
STATUTORY RULES OF NORTHERN IRELAND

1992 No. 547

**Local Government (Superannuation)
Regulations (Northern Ireland) 1992**

PART A

PRELIMINARY

Citation and commencement

A1. These Regulations may be cited as the Local Government (Superannuation) Regulations (Northern Ireland) 1992 and shall come into operation on 1st March 1993.

Interpretation

A2.—(1) Schedule 1 contains a glossary of expressions; and in these regulations, any expression for which there is an entry in the first column of that Schedule has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) In these regulations—

- (a) any reference to a Table, or to a numbered Table, is a reference to the Table, or to the Table bearing that number, in the regulation or Schedule in which that reference occurs;
- (b) reference to any Act of the Parliament of the United Kingdom or to any provision contained in an order, regulation, rule, scheme or other instrument having effect by virtue of such an Act shall be construed as references to that enactment as amended, extended, applied or re-enacted, by any other enactment and accordingly (without prejudice to the generality of the preceding provisions of this paragraph) any references to the Act of 1937 shall, unless the context otherwise requires, be construed as including a reference to the Act of 1953;
- (c) any reference to non-contributing service under a local Act scheme shall be construed as a reference to non-contributing service as defined in the relevant local Act scheme; and
- (d) any reference to a person's becoming an officer of an employing authority within 12 months after leaving employment subject to the Act of 1937 or a local Act scheme or within 12 months after ceasing to be a contributory employee or local Act contributor and any reference to the like effect shall be construed in relation to a person to whom section 6 of the Superannuation (Miscellaneous Provisions) Act 1948(1), became applicable as a reference to his becoming an officer within 5 years, or such longer period as the appropriate Minister or the Secretary of State for Scotland, as the case may be, may in any particular case have allowed, after so leaving such employment or ceasing to be such an employee or contributor as aforesaid.

(3) For the purposes of exercising any rights which are dependent on, and limited in time by reference to, a person's having become a pensionable employee, a person shall not be deemed to have become a pensionable employee on the date of coming into operation of these regulations

(1) 1948 c. 33

if, immediately before that date, he was an officer within the meaning of the 1981 regulations and, without any break in employment, is a pensionable employee within the meaning of these regulations.

PART B

PENSIONABLE EMPLOYMENT

Pensionable employees

B1.—(1) Paragraphs (2) to (4) have effect subject to paragraphs (5) to (8) and regulations B2 to B4.

(2) A whole-time officer of a body described in Part I of Schedule 2 (“a scheduled body”) is a pensionable employee.

(3) A whole-time manual worker employed by a scheduled body is a pensionable employee if he—

- (a) has completed 12 months' continuous employment with that body in which the contractual hours were 15 or more; or
- (b) without having received a return of the whole of his contributions, entered or re-entered employment with that body after having been in other local government employment; or
- (c) satisfies the requirements of Part II of Schedule 2.

(4) A variable-time employee of a scheduled body who is also a pensionable employee in a whole-time or part-time employment with any such body—

- (a) is a pensionable employee in the variable-time employment; and
- (b) if he ceases to hold the whole-time or part-time employment, remains a pensionable employee while he continues in the variable-time employment.

(5) Part III of Schedule 2 has effect for determining whether in a part-time employment in which he is not already a pensionable employee by virtue of paragraphs (2) to (4) an employee of a scheduled body is for the time being a pensionable employee.

(6) A scheduled body may resolve that a person who falls within paragraph (2), (3), (4) or (5) shall not become a pensionable employee by virtue of an election under regulations B2 or B4 unless he has undergone a medical examination to their satisfaction; and a resolution under this paragraph may apply to any specified person or to any specified class of persons.

(7) A scheduled body may resolve that a variable-time employee who is not also in their whole-time employment may become a pensionable employee.

(8) Notwithstanding anything in paragraphs (2) to (5), the following are not pensionable employees:

- (a) an existing officer, unless he exercised the option conferred by regulation 23 of the 1950 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme;
- (b) any member of the fire brigade as defined in Article 2(2) of the Fire Services (Northern Ireland) Order 1984(2);
- (c) any officer in the employment of the Fire Authority of Northern Ireland who was employed by the Northern Ireland Fire Authority immediately before 1st May 1954, and who did not

- exercise the option available to him under the relevant proviso to regulation 3(1) of the 1950 regulations to avail himself of the benefits of those regulations;
- (d) a person who has not attained the age of 18 years;
 - (e) a person who has attained the age of 65 years and has completed not less than 45 years' reckonable service;
 - (f) any other person who has attained the age of 65 years, unless—
 - (i) there has become payable to him a pension which is liable to be reduced or suspended under regulation E13 or an ill-health retirement grant under regulation E4; or
 - (ii) under any enactment he has received or is entitled to receive compensation for loss of employment or loss or diminution of emoluments attributable to the provisions of an enactment, and the compensation is liable to be reduced or suspended, in consequence of his taking up employment with a scheduled body, in the like manner and to the like extent as it would have been if he had remained subject to the pension scheme to which he was subject immediately before suffering the loss;
 - (g) a person who has attained the age of 70 years;
 - (h) any person in contributory service within the meaning of the Teachers (Superannuation) Act (Northern Ireland) 1950(3); and
 - (i) any person who as a member of staff of the University of Ulster is eligible to participate in a superannuation scheme operated under the Federated Superannuation System for Universities.

Opting into pensionable employment

B2.—(1) Notwithstanding anything in regulation B1 or Part III of Schedule 2, a person who was not a pensionable employee on 5th April 1988 shall not after that date become a pensionable employee unless he makes an election to become such.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person's employing authority.

(3) Subject to paragraph (4), if a person gives notice of election at least one month before the date on which he commences his employment with the employing authority or such lesser period before that date as the authority allows, the election shall have effect from that date unless the notice specifies otherwise and in any other case (whether the notice is given before or after the commencement of employment) it shall have effect from the day following the end of the relevant period, or such later date as may be specified in the notice.

(4) In an exempt case, the body to which notice of election is given may give notice to the person electing that he is not to become a pensionable employee; and a case is an exempt case for these purposes if that person—

- (a) has attained or would, on or by the date on which he would otherwise become a pensionable employee pursuant to the election, have attained the age of 50 years; and
 - (b) was first employed by that body before he attained that age.
- (5) A notice of election shall have effect—
- (a) subject to any subsequent notification under regulation B3; and
 - (b) both in relation to the employment with the body which is to become the person's employing authority and in relation to any subsequent employment under which the person may become a pensionable employee.

(6) In paragraph (3), “the relevant period” means the period of service to which the person’s payment of wages or salary due from the employing authority next after the day on which the notice of election is given relates.

Opting out of pensionable employment

B3.—(1) A pensionable employee may at any time notify his employing authority in writing that he does not wish to be such for the purposes of these regulations.

(2) Subject to paragraph (3), a person giving a notification under paragraph (1) shall cease to be a pensionable employee from the day following the end of the relevant period, or such later date as may be specified in the notification.

(3) In a case where the person was a pensionable employee on 5th April 1988 and the notification is given before 6th July 1988, he shall be treated as having ceased to be a pensionable employee on 6th April 1988 or such later date as may be specified in the notification.

(4) A person giving a notification under paragraph (1) shall not again become a pensionable employee in that or another employment unless he makes an election in accordance with regulation B4.

(5) Any contributions paid with respect to a period during which a person is to be treated by virtue of a notification under paragraph (1) as not having been a pensionable employee shall be returned to him.

(6) In paragraph (2), “the relevant period” means the period of service to which the person’s payment of wages or salary due from the employing authority next after the day on which the notification under paragraph (1) is given relates, or the period of 2 months beginning on that day, whichever ends the sooner.

