main Scheme and the pension which would have been payable to him if it had been calculated by reference to pensionable remuneration (as defined in sub-Rule 5.7) instead of net pensionable remuneration (as defined in sub-Rule 5.8) where sub-paragraph 7.1(b)(ii)(C)(I) or sub-paragraph 7.1(b)(ii)(F)(I) applies, or

- (B) the difference between the pension payable to such Member under the Main Scheme, together with the maximum personal rate of Invalidity Pension, Unemployment Benefit, Disability Benefit, Retirement Pension or Old Age (Contributory) Pension payable to such Member, (or less than the maximum personal rate if sub-paragraph 7.1(b)(ii)(C)(II) or sub-paragraph 7.1(b)(ii)(F)(II) applies) and the pension which would have been payable to him if it had been calculated by reference to pensionable remuneration (as defined in sub-Rule 5.7) instead of net pensionable remuneration (as defined in sub-Rule 5.8).

(ii) The supplementary pension shall be payable in respect of any period or periods after retirement during which the pensioner :

(A) is under 65;

(B) is not employed, and

(C) (I) fails to qualify for Invalidity Pension, Unemployment Benefit, or Disability Benefit where such failure is not due to causes within his own control, or

(II) qualifies for Invalidity Pension, Unemployment Benefit or Disability Benefit, at less than the maximum personal rate due to causes outside his own control, or

(D) is over 65, and

(E) is not employed, and

(F) (I) fails to qualify for Invalidity Pension, Unemployment Benefit, Disability Benefit, Retirement Pension or Old Age (Contributory) Pension where such failure is not due to causes within his own control, or

- (II) qualifies for Invalidity Pension, Unemployment Benefit, Disability Benefit, Retirement Pension or Old Age (Contributory) Pension at less than the maximum personal rate due to causes outside his own control.

7.2 Gratuities

- (a) A Member who has completed 5 years' Actual Pensionable Service and who retires or is retired after attaining the age of 60, or who retires or is retired before or after attaining the age of 60 on medical grounds, shall be eligible to receive a gratuity at the rate of 3/80ths of pensionable remuneration (as defined in sub-Rule 5.7) for each year of pensionable service subject to a maximum of 120/80ths.
- (b) If a Member has completed less than 5 years' Actual Pensionable Service and retires, or is retired on medical grounds, he shall be eligible to receive a gratuity of 1/12th of retiring salary (as defined in sub-Rule 5.5) for each year of pensionable service.
- (c) (i) If a Member dies while serving, his legal personal representatives shall be eligible to receive the greater of :
 - (a) his pensionable remuneration (as defined in sub-Rule 5.7) or
 - (b) the gratuity that would have been payable had the Member retired on

medical grounds on the date of his death.

- (ii) If a former Member who has been granted a pension and a gratuity dies and the total paid or payable on foot of the pension and gratuity is less than the gratuity which could have been granted to his legal personal representatives if he had died on the date of his retirement, his legal personal representatives shall be eligible to receive a gratuity equal to the deficiency.

7.3 Preservation of Benefits

- (a) (i) A person whose membership ceases on grounds other than ill health after at least 5 years' Actual Pensionable Service will on attaining the age of 60, qualify under this sub-Rule for a pension and lump sum payment (which pension and payment are in the Main Scheme referred to as a "preserved pension" and "preserved lump sum" respectively), provided:
 - (a) he does not receive any other benefit in respect of that service, and
 - (b) that service cannot be reckoned for pension purposes by him in another employment under approved arrangements.
- (ii) If a person referred to in sub-paragraph (a)(i) of this sub-Rule falls ill before reaching age 60 his pension and lump sum payment will

be brought into payment immediately if it is established, to the satisfaction of the Company, that his illness would have led to ill-health retirement had he still been in the service of the Company. Benefits payable under this sub-paragraph will be based on Actual Pensionable Service and on net pensionable remuneration and pensionable remuneration as calculated under the formulae set out in paragraphs (b) and (c) of sub-Rule 7.3 appropriately amended to allow for pension increases between the date of resignation and the date on which the preserved benefits become payable on account of ill health.

- (iii) If a person referred to in sub-paragraph (a)(i) of this sub-Rule dies before attaining the age of 60 a sum (in the Main Scheme referred to as a "preserved death gratuity") shall be payable to the person's legal personal representatives by the Main Scheme in respect of him.
- (iv) A preserved lump sum or preserved death gratuity shall be payable to or in respect of the person concerned on an application being made to the Company by him at any time after he reaches the age of 60 or, in case he dies before reaching that age, his legal personal representatives.
- (v) A preserved pension shall be payable to the person concerned on and from his attaining the age of 60 on an application being made by him in that behalf.

(vi) The Company may at its discretion pay a supplementary pension on the terms and conditions set out in sub-Rule 7.1(b) of the Main Scheme.

(b) A preserved pension may not exceed an amount obtained by the formula:

$$\frac{A \times B}{80}$$

where

A is the number of years of pensionable service, subject to a maximum of 40, as calculated under sub-Rule 6.1 hereof, and

B is the figure arrived at by increasing his pensionable remuneration, or in the case of a fully State-insured Member his net pensionable remuneration, at the date his membership ceases by reference to pensions increases granted under Rule 10 of the Main Scheme in the interval between such date and the date on which the person attains the age of 60.