Rejoining pensionable employment

B4.—(1) A person who would be or become a pensionable employee in accordance with these regulations but for a notification under regulation B3 may, notwithstanding the giving of that notification but subject to paragraphs (3) and (4), subsequently elect so to become a pensionable employee.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person’s employing authority.

(3) A person who has made an election under paragraph (1) and who subsequently gives another notification under regulation B3(1) may, subject to paragraph (4), make no further election under paragraph (1).

(4) Notwithstanding paragraph (3), a person may elect under paragraph (1) whenever he begins employment which might fall within regulation B1 with a different employing authority, provided the notice of election is given to that employing authority before or within the period of 3 months beginning with the day on which he begins that employment.

(5) Regulation B2(3) to (6) shall apply to an election under paragraph (1) as it applies to an election under regulation B2(1).

Power to admit employees of other bodies

B5.—(1) Subject to paragraphs (3) to (8), the Committee may make an agreement (“an admission agreement”) with any body specified in paragraph (10) providing for employees of that body (“the admitted body”) to participate in the benefits of the fund.

(2) In relation to an employee participating in the benefits of the fund by virtue of an admission agreement (“an admitted employee”) these regulations have effect as if he were a pensionable employee and the admitted body were a scheduled body.

(3) The terms and conditions of any agreement made under this regulation shall include provision that any question which may arise between the Committee and the body concerned relating to the construction of the agreement or to the rights and obligations thereunder of either party shall be determined by the Department and such determination shall be final.

(4) Subject to paragraph (5), an admission agreement may provide for members of a specified class or classes of employees of the admitted body to become admitted employees.

(5) An admission agreement may not provide for any person who—

- (a) has not attained the age of 18 years; or
- (b) has attained the age of 65 years and does not fall within regulation B1(8)(f),

to become an admitted employee, or for any part-time employee to become an admitted employee otherwise than as provided in Part III of Schedule 2 which shall, in relation to a part-time employee to whom the agreement applies, be taken to apply as if the admitted body were a scheduled body described in Part I of Schedule 2.

(6) Without prejudice to paragraph (2), regulations B2 to B4 shall, without further provision, be taken to apply to any employee to whom an admission agreement relates and in particular as if references to a pensionable employee included references to a person contributing to the fund by virtue of the agreement and references to regulation B1 included references to the agreement.

(7) Except as provided in paragraph (8), an admission agreement may not modify the application of these regulations to any admitted employee so that he has any greater or lesser rights or liabilities than those he would have had if he had become a pensionable employee by virtue of regulation B1.

(8) An admission agreement may provide that any previous period of employment of an admitted employee by the admitted body is to be reckonable as reckonable service to such extent as may be specified in the agreement.

(9) On making an admission agreement the Committee shall forthwith inform the Department of the name of the admitted body and the date from which the agreement takes effect.

(10) The bodies mentioned in paragraph (1) are—

- (a) a body representative of local authorities or of local authorities and officers of local authorities or a body representative of officers of local authorities formed for the purpose of consultation as to the common interest of those authorities and the discussion of matters relating to local government;
- (b) statutory undertakers;
- (c) non-statutory undertakers;
- (d) a body which provides a public service in Northern Ireland otherwise than for the purposes of gain or to whose funds any district council contribute or to whom any monies are payable from monies appropriated by Measure; and
- (e) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(4).

(11) In this regulation—

“statutory undertakers” means a body authorised by any statutory provision to carry on—

- (a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier, lighthouse or airport undertaking; or

- (b) any undertaking for the supply of electricity, gas or hydraulic power; or
- (c) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic;

“non-statutory undertakers” means a body who, though not authorised by any statutory provision to do so, are primarily engaged in carrying on—

- (a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier, lighthouse or airport undertaking; or
- (b) any undertaking for the supply of electricity, gas or hydraulic power; or
- (c) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic.

(12) Any agreement made under, or continued in force by, regulation 13 of the 1981 regulations shall continue in force as if it were an agreement made under this regulation, notwithstanding the revocation of those regulations by regulation S3.

Treatment of certain additional duties

B6. For the purposes of these regulations, a clerk of a district council who performs functions under Article 9(2) (conduct of elections) of the Electoral Law (Northern Ireland) Order 1972⁽⁵⁾ shall, in relation to those functions, be treated as if he were employed by that council and any fees paid to him in connection with those functions shall be treated as remuneration paid to him by that council.

Treatment of certain separate employments

B7. Where a person holds two or more separate employments under one scheduled body, these regulations apply in relation to each of those employments as if the other or others were held by him under another scheduled body.

Deemed employments

B8. In these regulations, references to employees of a scheduled body shall be construed as including references to persons who are deemed for the purposes of these regulations to be in the employment of a scheduled body and other provisions relating to employment by or under a scheduled body shall be construed accordingly.

PART C

PAYMENTS BY EMPLOYEES

Payment and amount of employee’s contributions

C1.—(1) Subject to paragraph (3), a pensionable employee shall, at such intervals as the Committee may determine, make contributions to the fund in respect of every employment in which he is a pensionable employee.

- (2) Subject to paragraph (3), the amount of the contribution to be made for any period is—
 - (a) in the case of a manual worker, 5%; and
 - (b) in the case of an officer, 6%.

(5) [S.I. 1972/1264 \(N.I. 13\)](#) as amended by the Local Government (Postponement of Elections and Reorganisation) (Northern Ireland) Order 1972 ([S.I. 1972/1998 \(N.I. 21\)](#))

of his remuneration in the employment; and any reduction in remuneration by reason of the actual or assumed enjoyment by the employee during any period of absence from duty of any statutory entitlement shall be disregarded.

(3) A pensionable employee who was making contributions in accordance with regulation 14(4) of the 1981 regulations shall be entitled to continue to make such contributions as if those regulations had not been revoked.

(4) A pensionable employee shall not make contributions in respect of any employment in relation to which he is entitled to reckon 45 years' reckonable service.

(5) For the purposes of paragraph (4), reckonable service does not include reckonable service before attaining the age of 60 years beyond a total of 40 years.

(6) For the purposes of this regulation, the remuneration of a part-time employee for any period, except a period during which he was on leave of absence from duty by reason of illness or injury with reduced remuneration or without remuneration, is to be taken to be the remuneration he would have received if during that period he had worked no more and no less than the contractual hours.

Leave of absence from duty

C2.—(1) A pensionable employee who is on leave of absence from duty in an employment, otherwise than by reason of illness or injury, with reduced remuneration or without remuneration, shall not make any contribution under regulation C1 in respect of the employment for the period of his absence.

(2) The employee shall for a period of 30 days beginning on the first day of the leave of absence, or for the period of absence if shorter, make contributions to the fund of amounts equal to the contributions he would have been required to make under regulation C1 on the remuneration he would have received during that period but for the leave of absence.

(3) If the employee gives notice in writing for the purpose to the employing authority not later than 30 days after—

- (a) the day on which he returns to duty; or
- (b) the day on which he ceases to be employed by that authority,

whichever is the earlier, he shall make such contributions as are mentioned in paragraph (2) for 36 months, or for the period of his absence if shorter.

(4) Where the leave of absence was given to enable the employee to attend—

- (a) for jury service in pursuance of a summons under the Juries (Northern Ireland) Order 1974(6); or
- (b) as a juror at an inquest under the Coroners Act (Northern Ireland) 1959(7),

and such attendance continues after the expiration of the period of 30 days mentioned in paragraph (2), the employee shall be deemed to have given such a notice as is mentioned in paragraph (3).

(5) This regulation does not apply where the leave of absence is given to enable the pensionable employee to perform relevant service within the meaning of the Local Government (Superannuation) (Reserve Forces) Regulations (Northern Ireland) 1991(8).