(c) A preserved lump sum or preserved death gratuity may not exceed an amount obtained by the formula:

$$\frac{3A \times B}{80}$$

where

A has the meaning assigned to it by subparagraph (b) of this sub-Rule, and

B is the pensionable remuneration (as defined in sub-Rule 5.7) at the date his membership ceases, as increased by reference to pensions increases which may be granted under Rule 10 of the Main Scheme in the interval between the date of resignation and the date

- (a) on which he attains the age of 60 in the case of a preserved lump sum, or
- (b) of his death, in the case of a preserved death gratuity.

7.4 Return of Contributions

- (a) In the case of a Member whose membership ceases otherwise than on ill-health, misconduct or death and who is not eligible to receive an immediate pension benefit under sub-Rule 7.1 of the Main Scheme or to transfer his pensionable service under the Main Scheme to another Exempt Approved Scheme his contributions shall be returned to him less an amount equal to any income tax liability by the Company in respect of such contributions.
- (b) Contributions shall not be returned under this paragraph of this Scheme to a Member who resigns to take up a pensionable position with a local authority.
- (c) Where under the Local Government Superannuation Code, superannuation contributions are returned by a local authority to a former Member of this Scheme,

and the amount returned includes a sum in respect of contributions paid under this Scheme, the Company shall, in the absence of a Knock-for-Knock Agreement, recoup such sum to the local authority.

8. RETIREMENT ON MEDICAL GROUNDS

8.1 Where a Member retires or is retired on medical grounds, a benefit under sub-Rule 7.1 and/or 7.2 of the Main Scheme shall only be paid where the following conditions are met:

- (a) Medical evidence must be supplied, having regard to which the Company is satisfied that the Member is incapable from infirmity of mind or body of discharging the duties of his post and that that infirmity is likely to be permanent. In this connection, the Member must, if requested by the Company, undergo medical examination by a registered medical practitioner nominated by the Company.
- (b) The retirement must be wholly due to the infirmity.
- (c) The infirmity must not have been caused by the Member's own fault or negligence.
- (d) The Member must not:
 - (i) have made a false declaration about his health, or
 - (ii) have suppressed a material fact

when applying to take up his post in the Company.

8.2 Where any or all of the above conditions are not met, sub-Rule 7.3 or 7.4 shall, as appropriate, apply in lieu of benefit under sub-Rule 7.1 and /or 7.2.

9. PAYMENT OF PENSION OR PRESERVED PENSION

Pensions and preserved pensions payable under the Main Scheme shall be paid monthly in arrears and shall continue throughout the life of the Member.

10. PENSIONS INCREASES

The Company may grant such increases in such pensions and preserved pensions under the Main Scheme as may be authorised from time to time by the Minister with the consent of the Minister for Finance.

11. CONTRIBUTIONS

11.1 Every Member shall pay a contribution as from the date of entry to the Main Scheme or from the date he took up employment with the Company in the case of a Member in the service of the Company on the date of commencement.

11.2 The contribution shall comprise:

(a) 3.5% of remuneration (as defined in sub-Rule 5.3) or in the case of a fully State-insured Member of net remuneration (as defined in sub-Rule 5.4), and

(b) 1.5% of remuneration (as defined in sub-Rule 5.3).

provided that in the case of a Member who is Job-Sharing sub-clause (a) above shall apply as if the word "twice" were deleted from the definition of net remuneration.

11.3 Where a Member is in receipt of a reduced rate of pay because of absence from employment, the contributions in respect of that period will be calculated by reference to the rate of pay that would be payable to him if he were not so absent.

11.4 An actuarial revaluation of the Main Scheme may be carried out from time to time if the Company so decides and the Company retains the right to vary the contributions payable by the Members.

12. EMPLOYMENT SUBSEQUENT TO RETIREMENT OR RESIGNATION

12.1 Where a Member whose contributions have been returned to him under sub-Rule 7.4 is re-employed by the Company in a pensionable position, his previous pensionable service may be reckoned for the purpose of calculating superannuation subsequently, provided he refunds to the Company the amount of the contributions including interest paid to him with compound interest on such amount at the rate of six per cent per annum with half-yearly rests from the date of payment to him. The Company may, at its discretion, agree to accept such refunds by instalments, provided interest on the basis outlined above continues to be paid on the outstanding balance.

12.2 Where a Member whose contributions have been returned to him under sub-Rule 7.4 subsequently becomes employed by a Local Authority his previous pensionable service may be reckoned for superannuation subsequently provided he

refunds the amount of the contributions including interest paid to him with compound interest on such amount at the rate of six per cent per annum with half-yearly rests from the date of payment to him.

12.3 If a Member who retires or is retired on medical grounds subsequently becomes a pensionable employee before attaining the age of 65 years and has been awarded a pension and gratuity or gratuity only on initial retirement, pension, where payable, shall be cancelled on his re-appointment and his previous pensionable service shall be reckoned for the purposes of calculating pensionable service subsequently but the amount of any gratuity awarded on eventual retirement or death or any payment in accordance with sub-Rule 7.4 shall be reduced by the amount of the gratuity paid to him on initial retirement.

12.4 If a pensioner under the Main Scheme receives payment in respect of employment by the Company or by any person or firm resident in the Republic of Ireland and associated with or directly or indirectly controlled by the Company no more of the pension or preserved pension shall be paid for any period of receipt of the payment as may be specified by the Company than so much as, with the payment, equals the pay which the person would have received in respect of that period if during it he

- (a) held the position in which he served on the last day of his pensionable service, and
- (b) was remunerated at the rate of pay which he was in receipt of on that date (including the money value of apartments, rations or other perquisites in kind), subject, however, in case changes have taken place, (or, if the position has ceased to exist would have taken place if it had not ceased to exist) in that rate to

treating that rate as being varied by taking account of so much of those changes as may be specified by the Company.