Absence due to trade dispute

C3.—(1) This regulation applies to a person who—

(6) S.I. 1974/2143 (N.I. 6)
(7) 1959 c. 15 (N.I.)
(8) S.R. 1991 No. 492

- (a) has been absent from duty, otherwise than on leave of absence, for a period of one or more days during and in consequence of a trade dispute; and
- (b) immediately before—
 - (i) the period of absence; or
 - (ii) where two or more periods of absence occurred in consequence of a single trade dispute, the first of those periods,
 was a pensionable employee.
- (2) For the purposes of paragraph (1)—
 - (a) a person whose contract of employment is terminated in consequence of a trade dispute is, notwithstanding the termination, to be treated as having been absent from duty after the termination if, not later than the day after the end of the trade dispute, he again becomes a pensionable employee of the same scheduled body; and
 - (b) it is immaterial whether or not—
 - (i) the person was participating in or financing or otherwise directly interested in the trade dispute; or
 - (ii) the employing authority were a party to the trade dispute.
- (3) In this regulation—

“relevant absence” means a period for which a person to whom this regulation applies was absent from duty as mentioned in paragraph (1);

“relevant contribution period” means a period which—

 - (a) is coextensive with one of the intervals at which a person to whom this regulation applies was required under regulation C1(1) to contribute to the fund; and
 - (b) includes all or part of a relevant absence;

“remuneration” does not include any guarantee payment under Part II of the Industrial Relations (No. 2) (Northern Ireland) Order 1976⁽⁹⁾; and

“trade dispute” has the meaning given by Article 2(4) and (7) of the Industrial Relations (Northern Ireland) Order 1992⁽¹⁰⁾.
- (4) Subject to paragraphs (5), (6) and (8), if notice in writing is given for the purpose by—
 - (a) a person to whom this regulation applies; or
 - (b) the personal representatives of a person to whom this regulation applied who has died before the end of the period of 3 months specified in paragraph (6) without giving such notice (referred to in this regulation as a “deceased employee”),
 the amount specified in paragraph (7) is payable in respect of a relevant contribution period to the authority to whom notice was given; and the authority shall pay to the fund any sum they received by way of full or part payment of that amount.
- (5) Where all or part of more than one relevant contribution period is included in a relevant absence or relevant absences which occurred in consequence of a single trade dispute, notice given for the purpose mentioned in paragraph (4) in respect of any one of those periods is of no effect unless notice is given in respect of all those periods.
- (6) Notice for the purpose mentioned in paragraph (4) must be given in writing, within the period of 3 months beginning on the day after the last day of the relevant contribution period or, where paragraph (5) applies, of the last of the relevant contribution periods, in respect of which it is given, or in the case of a deceased employee within the period of 12 months beginning on the date of his

⁽⁹⁾ S.I. 1976 No. 2147 (N.I. 28)

⁽¹⁰⁾ S.I. 1992 No. 807 (N.I. 5)

death, or in either case within such longer period as the authority may allow, to the authority who are, or as the case may be were last, the employing authority in relation to the person by or in respect of whom notice is given.

(7) The amount mentioned in paragraph (4) is an amount equal to 16% of the difference between

- (a) the person's remuneration (if any) for the relevant contribution period; and
- (b) the remuneration he would have received for that period if it had not included any relevant absence or part of a relevant absence.

(8) Notwithstanding anything in regulation C14, but without prejudice to the power of the Committee under that regulation to deduct from any payment by way of benefits under these regulations any sum remaining due on account of an amount payable under this regulation—

- (a) an employing authority shall not accept from a pensionable employee, or deduct from his remuneration; and
- (b) the Committee shall not recover from a pensionable employee,

in any period of 12 months ending with 5th April, by way of full or part payment of so much of any amount payable under this regulation as is attributable to any relevant absence during that period, any sum which, when aggregated with any such amounts as are mentioned in Schedule 7, would exceed 15% of his remuneration for that period.

Lump sum payment to increase reckonable service

C4.—(1) Subject to paragraph (3), a pensionable employee may, by notice in writing given to the Committee within 12 months after having first become a pensionable employee under these regulations or the 1981 regulations, elect to make a payment into the fund in order to become entitled under regulation D4 to reckon an additional period as reckonable service in relation to an employment in which he is a pensionable employee.

(2) The length of the period is not to exceed the maximum calculated in accordance with Schedule 3, the amount of the payment is to be calculated in accordance with Part I of Schedule 4, and the payment is to be made within one month after the date on which notice was given.

(3) An employee may not make an election under this regulation if he has attained the age of 65 years.

Periodical payments to increase reckonable service

C5.—(1) Subject to paragraph (4), a pensionable employee may at any time, by notice in writing given to the Committee, elect to make additional contributions to the fund in order to become entitled under regulation D5 to reckon an additional period as reckonable service in relation to an employment in which he is a pensionable employee.

(2) The length of the period is not to exceed the maximum calculated in accordance with Schedule 3 and the additional contributions are to be calculated in accordance with Part II of Schedule 4.

(3) The additional contributions—

- (a) are payable at such intervals as the Committee may determine from the employee's birthday next following the date of the election; and
- (b) subject to paragraph (5), cease to be payable on the day before the birthday on which, or as the case may be his last birthday before, the employee attains pensionable age.

(4) An employee may not make an election under this regulation if—

- (a) he has attained the age of 64 years; or

(b) the Committee have resolved that he should (at his own expense) undergo a medical examination and he has not done so to their satisfaction.

(5) Payment in accordance with paragraph (3) may be discontinued if the employee satisfies the Committee that its continuance would cause financial hardship.

Additional payments by certain pensionable employees in respect of previous service

C6.—(1) A whole-time manual worker who becomes a pensionable employee by virtue of regulation B1(3)(c) may make a payment into the fund in order to become entitled under regulation D9 to reckon as reckonable service in relation to the employment in which he is a pensionable employee the period during which he was in that employment before becoming a pensionable employee.

(2) The amount of a payment under paragraph (1) is an amount equal to the contributions which the person would have been required to make under regulation C1 if he had throughout the period been a pensionable employee.

(3) A payment under paragraph (1) is to be made, unless the Committee allow a longer period, within 6 months after the date on which the person became a pensionable employee.

(4) A payment under paragraph (1) is to be treated for the purposes of these regulations as if it consisted of contributions made under regulation C1 in respect of employment in which the person was a pensionable employee.

Additional payments in respect of previous part-time service

C7.—(1) In this regulation—

“eligible person” shall be construed in accordance with paragraphs (2) and (3);

“employing authority”, in relation to a person who has ceased to be a pensionable employee, means the body which was his employer when he was last a pensionable employee.

(2) Subject to paragraph (3) an eligible person is a person who became entitled by virtue of regulation D12 to reckon a period of service as qualifying service. or who would have been so entitled if that regulation and Part III of Schedule 2 had come into operation on 1st April 1986, and if the words “or 5” had been inserted after the words “paragraph 1(1)” in regulation D12.

(3) To enable a person to whom paragraph 5 of Part III of Schedule 2 applied to be treated as if regulation D12 applied to him for the purposes of paragraph (2), paragraph 5 shall be deemed to have continued in operation until 1st October 1990.

(4) A person is not an eligible person if he has ceased to be in the employment of an employing authority and on ceasing to hold such employment, was not entitled to any benefits under regulation E2(1)(c).

(5) An eligible person may, or if he has died, his widow or widower may by notice given in accordance with paragraph (7) elect to make payment to the fund in order that the eligible person may become entitled under regulation D13 to reckon an additional period as whole-time reckonable service.

(6) As soon as is reasonably practicable after 1st March 1993, an eligible person’s employing authority shall notify him or his widow in writing of the right of election under paragraph (5) and of the requirements of paragraph (7) as to notice.

(7) A notice of election—

(a) shall be given in writing to the eligible person’s employing authority not later than 6 months after he or his widow or widower has received a notification under paragraph (6);

- (b) shall specify the length of the period which the eligible person or his widow or widower wishes to be taken into account for the purpose of reckoning an additional period of whole-time reckonable service under regulation D13;
- (c) shall be irrevocable but, subject to paragraph (8), an eligible person or his widow or widower may by further notice given in accordance with sub-paragraph (a) increase the period specified under sub-paragraph (b).

(8) The length of the period specified under paragraph (7) shall not exceed the length of the period of service which the eligible person became entitled (or, in the circumstances described in paragraph (2), would have become entitled) to reckon as service before 1st April 1986 by virtue of regulation D12.

(9) Subject to paragraph (10), the amount payable by an eligible person or his widow or widower pursuant to an election under paragraph (5) shall be a capital sum calculated in accordance with Part I of Schedule 10.

(10) The employing authority may, in respect of an eligible person, agree to pay a proportion, not exceeding one half, of the sum referred to in paragraph (9), in which case the amount payable by that person or his widow or widower shall be reduced accordingly.

(11) As soon as is reasonably practicable after receiving a notice of election, the employing authority shall send it to the Committee together with a written statement of proportion (if any) of the sum referred to in paragraph (9) that they have agreed to pay.

(12) As soon as is reasonably practicable thereafter, the Committee shall calculate the sum referred to in paragraph (9), and shall send to the employing authority and the eligible person or his widow or widower a statement of that sum and of the amount payable by each of them and, when appropriate, the frequency and amount of any instalments to be paid in accordance with paragraph (15).

(13) Subject to paragraph (14), the employing authority shall pay to the Committee, not later than one month (or such longer period as the authority and the Committee may agree) after receiving the statement referred to in paragraph (12), the amount shown therein as payable by them, and regulation P10(5) shall apply to an amount payable under this paragraph as it applies to sums payable under regulation P10.

(14) The employing authority and the Committee may agree that paragraph (13) shall not apply, in which case the amount payable by the employing authority shall be recoverable under regulation P7 in the 3 year period following the next periodical valuation of the fund under regulation P5.

(15) Where the eligible person is a pensionable employee, the amount payable by him under paragraph (9) shall, subject to paragraphs (16) and (17), be paid by instalments of equal amounts at such intervals as the Committee may agree over a period—

- (a) equal in length to the period of service specified in the notice of the election under paragraph (7) or such longer period as the Committee may agree; or
- (b) until his 65th birthday,

whichever is the lesser period, and the first such instalment shall be paid not later than 2 months after service of the statement under paragraph (12).

(16) Instalments paid under paragraph (15) shall not in any year exceed such amount as, when added to all other payments made by the eligible person in that year under Part C is equal to the limit specified in paragraph 21 of Schedule 6 to the Finance Act 1989⁽¹¹⁾.

(17) Where by virtue of paragraph (16) the amount payable under paragraph (9) cannot be paid in full by the eligible person's 65th birthday, the amount outstanding on that birthday shall be paid in full to the Committee in a single payment made not later than 3 months after that birthday.

(11) 1989 c. 26

(18) The provisions of regulation C14 shall apply in relation to any instalments payable by a pensionable employee under this regulation as they apply in relation to contributions payable by a pensionable employee under regulation C1(1).

(19) Where the eligible person has ceased to be a pensionable employee on the date of service of the statement under paragraph (12) or dies before he has paid any instalments under paragraph (15), the amount payable by him or his widow or widower under paragraph (9) shall be paid in full to the Committee in a single payment made not later than 3 months after that date.

(20) Payment in accordance with paragraph (15) may be discontinued if the eligible person satisfies the Committee that its continuance would cause financial hardship.

Discontinuance of periodical payments in certain cases

C8.—(1) This regulation applies to a pensionable employee who has elected under regulation C5 to make additional contributions and who, before he has completed payment of those contributions makes an election under regulation C7.

(2) A pensionable employee to whom this regulation applies may, within 3 months after receiving the statement referred to in regulation C7(12), give notice in writing to the Committee that he does not intend to complete payment of additional contributions under regulations C5 and D5.

(3) Where a pensionable employee gives notice under paragraph (2), paragraphs 3 and 4 of Schedule 8 shall apply as if payment of additional contributions had been discontinued under regulation C5(5).

Payments to avoid reduction of retiring allowance and death grant

C9.—(1) This regulation applies to a pensionable employee whose retiring allowance would be subject to reduction under regulation E3(4) or (5) (reduction in respect of reckonable service before 1st April 1972, etc.).

(2) Subject to paragraphs (3) to (9), a person to whom this regulation applies may, by notice in writing given to the Committee, elect to make payment to the fund in order to avoid all or part of the reduction in his retiring allowance and in any death grant that may become payable under regulation E11.

(3) A notice under paragraph (2) must specify whether the reckonable service in respect of which the reduction is to be avoided is the whole, and if not, what part it is, of his reckonable service before, as the case may be—

- (a) 1st April 1972; or
- (b) in the case of a male employee, any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(4) An election may not be made in respect of a period of reckonable service of less than one year unless—

- (a) the whole of the person's reckonable service before 1st April 1972; or
- (b) where he has previously made an election in respect of part of that service, the remainder of it,

amounts to less than one year.

(5) A notice under paragraph (2) must specify whether payment is to be made—

- (a) by a lump sum; or
- (b) by instalments; or
- (c) by way of additional contributions.

- (6) An election to make payment by a lump sum or by instalments must be made within 12 months after first becoming a person to whom this regulation applies.
- (7) An election to make payment by a lump sum may not be made after attaining the age of 65 years.
- (8) An election to make payment by instalments may not be made—
- (a) before attaining the age of 60 years or after attaining the age of 65 years; or
 - (b) after making an election to make payment by way of additional contributions; or
 - (c) if in the particular case the Committee so resolve, without having, at his own expense, undergone a medical examination to their satisfaction.
- (9) Elections to make payment by way of additional contributions may be made from time to time, but not—
- (a) after attaining the age of 64 years; or
 - (b) after making an election to make payment by instalments; or
 - (c) if, in the particular case the Committee so resolve, without having, at his own expense, undergone a medical examination to their satisfaction.
- (10) Subject to paragraph (11) and to Part IV of Schedule 5, payment is to be made—
- (a) in the case of an election to make payment by a lump sum, in accordance with Part I of Schedule 5;
 - (b) in the case of an election to make payment by instalments, in accordance with Part II of that Schedule; and
 - (c) in the case of an election to make payment by way of additional contributions, in accordance with Part III of that Schedule.
- (11) Payment in accordance with paragraph (10) may be discontinued if the employee satisfies the Committee that its continuance would cause financial hardship.

Continuation of certain payments

C10.—(1) Where immediately before 1st March 1993 any payments remained to be made under a provision of the 1981 regulations specified in column (1) of the Table, they shall be deemed to be payments due under the corresponding provision of these regulations specified in column (2).

(1) 1981 Regulations	(2) These Regulations
Regulation 15 (avoidance of reduction of retiring allowance, etc.)	Regulation C9
Regulation 44 (increase of reckonable service on lump sum payment)	Regulation C4
Regulation 45 (increase of reckonable service on periodical payments)	Regulation C5
Regulation 46 (whole-time manual workers)	Regulation C6

(2) Where immediately before 1st March 1993 any payments remained to be made under a provision of the 1981 regulations specified in paragraph (3), they remain payable notwithstanding the revocation of the 1981 regulations by these regulations.

(3) The payments mentioned in paragraph (2) are payments under regulations 38 (Continuation of additional contributory payments commenced under the previous regulations) and 43 (Added years in certain cases) of the 1981 regulations.