13. FORFEITURE, CESSER OR REDUCTION OF BENEFIT

13.1 Unsatisfactory Service

Where a Member is dismissed or resigns or otherwise ceases to hold employment and has been guilty of misconduct involving a financial loss to the Company or the State, the Company may, at its discretion, refuse or reduce any award which might otherwise be payable under Rule 7 of the Main Scheme (including a refund of contributions under sub-Rule 7.4) in order to make good such a loss.

13.2 A pension awarded under the Main Scheme shall cease to be payable if the pensioner is convicted on indictment of any offence, and is sentenced to penal servitude or to any term of imprisonment with hard labour, or exceeding twelve months; but the Company may, at any time, if it thinks proper, restore the pension either in whole or in part.

14. CONDITIONS GOVERNING AWARDS

14.1 Declarations

Payments of pension or preserved pension under the Main Scheme shall be subject to the making by the pensioner of a relevant declaration in such form and at such time as the Company may require.

14.2 Proof of Age

A Member must submit evidence of his date of birth on entry into the Main Scheme or before any payment of benefit can be made.

15. ASSIGNMENTS

A pension or preserved pension under the Main Scheme may not be assigned or charged. If the pensioner becomes incapable of giving a receipt of payments due, the Company shall have discretion to make such payments in whole or in part to such persons, including the authorities of any institution having care of the pensioner, as the Company thinks fit, and the Company shall be discharged from all liability in respect of any sum so paid.

16. DUPLICATION OF BENEFIT NOT TO BE ALLOWED

Where a Member's employment with the Company ceases (whether on retirement, death or otherwise), benefit under the Main Scheme shall be reduced by reference to any sum, other than one to which the prior approval of the Minister for Finance had been obtained, which is payable to or in respect of him on such cesser, other than under the Main Scheme, by the Company, or under any arrangement (whether by way of insurance or otherwise) to which the Company has contributed.

17. APPEALS

17.1 If a Member or former Member is aggrieved by the failure or refusal of the Company to make an award under the Main Scheme or by the amount of any award made, he may appeal

to the Minister who shall refer the dispute to the Minister for Finance whose decision shall be final.

17.2 An appeal against a failure to make an award shall be made within eight months after the occasion in respect of which the award is claimed and any other appeal shall be made within six months after the decision to which it relates.

18. **TERMINATION OR AMENDMENT OF SCHEME**

The Company reserves the right to amend or terminate the Main Scheme at any time, subject to the approval of the Minister and with the concurrence of the Minister for Finance and subject to giving notice of impending changes to Members of the Main Scheme. Benefits secured for a Member prior to the date of amendment or termination will not be affected.

SCHEDULE II

SCHEME FOR PURCHASE OF NOTIONAL SERVICE FOR SUPERANNUATION PURPOSES BY MEMBERS OF THE OFFICE OF DIRECTOR OF TELECOMMUNICATIONS REGULATION SUPERANNUATION SCHEME

1. COMMENCEMENT

1.1 This Scheme will be deemed to have come into force on 1st June 1999.

1.2 In this Scheme

- (a) the Main Scheme means the Office of the Director of Telecommunications Regulation Superannuation Scheme, and
- (b) Members means Members of the Main Scheme, and
- (c) definitions in the Main Scheme shall apply to this Scheme.

2. SCOPE

2.1 This Scheme applies only to Members who on or after 1st June 1999

- (a) would have at least nine years' reckonable service (excluding purchased service) by the time they reach maximum retirement age,
- (b) are not on sick leave or special leave without pay or suspended from duty (with or without pay), and

- (c) exercise a valid option at the appropriate time (see Rule 3 of this Scheme).

3. CONDITIONS

- 3.1 The service which may be purchased under this Scheme may not exceed the limits described in Appendix 2 of this Scheme.
- 3.2 An option to purchase service by **periodic** contributions may only be exercised where at least two years will elapse between the date of the Member's next birthday and the date on which s/he will reach maximum retirement age.
- 3.3 An option to purchase service by **lump sum** contribution must be exercised
 - (a) within two years of the commencement of a Member's employment with the Company, or
 - (b) on the date of a Member's retirement or prior to and within two years of that date, or
 - (c) within 6 months of a Member's return to duty following a period of special leave without pay (the amount of service purchased in such a case may not exceed the duration of the period of special leave).
- 3.4 Where the amount of service being purchased is less than one year it must be paid for by lump sum contribution.
- 3.5 An option to purchase service by either method must be exercised in writing while the Member is still in the employment of the Company.

- 3.6 Subject to sub-Rule 3.7 following, Members will not be allowed to revoke options under this Scheme unless they give notice in writing to that effect before the lump sum contributions are made or the periodic contributions commence.
- 3.7 In the case of options to purchase by way of periodic contributions, Members may, if they so wish, choose to cease paying the contributions with effect from the date of their next birthday following receipt of their notification of cesser; in such cases their credit in respect of purchased service will be calculated in accordance with sub-Rule 5.5
- 3.8 If a Member exercises more than one option to purchase service each such option will be treated separately for the purposes of this Scheme.

4. **PROCEDURE**

- 4.1 Service may be purchased by (a) periodic contributions or (b) lump sum contribution.
- 4.2 For the purposes of this Scheme the term "salary" means:
- (a) the pensionable remuneration and/or net pensionable remuneration by reference to which the Member's lump sum and pension are calculated, where the purchase option is made at retirement, or
 - (b) the actual rate from time to time of a Member's remuneration or net remuneration as appropriate where the purchase option is made before retirement.
- 4.3 In the case of an option to purchase service by periodic contributions, the contributions will be levied on salary

payable from the date of the Member's next birthday until the date s/he reaches maximum retirement age. The rate of contribution will be calculated in accordance with Tables IA and IB of Appendix 1 of this Scheme.

4.4 In the case of an option to purchase service by lump sum contribution, the contribution will be levied on the Member's salary at the date the option is exercised. The rate of contribution will be calculated in accordance with Tables IIA and IIB of Appendix 1 of this Scheme by reference to the Member's age next birthday. The contribution must be paid within six months of the actual date of exercising the option; otherwise the option will be invalidated.

4.5 Where a Member is in receipt of a reduced rate of salary because of absence from employment, the contributions in respect of that period will be calculated by reference to the rate of salary which would be payable if the Member were not so absent. No contributions may be made during periods of unpaid absence from employment and the service credit will be proportionately reduced in any such case.

5. CREDITING OF PURCHASED SERVICE

5.1 Subject to sub-Rules 5.2 and 5.3 of this Scheme following, purchased service will be taken into account for the purpose of calculating all superannuation benefits. The Member concerned must, however, have the requisite minimum reckonable service (excluding purchased service) to qualify for the benefit in question.

5.2 Purchased service will not reckon in the calculation of marriage gratuities.

- 5.3 Where an award of notional added service falls to be calculated by reference to a Member's reckonable service (e.g. in the case of retirement on grounds of ill-health), purchased service will not be taken into account for the purposes of the calculation.
- 5.4 If a Member continues to serve up to maximum retirement age and, in case s/he is purchasing by way of periodic contributions, continues to pay such contributions up to maximum retirement age, the full amount of any service s/he has purchased will count as reckonable service.
- 5.5 If a Member who is purchasing service under this Scheme by way of periodic contributions ceases to pay such contributions before maximum retirement age, the amount of purchased service to be granted to the Member will be determined by the formula

$$\frac{A \times B}{C}$$

where

- A is the number of years' service which the Member opted to purchase;
- B is the period during which periodic contributions have actually been paid, and
- C is the period during which periodic contributions would have been paid if the Member had continued to pay such contributions up to maximum retirement age.
- 5.6 If a Member who has purchased service under this Scheme qualifies for a superannuation benefit (other than a death gratuity or a benefit under the Company's Spouses' and

Children's Pension Scheme) which is payable before maximum retirement age (e.g. in the case of ill-health retirement), the service so purchased - i.e. the full service purchased by way of lump sum contribution or the proportionate service (calculated in accordance with sub-Rule 5.5 of this Scheme) purchased by way of period contributions - will be actuarially reduced at a rate calculated in accordance with the Table in Appendix 3 of this Scheme.

6. REFUNDS

6.1 If a Member who has purchased service

- (a) is awarded a marriage gratuity, or
- (b) does not qualify for a superannuation benefit and does not transfer service to another organisation for superannuation purposes

all contributions paid under this Scheme will be refunded.

6.2 A Member who is a member of the Company's Spouses' and Children's Pension Scheme and who, while unmarried,

- (a) dies in service, or
- (b) retires or resigns and does not transfer service to another organisation for superannuation purposes

will qualify for a refund of his/her contributions for purchased service in respect of the Company's Spouses' and Children's Scheme as follows:

- (i) if s/he was unmarried during the whole of the period of his/her membership of the Scheme, all contributions paid will be refunded;
- (ii) in any other case:
 - (a) if s/he has paid by periodic contributions, all contributions paid since his/her last marriage ended will be refunded;
 - (b) if the payment was made by lump sum contribution, the proportion A/B of the contribution will be refunded, where A is the period (expressed to the nearest day) since the Member's last marriage ended and B is the period (expressed to the nearest day) since the Member opted to purchase service, subject to the refund not exceeding the total amount of the contribution.

6.3 The rate of contribution in respect of the Company's Spouses' and Children's Pension Scheme is the rate obtained by subtracting the rate of contribution which would have been paid if the Member had not been a member of the Company's Spouses' and Children's Scheme from the rate of contribution actually paid.

6.4 A deduction in respect of tax will be made from all refunds of contributions in accordance with the Taxes Consolidation Act 1997.

6.5 If it becomes clear while a Member is purchasing service by periodic contributions that s/he would not qualify for a superannuation benefit in respect of all of the service which s/he contracted to purchase, a revised rate of periodic contribution will be calculated based on the Member's age

next birthday on the date of the original option and the maximum period of purchased service which would be reckonable; contributions at the revised rate will commence as soon as possible but excess contributions paid under the former option will be offset against contributions due under the revised purchase option. The amount of the excess contributions under the former option would be equal to the proportion A/B of all contributions paid to date under that option where B is the period of service which the Member contracted to purchase and A is the portion of such service in respect of which the Member would not qualify for a superannuation benefit.

7. GENERAL

- 7.1 The rates of contribution and the actuarial reduction factors (set out in Appendices 1 and 3 of the Scheme respectively) applicable from time to time under this Scheme will be such as to ensure that the Scheme is self-financing. Where necessary, revised rates and factors will be set to ensure that this Scheme remains self-financing; Members who have commenced payment of contributions prior to such revision (if any) will not be affected.
- 7.2 The decision of the Minister for Finance in any exceptional case or on any question of interpretation will be final.
- 7.3 Enquiries concerning this Scheme, and applications to exercise purchase options, should be made to the Personnel Department of the Company.