(4) The second Schedule to the 1962 regulations shall be deemed to have continued to have effect in relation to any payments under regulation 38 of the 1981 regulations which remain payable by virtue of paragraph (2) and, in relation to any payments under regulation 43 of those regulations which remain so payable, Schedule 10 to those regulations shall be deemed to have effect.

Further additional contributions

C11.—(1) A pensionable employee may at any time elect to pay contributions under this regulation in addition to those provided for by the foregoing provisions of these regulations.

(2) Schedule 6 shall apply in relation to such an election and in relation to contributions payable under this regulation.

Effect of opting out of pensionable employment on certain additional payments

C12.—(1) This regulation applies where a pensionable employee who—

- (a) has elected under regulations C5 or C9 (including those regulations as applied by regulation C10(1) to make payments by way of additional contributions;
- (b) is making such payments in pursuance of regulation 43 of the 1981 regulations by virtue of regulation C10(2) of these regulations; or
- (c) is making payments in pursuance of regulation 38 of the 1981 regulations by virtue of regulation C10(2) of these regulations,

gives notification in accordance with regulation B3.

(2) In a case mentioned in paragraph (1)(a), no further payments by way of additional contributions shall be payable from the day on which the person giving the notification ceases to be a pensionable employee; and the benefits to which he is entitled in relation to those contributions shall be calculated as if the payments had been discontinued under regulations 15(9) or 45(5) of the 1981 regulations or regulations C5(5) or C9(11) of these regulations, as the case may be.

(3) In a case mentioned in paragraph (1)(b), no further payments by way of additional contributions shall be payable from the day on which the person giving the notification ceases to be a pensionable employee; and the benefits to which he is entitled in relation to those contributions shall be calculated as if the payments had been discontinued under proviso (i) to regulation 43(3) of the 1981 regulations.

(4) In a case mentioned in paragraph (1)(c), no further instalments shall be payable from the day on which the person giving the notification ceases to be a pensionable employee; and the provisions of paragraph 3(d) of the second Schedule to the 1962 regulations shall apply, as if he had ceased to hold his employment on the day on which he ceased to be a pensionable employee.

(5) Paragraph (2) shall not preclude a person who has elected under regulation B3 making a further election under regulations C5 or C9 after again becoming a pensionable employee.

Statement of remuneration received otherwise than from employing authority

C13.—(1) A pensionable employee who receives any part of his remuneration otherwise than from the employing authority shall provide the employing authority with half-yearly statements of his receipts in respect of that part.

(2) The statements are to relate to the periods 1st April to 30th September and 1st October to 31st March and are to be provided not later than 31st October and 30th April respectively.

(3) As soon as is reasonably practicable after receiving a request in writing from the employing authority the employee shall provide them with a statutory declaration verifying the correctness of any statement specified in the request.

Deduction and recovery of employee's contributions

C14.—(1) An employing authority may deduct from the remuneration payable by them to a pensionable employee—

- (a) contributions payable under regulations C1 and C2;
- (b) any amount payable under regulation C3;
- (c) any instalments or additional contributions payable to the fund; and
- (d) contributions payable under regulation C11.

(2) If and so far as deductions are not made under paragraph (1), the Committee may recover any sum remaining due—

- (a) as a simple contract debt in any court of competent jurisdiction; or
- (b) by deducting it from any payment by way of benefits under these regulations.

Return of employee's contributions in certain cases

C15.—(1) This regulation applies to a person who—

- (a) ceases to be employed by a scheduled body;
- (b) on so ceasing to be employed does not become entitled to a retirement pension;
- (c) does not, within one month and one day after so ceasing to be employed, become a pensionable employee in any employment with any scheduled body; and
- (d) though not ceasing to be employed, ceases to be a pensionable employee.

(2) For the purposes of this regulation, a person is to be treated as not becoming entitled to a retirement pension if—

- (a) he ceases to be employed in the circumstances mentioned in regulation E2(1)(c) and does not—
 - (i) make an election under regulation E2(5); or
 - (ii) fall within regulation E2(5)(a); or
- (b) he falls within regulations E2(1)(e) or E2(2).

(3) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 2 years' reckonable service and qualifying service is, subject to paragraphs (7) and (10), entitled to receive a payment under paragraph (6).

(4) A person to whom this regulation applies who is entitled to reckon an aggregate of 2 or more than 2 years' reckonable service, contributing service and qualifying service may, subject to paragraphs (7) and (10), by notice given in accordance with paragraph (5) elect to receive a payment under paragraph (6).

(5) Notice for the purposes of paragraph (4) must be given in writing to the Committee—

- (a) not earlier than one month and two days after the date on which the person ceased to be employed as mentioned in paragraph (1)(a); but
- (b) within the period of 12 months beginning on that date.

(6) A payment under this paragraph is a payment out of the fund of a sum equal to—

- (a) the aggregate amount of the person's contributions to the fund; and

- (b) if he ceased to be employed for any reason other than—
- (i) his voluntary resignation; or
 - (ii) his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct,

compound interest on the amount mentioned in paragraph (a) calculated to the date on which he ceased to be employed, for any period before 1st April 1972 at the rate of 3% per annum with half-yearly rests on 31st March and 30th September, for any other period before 1st April 1980 at the rate of 4% per annum with yearly rests on 31st March and for any period after 31st March 1980 at the rate of 9% per annum with yearly rests on 31st March.

(7) Paragraphs (3) and (4) do not apply to a person who ceases to be employed in consequence of—

- (a) an offence of a fraudulent character; or
- (b) grave misconduct,

in connection with his employment.

(8) Where paragraph (7) applies to a person, the Committee may, subject to paragraphs (9) and (10), direct the payment out of the fund—

- (a) to him; or
- (b) where paragraph (7)(a) applies, to him or to his spouse or any dependant of his,

of a sum equal to the whole or a part of the aggregate amount of his contributions to the fund.

(9) If the person ceased to be employed in the circumstances mentioned in regulation E2(1)(c), a direction under paragraph (8) may only be given in respect of contributions relating to a period of service in respect of which the Committee have given a direction as to forfeiture under regulation M1.

(10) No payment shall be made under this regulation—

- (a) to a person who, having ceased to be employed in the circumstances mentioned in regulation E2(1)(c) and not having given a notice under paragraph (4), again becomes a pensionable employee and gives notice under regulation E2(9); or
- (b) in the case of a person whose period of reckonable service and qualifying service is 2 years or more, in respect of any period of reckonable service and qualifying service after 5th April 1975; or
- (c) in the case of a person who ceases to be employed in the circumstances mentioned in regulation E2(1)(c) or falls within regulation E2(1)(e), in respect of any period of service in contracted-out employment by reference to the scheme; or
- (d) to a person who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation E4.

(11) A payment under paragraph (6) to a person falling within paragraph (3) shall be made at the end of the 12 months following the termination of his employment or in accordance with any written request received by the Committee for earlier payment (but in no case earlier than one month and two days after the termination of the employment) or for later payment.

(12) The Committee shall deduct from any payment (with or without interest) under this regulation any tax to which they may become chargeable under section 598 of the Act of 1988 (which relates to charge to tax on repayment of employee's contributions).

(13) In this regulation “relevant remuneration” means, in relation to a person to whom this regulation applies, the remuneration on which contributions were paid—

- (a) under regulation C1 or C2; or

- (b) under the corresponding provisions of the former regulations; or
- (c) under some other superannuation scheme in respect of service or employment which became, by virtue of regulation J9, or otherwise, reckonable for the purposes of these regulations.