Appendix 1 to the Scheme

for the purchase of notional service for superannuation purposes:

Rates of Contributions

1. For a Member who opts to purchase service by periodic contributions, Table I shows the rate of contribution - for each year of service being purchased - which will be levied on salary payable between the date of the Member's next birthday and the date on which s/he attains maximum retirement age.

2. For a Member who opts to purchase service by a lump sum contribution Table II shows the rate of contribution - for each year of notional service being purchased - which will be levied on salary payable at the date the option is exercised.

3. Where purchased service is not an exact number of completed years, the contribution will be calculated by applying the appropriate fraction to the contribution rate in question.

TABLE IA
Periodic Contributions for Staff in Class B PRSI with maximum retiring age
of 65

Age next birthday after exercise of purchase option	Non-Members of Spouse's and Children's Scheme		Members of Spouses' and Children's Scheme	
	Male (%)	Female (%)	Male (%)	Female (%)
20	0.25	0.32	0.34	0.35
21	0.26	0.33	0.35	0.36
22	0.27	0.34	0.37	0.37
23	0.28	0.35	0.38	0.38
24	0.29	0.36	0.39	0.39
25	0.30	0.37	0.40	0.40
26	0.31	0.39	0.41	0.42
27	0.32	0.40	0.43	0.43
28	0.33	0.41	0.44	0.45
29	0.34	0.43	0.46	0.46
30	0.35	0.44	0.48	0.48
31	0.37	0.46	0.49	0.50
32	0.38	0.48	0.51	0.52
33	0.40	0.50	0.53	0.54
34	0.41	0.52	0.56	0.56
35	0.43	0.54	0.58	0.59
36	0.45	0.57	0.60	0.61
37	0.47	0.59	0.63	0.64
38	0.49	0.62	0.66	0.67
39	0.52	0.65	0.69	0.70
40	0.54	0.68	0.72	0.73
41	0.57	0.71	0.76	0.77
42	0.60	0.75	0.80	0.81
43	0.64	0.79	0.84	0.85
44	0.67	0.84	0.89	0.90
45	0.71	0.89	0.94	0.95
46	0.76	0.94	1.00	1.01
47	0.81	1.00	1.07	1.07
48	0.87	1.07	1.14	1.15
49	0.93	1.15	1.22	1.23
50	1.00	1.24	1.31	1.32
51	1.09	1.34	1.41	1.43
52	1.19	1.46	1.54	1.55
53	1.30	1.59	1.68	1.70
54	1.44	1.75	1.84	1.87
55	1.60	1.95	2.04	2.07
56	1.80	2.19	2.28	2.32
57	2.06	2.49	2.59	2.64
58	2.38	2.87	2.98	3.04
59	2.82	3.39	3.50	3.58
60	3.43	4.11	4.22	4.33
61	4.36	5.19	5.32	5.47
62	5.90	7.00	7.14	7.36
63	8.99	10.63	10.79	11.15

TABLE IB

**Periodic Contributions for Staff in Class A PRSI with maximum retiring age
of 65**

Age next birthday at exercise of option	% of net remuneration		% of remuneration	
	Male	Female	Male	Female
20	0.29	0.30	0.06	0.06
21	0.30	0.31	0.06	0.06
22	0.31	0.32	0.06	0.06
23	0.32	0.33	0.06	0.06
24	0.33	0.34	0.07	0.07
25	0.34	0.35	0.07	0.07
26	0.35	0.37	0.07	0.07
27	0.36	0.38	0.07	0.07
28	0.37	0.39	0.08	0.08
29	0.39	0.41	0.08	0.08
30	0.40	0.42	0.08	0.08
31	0.42	0.44	0.08	0.08
32	0.43	0.45	0.09	0.09
33	0.45	0.47	0.09	0.09
34	0.47	0.49	0.09	0.10
35	0.49	0.51	0.10	0.10
36	0.51	0.53	0.10	0.10
37	0.53	0.56	0.11	0.11
38	0.56	0.58	0.11	0.11
39	0.59	0.61	0.12	0.12
40	0.61	0.64	0.12	0.12
41	0.64	0.67	0.13	0.13
42	0.68	0.71	0.14	0.14
43	0.72	0.75	0.15	0.15
44	0.76	0.79	0.15	0.15
45	0.80	0.84	0.16	0.16
46	0.85	0.89	0.17	0.17
47	0.91	0.94	0.19	0.18
48	0.97	1.01	0.20	0.20
49	1.04	1.08	0.21	0.21
50	1.12	1.16	0.23	0.23
51	1.21	1.25	0.25	0.25
52	1.31	1.36	0.27	0.27
53	1.43	1.49	0.30	0.29
54	1.57	1.64	0.33	0.32
55	1.74	1.81	0.37	0.36
56	1.95	2.03	0.41	0.40
57	2.22	2.31	0.47	0.45
58	2.55	2.66	0.54	0.52
59	3.00	3.13	0.63	0.61

TABLE IIA
Lump Sum Contributions for Staff in Class B PRSI
with maximum retiring age of 65

Age next birthday after exercise of purchase option	Non-Members of Spouse's and Children's Scheme		Members of Spouses' and Children's Scheme	
	Male (%)	Female (%)	Male (%)	Female (%)
20	7.96	10.15	10.90	11.05
21	8.08	10.30	11.03	11.21
22	8.21	10.46	11.18	11.37
23	8.33	10.61	11.32	11.53
24	8.46	10.77	11.47	11.70
25	8.59	10.94	11.63	11.88
26	8.72	11.10	11.78	12.04
27	8.85	11.27	11.95	12.22
28	8.99	11.44	12.11	12.40
29	9.13	11.61	12.28	12.58
30	9.27	11.78	12.46	12.76
31	9.40	11.96	12.63	12.95
32	9.55	12.14	12.81	13.14
33	9.69	12.32	12.99	13.33
34	9.84	12.51	13.18	13.53
35	9.99	12.70	13.37	13.73
36	10.15	12.89	13.55	13.93
37	10.30	13.09	13.75	14.13
38	10.46	13.29	13.94	14.34
39	10.62	13.49	14.14	14.55
40	10.79	13.70	14.34	14.76
41	10.96	13.91	14.54	14.98
42	11.13	14.13	14.75	15.20
43	11.31	14.35	14.95	15.42
44	11.49	14.57	15.17	15.65
45	11.68	14.80	15.38	15.89
46	11.87	15.04	15.60	16.12
47	12.07	15.28	15.84	16.37
48	12.27	15.52	16.04	16.61
49	12.49	15.77	16.27	16.87
50	12.71	16.04	16.51	17.12
51	12.94	16.31	16.74	17.39
52	13.18	16.58	16.99	17.65
53	13.43	16.87	17.24	17.95
54	13.70	17.16	17.50	18.24
55	13.99	17.46	17.77	18.54
56	14.30	17.78	18.05	18.85
57	14.63	18.11	18.35	19.18
58	14.98	18.45	18.66	19.51
59	15.36	18.81	19.00	19.86
60	15.76	19.19	19.35	20.22
61	16.20	19.58	19.73	20.61
62	16.67	20.00	20.14	21.02
63	17.17	20.44	20.58	21.45
64	17.72	20.91	21.06	21.90
65	18.36	21.53	21.46	22.58

TABLE IIB**Lump Sum Contributions for Staff in Class A PRSI with maximum retiring age of 65**

Age next birthday at exercise of option	% of net remuneration		% of remuneration	
	Male	Female	Male	Female
20	9.19	9.75	1.60	1.77
21	9.34	9.89	1.63	1.80
22	9.47	10.04	1.65	1.83
23	9.60	10.18	1.68	1.85
24	9.74	10.33	1.71	1.88
25	9.87	10.49	1.73	1.91
26	10.01	10.64	1.76	1.94
27	10.16	10.80	1.79	1.97
28	10.30	10.96	1.82	2.00
29	10.45	11.12	1.84	2.03
30	10.60	11.28	1.87	2.06
31	10.76	11.45	1.90	2.09
32	10.91	11.62	1.93	2.12
33	11.07	11.79	1.96	2.16
34	11.23	11.96	1.99	2.19
35	11.40	12.14	2.02	2.22
36	11.56	12.32	2.05	2.26
37	11.73	12.50	2.08	2.29
38	11.90	12.69	2.12	2.33
39	12.08	12.88	2.15	2.36
40	12.25	13.07	2.18	2.40
41	12.43	13.26	2.22	2.43
42	12.62	13.46	2.25	2.47
43	12.80	13.66	2.29	2.51
44	12.99	13.87	2.33	2.55
45	13.18	14.07	2.37	2.59
46	13.37	14.29	2.41	2.63
47	13.57	14.50	2.45	2.68
48	13.77	14.72	2.49	2.72
49	13.98	14.95	2.53	2.76
50	14.19	15.18	2.58	2.81
51	14.41	15.42	2.63	2.86
52	14.63	15.66	2.68	2.90
53	14.86	15.91	2.73	2.95
54	15.09	16.16	2.78	3.01
55	15.33	16.42	2.84	3.06
56	15.59	16.69	2.90	3.12
57	15.86	16.97	2.97	3.17
58	16.14	17.26	3.04	3.23
59	16.44	17.56	3.12	3.30
60	16.76	17.88	3.21	3.36

Appendix 2 to the Scheme for the purchase of notional service for superannuation purposes: limits on the amount of service which may be purchased.

1. The maximum amount of service which may be purchased depends on the Member's prospective pensionable service at age 65 and any retained benefits received or receivable by virtue of earlier service under another occupational pension scheme. (Retained benefits mean benefits from a previous pension scheme and include pensions, commutation payments, lump sums, gratuities and refunds of superannuation contributions.)
2. For a Member who would have at least **nine** years' reckonable service (excluding purchased service and notional added service) at age 65 and who is not entitled to retained benefits from a previous pension scheme, the maximum amount of notional service which may be purchased is as follows:-

Actual reckonable service (including transferred service but excluding purchased service and notional added service) which the Member would have if s/he remains in service until age 65	Maximum service which can be purchased
20 years or more	Difference between 40 years and reckonable service by age 65
19 years	17 years
18 years	15 years
17 years	13 years
16 years	11 years
15 years	9 years
14 years	7 years
13 years	5 years
12 years	4 years
11 years	3 years
10 years	2 years
9 years	1 year

3. **The limits outlined in the Table above are subject to the overriding restriction that the amount of service which may be purchased, together with service which is otherwise reckonable, shall not in any case exceed 40 years.**
4. Where the potential actual reckonable service at age 65 is less than 20 years but include days of service in excess of complete number of years, a number of days equal to 365 less the excess days in question may be purchased in addition to the appropriate number of years in the second column of the Table.
5. Where a Member is entitled to retained benefits for earlier service under another occupational pension scheme, and those benefits are identical to the benefits which would be payable under the Main Scheme for an equivalent period of service, the maximum number of years of notional service which may be purchased will be the smaller of
 - (1) the maximum specified in sub-Rule 2; and
 - (2) $40 - A - B$,

Where A is the reckonable service which the Member would have at age 65 and B is the length of the Member's pensionable service in the previous scheme.