(14) In this regulation references to the aggregate amount of a person's contributions to the fund include references to the contributions and amounts specified in paragraph (15) in so far as they—

- (a) have not been returned to the person or, if they have been returned to him, he has repaid the amount he received and any further amount which he was required under these or the previous regulations to pay; and
- (b) are attributable to service which might have been reckoned under these regulations in relation to the employment he has ceased to hold or in which he has ceased to be employed as a pensionable employee; and
- (c) are not attributable to any earlier period of service in respect of which a pension, retiring allowance, injury allowance, or short service gratuity has been paid.

(15) The contributions and amounts mentioned in paragraph (14) are—

- (a) any contributions paid by him to the fund—
 - (i) under regulations C1 or C2; or
 - (ii) under the corresponding provisions of the former regulations;
- (b) any amount paid by him—
 - (i) by way of additional contributory payments or which are deemed to be additional contributory payments or added period payments;
 - (ii) under regulations C3 or C9;
 - (iii) under regulation 15 of the 1981 regulations.

Effect of return to local government on right to a return of contributions

C16. A person's right to a payment under regulation C15 is extinguished if—

- (a) he returns to local government employment after leaving previous local government employment with a right to such a payment;
- (b) on the date on which he returns to local government employment he has not received the payment; and
- (c) he has not given, within 3 months after that date, or such longer period as the Committee may allow, written notice to the Committee that he wishes to receive an immediate payment.

Reduction of returned contributions following payment in lieu of contributions

C17.—(1) Subject to the provisions of this regulation, where a pensionable employee leaves employment in circumstances—

- (a) to which regulation 6 of the Transitional Provisions Regulations does not apply; and
- (b) in which returned contributions are due and a payment in lieu of contributions has previously been made in respect of him in circumstances in which returned contributions were not due,

those returned contributions shall be reduced by a sum equal to the amount, or the aggregate of the amounts, by which under section 59(5) of the Insurance Act (which defines an employer's rights against an insured person in respect of payments in lieu of contributions) they could have been reduced if returned at the time when the previous payment in lieu of contributions was made.

(2) Paragraph (1) shall also apply for the reduction of returned contributions where a payment in lieu of contributions has been made under any insurance code in respect of any period of former employment which is reckonable as service as a pensionable employee if—

- (a) that payment in lieu was made in circumstances not involving the return of any superannuation contributions made by him in that employment; and
- (b) the transfer value payable in respect of that employment has been adjusted to take account of that payment in lieu,

and where no superannuation contributions were payable in that employment, any amount returnable in respect of contributions deemed to have been made therein shall be reduced by a sum equal to one half of that payment in lieu.

(3) No payment in lieu of contributions shall be taken into account for the purposes of paragraphs (1) and (2)—

- (a) on more than one occasion; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(12) or any corresponding enactment in force in Great Britain or the Isle of Man.

(4) Where the employment of a pensionable employee comes to an end in circumstances to which regulation 6 of the Transitional Provisions Regulations applies, the amount of returned contributions to which he is entitled shall be reduced by any amount which, under section 59 of the Insurance Act as modified by the said regulation 6, the person who has made or is liable to make a payment in lieu of contributions in respect of such employee, or would be so liable had the employee not been assured of equivalent pension benefits, is entitled either to recover from the person liable for the returned contributions or to retain out of the returned contributions.

(5) Where returned contributions are due in the circumstances mentioned in paragraph (1) or paragraph (4) on the cessation of two or more concurrently held employments, the reduction required by that paragraph shall be made in relation to such one only of the employments as is determined by the Committee.

(6) Where returned contributions are reduced under paragraph (1) or under section 59(5) of the Insurance Act or the said section 59(5) as modified by regulation 6 of the Transitional Provisions Regulations or under any corresponding provision of the Great Britain Acts or the Isle of Man Act, any sum so deducted shall not form part of any amount payable to or in respect of him, either as returned contributions or as a benefit ascertained by reference to the amount of the contributions paid by him, on the occasion of any later cessation of his employment.

(7) In this regulation, “returned contributions” means an amount payable under regulation C15 to, or in respect of, a pensionable employee by way of a return of contributions.

Limitation of payments

C18. Schedule 7 has effect for the limitation, in certain circumstances, of payments under this Part.

PART D

SERVICE

Reckonable service

D1.—(1) Subject to paragraphs (2) and (3) and regulations D3 and D8, a pensionable employee is entitled to reckon as reckonable service, in relation to an employment in which he is a pensionable employee—

- (a) any period for which he has paid contributions under regulations C1 or C2;
- (b) any period which was reckonable as contributing service by virtue of regulations 39 or 40(1)(a) of the 1981 regulations;
- (c) any period which he is entitled to reckon as reckonable service by virtue of regulations D4 to D7 or Part F (war service); or
- (d) any period which he is entitled to reckon by virtue of regulation 4 of the Local Government (Superannuation) (Reserve Forces) Regulations (Northern Ireland) 1991(13).

(2) A period of absence from duty without remuneration, otherwise than on leave of absence, may not be reckoned as reckonable service unless—

- (a) that period was a relevant absence; and
- (b) the amount specified in regulation C3(7) has been paid in respect of every relevant contribution period, all or part of which was included in that relevant absence.

(3) Where the amount specified in regulation C3(7) has been paid in respect of a relevant contribution period, so much of any relevant absence as was included in that period may be reckoned as reckonable service whether or not a contract of employment continued to subsist during the relevant absence or any part of it.

Qualifying service

D2. Subject to regulation D3, a pensionable employee's qualifying service is—

- (a) any period which he is entitled to reckon as qualifying service by virtue of regulations D10, D11, D12 or J9(1)(b); and
- (b) any period which was reckonable at its full length by virtue of regulation 40(1)(a) of the 1981 regulations.

Exclusion from reckonable service and qualifying service

D3.—(1) Subject to regulation E14 (combined benefits), a pensionable employee who—

- (a) has entered the employment of a scheduled body or former local authority after becoming entitled to receive payment in respect of any superannuation benefit other than a superannuation benefit under the Insurance Act; or
- (b) has entered such employment after becoming entitled to a benefit under regulation E2(1) (c) and has given notice under regulation E2(8)(c) (retention of entitlement to preserved benefits),

is not entitled to reckon as reckonable service any period of which account has been taken for the purpose of determining whether he was entitled to that benefit or of which account has been or is to be taken for the purpose of calculating its amount.

(2) Subject to regulation E14, a pensionable employee who—

- (a) ceased on or after 6th April 1975 and before 9th February 1979 to hold a local government employment (“the first employment”); and
- (b) within one month and one day after ceasing to hold the first employment—
 - (i) entered the employment in which he is a pensionable employee; and
 - (ii) became in that employment a pensionable employee; and
- (c) in respect of his ceasing to hold the first employment received a return of contributions under the 1981 regulations,

is not entitled to reckon as reckonable service any period in respect of which the return of contributions was made.

- (3) Subject to regulation E14, a pensionable employee who—
 - (a) on ceasing to hold a local government employment became entitled to a benefit under regulation E2(1)(c); and
 - (b) in respect of his ceasing to hold that employment received a return of the whole of the aggregate amount of his contributions to the fund within the meaning of regulation C15,

is not entitled to reckon as reckonable service any period in respect of which the return of contributions was made.

- (4) Subject to regulation E14, a pensionable employee who—
 - (a) on ceasing to hold a local government employment became entitled to a benefit under regulation E2(1)(c); and
 - (b) in respect of his ceasing to hold that employment received a return of part of the aggregate amount mentioned in paragraph (3)(b); and
 - (c) did not enter the employment in which he is a pensionable employee after becoming entitled to receive payment in respect of any superannuation benefit other than a superannuation benefit under the Insurance Act; and
 - (d) has not given notice under regulation E2(8)(c),

is not entitled to reckon as reckonable service any period in respect of which the return of contributions was made.

- (5) Subject to paragraph (6), a pensionable employee who—
 - (a) before entering the employment in which he is a pensionable employee was in another local government employment (“the first employment”); and
 - (b) in respect of his ceasing to hold the first employment received a return of contributions under the 1981 regulations or under these regulations,

is not entitled to reckon either as reckonable service or as qualifying service any period in respect of which the return of contributions was made.

- (6) Paragraph (5) does not apply where paragraph (2), (3)(a) or (4)(a), (c) and (d) applies.

- (7) Where—

- (a) before entering the employment in which he is a pensionable employee he was in another local government employment (“the first employment”); and
- (b) on his ceasing to hold the first employment a transfer value was paid by the Committee,

a pensionable employee is not entitled to reckon either as reckonable service or as qualifying service any period in respect of which the transfer value was paid.

(8) A woman who exercises, in accordance with Article 29 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976⁽¹⁴⁾ a right to return to work after being absent from work wholly or partly because of pregnancy or confinement is, unless she has given notice under regulation E2(8) (c), to be treated as not having entered a local government employment in any of the circumstances mentioned in this regulation.

Increase of reckonable service on lump sum payment

D4. A pensionable employee who has made a payment in accordance with regulation C4 is entitled to reckon as reckonable service in relation to the relevant employment the period in respect of which the payment was made.

Increase of reckonable service on making periodical payments

D5. A pensionable employee is entitled to reckon as reckonable service in relation to the relevant employment—

- (a) if he completes payment of additional contributions in accordance with regulation C5(3), the additional period in respect of which payment was made; or
- (b) if he begins such payment but does not complete it, an additional period calculated in accordance with Schedule 8.

Increase of reckonable service on completion or cessation of payments under former regulations

D6.—(1) Where regulation C10(1) applies, on the making or, as the case may be, the completion or discontinuance of any payments deemed to be due under regulations C4, C5 or C6 a pensionable employee is entitled to reckon additional service in accordance, respectively, with regulations D4, D5 or D9.

(2) Where regulation C10(2) applies, on the making or, as the case may be, the completion or discontinuance of any payments of a kind there mentioned (“the relevant event”) a pensionable employee is entitled to reckon additional service to the same extent as if the relevant event had occurred before 1st March 1993.

Increase of reckonable service at discretion of employing authority

D7.—(1) Subject to paragraphs (2) and (3), if the employing authority are satisfied that, having regard to the interests of the efficient exercise of their functions, there are exceptional reasons for doing so they may resolve to add an additional period to a pensionable employee’s reckonable service.

(2) A resolution under paragraph (1) may be passed before or within 6 months after the person becomes a pensionable employee in the authority’s employment, but not after he has attained the age of 59 years unless he did so after becoming such an employee.

(3) The additional period is to be specified in the resolution and is not to exceed the maximum determined in accordance with Schedule 3.

(4) Where the employing authority have passed a resolution under paragraph (1) and the employee

- (a) remains in his employment under that authority until he attains pensionable age; or

⁽¹⁴⁾ S.I. 1976/2147 (N.I. 28) as amended by The Industrial Relations (Northern Ireland) Order 1982 (S.I. 1982/528 (N.I. 8)), Article 13(3)

- (b) on ceasing to hold that employment before attaining that age is incapable of discharging efficiently the duties of the employment by reason of permanent ill-health or infirmity of mind or body; or
- (c) dies while in that employment, he is entitled to reckon as reckonable service the additional period specified in the resolution.

(5) In any other case where the employing authority have passed such a resolution, the employee is entitled to reckon as reckonable service an additional period of

$$\frac{A \times T}{R}$$

where—

A is the additional period specified in the resolution;

T is the period during which the employee has been in the employment of the authority who passed the resolution; and

R is the period during which the employee would have been in that employment if paragraph (4) (a) had applied.

Reduction of added years reckonable on payment as reckonable service

D8.—(1) This regulation applies where—

- (a) a consent was given under regulation 43 of the 1981 regulations or the corresponding provision of the former regulations;
- (b) the person in respect of whom the consent was given is a person in relation to whom regulation F3 applies;
- (c) the notice of election under regulation 98 of the 1981 regulations was given within the period of 6 months beginning on the relevant date, or in the case of a deceased employee (within the meaning of Part F) who died during that period, within the period of 12 months beginning on the date of his death; and
- (d) apart from this regulation some of the person's reckonable service would, or would if payments under regulation C10(2) were to continue up to the age specified in regulation 43(3)(a) or (b) of the 1981 regulations, be left out of account in accordance with regulation E26(1)(a) or (4).

(2) For the purposes of paragraph (1)(c) the relevant date—

- (a) where regulation F3(2)(d) applies, is 12th December 1985; and
- (b) in any other case, is 1st December 1984.

(3) Where this regulation applies, the consent shall be deemed always to have related not to the original number of added years but instead to the longest additional period that would not entail any such leaving out of account of reckonable service as is mentioned in paragraph (1)(d), and payments made and any remaining to be made are to be adjusted accordingly.

Previous service of certain pensionable employees

D9.—(1) A pensionable employee who has made payment under regulation C6(1) is entitled to reckon as reckonable service in relation to the employment in which he became a pensionable employee the period during which he was in that employment before becoming a pensionable employee.

(2) A pensionable employee who has made a payment under regulation C6(2) is entitled to reckon as reckonable service in relation to his local government employment the period in respect of which the payment was made.

Previous service of certain variable-time employees

D10.—(1) This regulation applies to a person who—

- (a) while a pensionable employee in the whole-time employment of a scheduled body becomes a variable-time employee of any scheduled body; and
- (b) while remaining a pensionable employee in the whole-time employment becomes a pensionable employee in the variable-time employment.

(2) A person to whom this regulation applies is entitled to reckon as qualifying service in relation to the variable-time employment any period which, when he became a pensionable employee in the variable-time employment, he was entitled to reckon as reckonable service or qualifying service in relation to the whole-time employment.

Previous service of certain re-employed pensioners

D11.—(1) A person who—

- (a) has become entitled to a retirement pension, otherwise than by virtue of regulation E2(2); and
- (b) enters further employment with any scheduled body in which he becomes a pensionable employee,

is entitled to reckon as qualifying service the period in respect of which he became entitled to the retirement pension.

(2) A person—

- (a) who is in receipt of a pension payable out of public funds;
- (b) who enters employment with any scheduled body in which he becomes a pensionable employee; and
- (c) whose pension is on that account liable to be reduced or suspended, is entitled to reckon as qualifying service the period in respect of which the pension was granted.

(3) A person who—

- (a) after becoming entitled on ceasing to hold an employment (“the first employment”) to a retirement pension by virtue of regulation E2(1)(c) enters further employment with any scheduled body in which he becomes a pensionable employee; and
- (b) in respect of his ceasing to hold the first employment has received a return of the whole or a part of the aggregate amount of his contributions to the fund within the meaning of regulation C15,

is entitled to reckon as qualifying service the period in respect of which the return of contributions was made.

(4) In paragraph (1), “retirement pension” includes an ill-health grant under regulation E4 and an annual pension under the former regulations.

Previous service of part-time employees

D12.—(1) A person who—

- (a) has become a pensionable employee by virtue of an election under paragraph 1(1) of Part III of Schedule 2 made before 1st October 1990 or by virtue of paragraph 4 of that Part; or

- (b) has become a pensionable employee in a whole-time employment at any time after 31st March 1974 and before 1st October 1990 and had previously been in a part-time employment under a scheduled body, is entitled to reckon as qualifying service in relation to the employment in which he is a pensionable employee any previous period of employment under a scheduled body after the material date, except a period which was followed by one of 12 months or more during which he was not employed by a scheduled body.

(2) The material date is the earliest date from which, if Part III of Schedule 2 had come into force on 1st April 1974, an election or, as the case may be, a deemed election by him could have had effect.