6. Where the value of the retained benefits paid or payable is **not** identical to the value of the superannuation benefits which would be payable under the Main Scheme in respect of an equivalent period, the case should be referred to the Department of Finance for a decision as to the amount of service which may be purchased.

Appendix 3 to the Scheme for the purchase of notional service for superannuation purposes; Calculation of actuarially reduced equivalent of notional service purchased (see Rule 5.6 of Scheme)

Where payment of a superannuation benefit, other than a death gratuity or a benefit under the Company's spouses' and children's pension scheme, which takes account of purchased service commenced before the date of the Member's maximum retiring age (e.g. where a Member who is purchasing service retires before age 65) the following tables show the factors to be used in calculating the actuarially reduced equivalent of the proportionate service purchased at that date.

TABLE
(for Members with a maximum retiring age of 65)

Age at which payment of benefit commences	(a) Lump Sum	(b) Pension	
		<i>Male</i>	<i>Female</i>
64	0.98	0.92	0.93
63	0.95	0.85	0.87
62	0.93	0.78	0.82
61	0.91	0.73	0.77
60	0.89	0.68	0.72
59	0.87	0.63	0.68
58	0.85	0.58	0.64
57	0.83	0.55	0.61
56	0.81	0.51	0.58
55	0.79	0.48	0.55
54	0.78	0.45	0.52
53	0.76	0.42	0.49
52	0.74	0.40	0.47
51	0.72	0.38	0.45
50	0.71	0.36	0.43
49	0.69	0.34	0.41
48	0.68	0.33	0.39
47	0.66	0.31	0.37
46	0.64	0.29	0.35
45	0.63	0.28	0.34
44	0.62	0.27	0.33
43	0.60	0.25	0.31
42	0.59	0.24	0.30
41	0.57	0.23	0.29
40	0.56	0.22	0.28
39	0.55	0.21	0.27
38	0.53	0.20	0.26
37	0.52	0.20	0.25
36	0.51	0.19	0.24
35	0.50	0.18	0.23
34	0.49	0.17	0.22
33	0.47	0.17	0.21
32	0.46	0.16	0.20
31	0.45	0.15	0.20
30	0.44	0.15	0.19

(Note: In the table above, the age referred to is the Member's age on the birthday preceding payment of benefit.)

SCHEDULE III

OFFICE OF DIRECTOR OF TELECOMMUNICATIONS REGULATION SPOUSES' AND CHILDREN'S SCHEME

SHORT TITLE: 1. The Rules in this Schedule may be cited as the Office of Director of Telecommunications Regulation Spouses' and Childrens' Scheme (hereinafter in this Schedule called the Spouses' and Children's Scheme).

COMMENCEMENT: 2. This Spouses' and Children's Scheme shall be deemed to have come into force on the 1st June 1999, which shall be known as the date of commencement.

DEFINITIONS AND INTERPRETATIONS: 3. (1) In this Spouses' and Children's Scheme-

“adoption order” means an adoption order made under the Adoption Acts, 1952 to 1991;

“child”, subject to sub-Rule (2) (b) of this Rule, means a child or step-child of the deceased or a child lawfully adopted by the deceased, who is

(a) a person under sixteen years of age, or

- (b) a person under twenty-one years of age and is receiving full-time instruction at any university, college, school or other educational establishment, or
- (c) a person under twenty-one years of age and is undergoing full-time instruction or training by any person (in the Spouses's and Children's Scheme referred to as "the employer") for any vocation, profession or trade, being instruction or training approved of by the Company for the purposes of the Spouses' and Children's Scheme, or
- (d) a person who is permanently incapacitated by reason of mental or physical infirmity from maintaining himself and who when his permanent incapacity first occurred was a person described in any of the foregoing paragraphs of this definition;

"children's pension" has the meaning assigned to it by Rule 5 of the Spouses' and Children's Scheme;

“the Company” means the Director of Telecommunications Regulation;

“contributing member” means a Member who is serving as a pensionable employee of the Company;

“death gratuity”, except in the expression “preserved death gratuity”, means a gratuity payable on death by virtue of Rule 7.2 of the Main Scheme;

“the deceased” has the meaning assigned to it by Rule 5 of the Spouses' and Children's Scheme;

“the deceased’s pension” means:

- (a) in case, otherwise than on retirement on a medical certificate, he is awarded a pension, the amount of pension which would be granted to him if it fell to be calculated by reference to
 - (i) his net pensionable remuneration at the date of retirement as increased by reference to pension increases granted under Rule 10 of the Main Scheme during the period

between his retirement
and death, and

(ii) his reckonable service,

(b) in case, on retirement on a
medical certificate he is
awarded a pension, the pension
which would be granted to him
if it fell to be calculated by
reference to

(i) his net pensionable
remuneration at the date of
retirement as increased by
reference to pension
increases granted under
Rule 10 of the Main
Scheme during the period
between his retirement and
death, and

(ii) the reckonable service
which he would have had
if he had served to the age
of sixty-five years of age,

(c) in case, having resigned with
entitlement to a preserved
pension the deceased dies either
before or after the preserved
pension commences, an amount
equal to

D x E

where D is the number of years of his reckonable service at date of resignation, subject to a maximum of 40 years, and E is his net pensionable remuneration at date of resignation as increased by reference to pension increases granted under Rule 10 of the Main Scheme during the period between his resignation and death,

- (d) in case he dies while serving as a pensionable employee, the pension for which he would be eligible if paragraph (b) of this definition applied to him;

PROVIDED THAT for the purposes of this definition (i) in the case of a fully State-insured Member, net pensionable remuneration shall be the amount by which pensionable remuneration exceeds the rate of Old Age (Contributory) Pension payable on the last day of pensionable service to a person who has no adult dependant or qualified children and (ii) in the case of a Member who is not a fully State-insured Member net pensionable remuneration shall be construed as meaning pensionable remuneration;

“former member” means a person who retired from his position as a pensionable employee and was awarded a pension and lump sum or preserved pension and preserved lump sum;

“fully State-insured Member” means a Member who is insurable for all benefits under the Social Welfare Acts;

“lump sum”, except in the expression “preserved lump sum”, means a gratuity under Rule 7.2 of the Main Scheme;

“the Main Scheme” means the superannuation scheme as described in Schedule I of the Rules which is cited therein as the Office of Director of Telecommunications Regulation Superannuation Scheme;

“medical certificate” means, in relation to the retirement of any person, a medical certificate having regard to which the Company is satisfied that the person to whom the certificate relates is incapable from infirmity of mind or body of discharging the duties of his office and that that infirmity is likely to be permanent;

“Member” means a person who, pursuant to Rule 4, is a Member of the Spouses' and Children's Scheme;

“Minister” means Minister for Public Enterprise;

“pensionable remuneration” has the meaning assigned to it by Rule 5.7 of the Main Scheme;

“net remuneration” has the meaning assigned to it by Rule 5.4 of the Main Scheme;

“pension”, except in the expression “preserved pension”, means a pension under Rule 7 of the Main Scheme;

“periodic contributions” has the meaning assigned to it by Rule 10 (3) of the Spouses' and Children's Scheme;

“preserved death gratuity” means a gratuity payable on death by virtue of Rule 7 of the Main Scheme;

“preserved lump sum” and “preserved pension” mean respectively a lump sum and a pension payable by virtue of Rule 7.3 (a) (1) of the Main Scheme;

“reckonable service” means service which is reckonable under Rule 6 of the Main Scheme;

“remuneration” has the meaning assigned to it by Rule 5.3 of the Main Scheme.

“retiring salary” has the meaning assigned to it by Rule 5.5 of the Main Scheme.

“salary” has the meaning assigned to it by Rule 5.1 of the Main Scheme.

“spouse’s pension” has the meaning assigned to it by Rule 5 of the Spouses' and Children's Scheme;

“years” has the meaning assigned to it by Rule 3.9 of the Main Scheme.

- (2) (a) Where, in relation to a person referred to in paragraph (b) or (c) of the definition of “child” in paragraph (1) of this Rule, a break occurs in his full-time instruction or training, then unless the Company otherwise directs, he shall, for the duration of such break, be regarded as having ceased to be a child for the purposes of the Spouses' and Children's Scheme.

(b) The following shall not be regarded as a child within the meaning of the Spouses' and Children's Scheme, namely:

- (i) a person who was not wholly or mainly dependent on a Member immediately prior to the Member's death,
- (ii) a person who is married or is cohabiting with another as man and wife, or
- (iii) a person referred to in paragraph (c) of the said definition of "child" to, or in respect of whom, emoluments in respect of such instruction or training are payable by, or on behalf of, the employer and which are of such an amount as makes the person self-supporting,

provided that if there are compassionate grounds for so doing, the Company may as regards a person who apart from this sub-paragraph would be such a child direct that notwithstanding this sub-paragraph the person shall, with effect from such date as

is specified in the direction, be regarded as being such a child and in case the Company makes a direction under this sub-paragraph then for so long as the direction is in force the Spouses' and Children's Scheme shall, as regards the person to whom the direction relates, be construed and have effect in accordance with the direction.

- (3) (a) Any reference in the Spouses' and Children's Scheme to an adopted child of a Member shall be construed as a reference to a child adopted by him (whether alone or jointly with any other person) either in pursuance of an adoption order or in accordance with the law of a country or territory other than the State recognised by the law of the State as valid, and references to lawfully adopted or to a person by whom another person has been adopted shall be construed accordingly.
- (b) Where a married Member applies for an adoption order in respect of a child and dies before the adoption procedure is completed and the child is subsequently adopted by the

Member's spouse, the child shall, from the date on which the Member has custody of him, be deemed, for the purposes of the Spouse's and Children's Scheme, to be the Member's duly adopted child.

- (4) In the Spouses' and Children's Scheme every word importing the masculine gender shall be construed as if it also imported the feminine gender and every word importing the feminine gender shall be construed as if it also imported the masculine gender.

MEMBERS

4. All Members of the Main Scheme shall be Members of the Spouses' and Children's Scheme with effect from the date of commencement or, if later, the date of appointment to a pensionable post (as defined in Rule 4.1 of the Main Scheme).

**POWER TO GRANT
SPOUSES' &
CHILDREN'S PENSIONS**

5. Subject to the provisions of the Spouses' and Children's Scheme the Company, may, on the death of a contributing member or a former member (in the Spouses' and Children's Scheme referred to as "the deceased") to or in respect of whom a pension or death gratuity, or preserved pension or preserved death