Increase of reckonable service of part-time employees

D13.—(1) A person who has made, or whose widow or widower has made one or more payments under regulation C7 (15) or (19) is entitled to reckon as whole-time reckonable service an additional period calculated in accordance with Part II of Schedule 10.

(2) In respect of a person who is entitled to reckon service after 5th April 1988 as reckonable service under regulation D1, the additional period shall be treated as reckonable service after that date. In any other case it shall be treated as reckonable service before 6th April 1988.

Intervals in service due to illness or injury

D14.—(1) Notwithstanding anything in these regulations, a pensionable employee whose remuneration is suspended owing to leave of absence from duty on account of illness or injury shall be deemed to have ceased his employment as a pensionable employee from the date on which his remuneration was so suspended except for the purposes of regulations E2, E5(1)(c), E6(2)(b), E7, E8, E10, E11(1)(a) and (d), E12 and E17.

(2) Where a person ceases or is deemed by virtue of paragraph (1) to have ceased his employment as a pensionable employee on account of illness or injury, no account shall be taken of any period during which he is incapable of resuming employment as a pensionable employee or a period of 2 years, whichever is the less, in determining whether—

- (a) he has entered employment as a pensionable employee within 12 months after leaving that previous employment; or
- (b) for the purposes of regulation E28(1) and Part I of Schedule 15 he has had such break in employment as is referred to therein:

Provided that—

- (i) the said period of 2 years may be extended to such longer period as the Committee may in any particular case allow; and
- (ii) in the case of a person mentioned in paragraph (1) who ceases to be employed whilst his remuneration is suspended and whilst he is incapable of resuming his employment, the period during which his remuneration is suspended and any further consecutive period during which he is incapable of resuming employment as a pensionable employee shall be aggregated for the purposes of this paragraph.

PART E

BENEFITS

Guaranteed minimum pension for certain pensionable employees and their widows or widowers

E1.—(1) This regulation applies if the employment of a pensionable employee in any local government employment is contracted-out employment.

(2) Where this regulation applies it overrides anything in these regulations that is inconsistent with it, except regulations E13 (reduction of retirement pension in the case of certain re-employed pensioners), E18 (power to compound certain small pensions) and M1 (forfeiture of rights).

(3) Where this regulation applies and the pensionable employee has a guaranteed minimum under Article 37 of the Pensions Order in relation to benefits under these regulations—

- (a) unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum;
- (b) if he attains state pensionable age while in local government employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum;
- (c) if the pensionable employee is a man and dies at any time leaving a widow, unless she is entitled to a widow's pension at a higher rate she is, during any such period as is mentioned in Article 38(6) of the Pensions Order, entitled to a pension at a weekly rate equal to half that guaranteed minimum; and
- (d) if the pensionable employee is a woman and dies at any time leaving a widower, unless he is entitled to a widower's pension at a higher rate he is, during any such period as is prescribed under Article 38(7A) of the Pensions Order⁽¹⁵⁾, entitled to a pension at a weekly rate equal to half of that part of the pensionable employee's guaranteed minimum which is attributable to earnings factors for the tax year beginning 6th April 1988 and subsequent tax years.

(4) The guaranteed minimum pensions referred to in paragraph (3) shall, insofar as they are attributable to earnings factors in the tax years from (and including) 1988-89, be increased in accordance with the requirements of Article 39A of the Pensions Order⁽¹⁶⁾ and to the extent of any orders made thereunder.

(5) Where the commencement of the guaranteed minimum pension to which an officer is entitled under the scheme is postponed for any period or the whole or part of that pension is suspended during any period his guaranteed minimum shall be increased to the extent, if any, specified in Article 37(6) of the Pensions Order, as amended from time to time.

Entitlement to retirement pension and retiring allowance

E2.—(1) Subject to paragraphs (3) to (9), when a person ceases to hold a local government employment he becomes entitled in relation to that employment to an annual retirement pension and a lump sum retiring allowance if—

- (a) he has attained the age of 60 years and the total of his reckonable service and any qualifying service is not less than 25 years; or

⁽¹⁵⁾ Article 38(7A) was inserted by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Article 11(3)

⁽¹⁶⁾ Article 39A was inserted by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Article 11(7)

- (b) the total of his reckonable service and any qualifying service is not less than 2 years and—
 - (i) he is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body; or
 - (ii) he has attained the age of 65 years; or
 - (iii) he has attained the age of 50 years and one of the conditions in paragraph (3) is satisfied; or
 - (c) neither sub-paragraph (a) nor sub-paragraph (b) applies and—
 - (i) the total of his reckonable service and any qualifying service is not less than 2 years; or
 - (ii) he is treated by virtue of regulation J13(3), as having ceased to hold the employment on becoming subject in it to an approved non-local government scheme; or
 - (d) he has attained the age of 60 years and has completed 10 years' service, provided that he was a pensionable employee before 1st April 1972; or
 - (e) none of the preceding sub-paragraphs applies and he—
 - (i) has attained state pensionable age; or
 - (ii) would attain state pensionable age before the following 6th April.
- (2) When a person ceases to hold a local government employment he becomes entitled in relation to that employment to an annual retirement pension if—
- (a) he is not so entitled under paragraph (1)(a) to (c), or he is entitled under paragraph (1)(c) but makes an election under regulation C15(4) and receives a return of contributions (in which case he shall be treated as having ceased to hold the employment on the day before the date of receipt); and
 - (b) the whole or some part of his reckonable service was service in a non-participating employment or was reckonable service which relates to employment with a non-local government employer in a non-participating employment; and
 - (c) a period of his service in a non-participating employment came to an end by reason of the repeal of section 55(1) of the Insurance Act or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation — Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(17) as modified by regulation 10(2)(a) or (b) of the Transitional Provisions Regulations; and
 - (d) at some time during the settlement period (within the meaning of regulation 2 of the Transitional Provisions Regulations) he became, and has remained, assured of equivalent pension benefits.
- (3) The conditions mentioned in paragraph (1)(b)(iii) are—
- (a) that the employing authority certify that the person has ceased to hold the local government employment by reason of redundancy or in the interests of the efficient exercise of their functions; or
 - (b) that the person was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.
- (4) Benefits to which a person has become entitled by virtue of paragraph (1)(a) or (b) are payable immediately.
- (5) Subject to paragraphs (8) to (10), preserved benefits become payable from the date on which the person attains pensionable age, or if earlier—

- (a) from any date on which he becomes incapable by reason of permanent ill-health or infirmity of mind or body of discharging efficiently the duties of the employment he ceased to hold; or
 - (b) from any date after he has attained the age of 50 years from which the employing authority, with the agreement of the Committee, determine on compassionate grounds that the benefits are to become payable; or
 - (c) in the case of a woman, from the first date on which she both—
 - (i) has attained the age of 60 years; and
 - (ii) is no longer in any local government employment,unless he is a man who has attained the age of 60 years and has, on or after but not more than 3 months after the date of his attaining that age or of his ceasing to be employed, whichever is the later, by notice in writing to the employing authority elected to receive payment from that date.
- (6) Subject to paragraph (10), benefits to which a man has become entitled by virtue of paragraph (1)(e) are payable—
- (a) if he ceased the employment before he attained the age of 65 years and has made an election by notice in writing given to the employing authority not later than 3 months after ceasing to hold the employment, immediately on ceasing the employment;
 - (b) if he ceased the employment before he attained the age of 65 years and has not made an election under sub-paragraph (a), from the date on which he attains the age of 65 years;
 - (c) if he ceased the employment on or after attaining the age of 65 years, immediately on ceasing the employment.
- (7) Benefits to which a woman has become entitled by virtue of paragraph (1)(e) are payable from the first date on which she has both attained the age of 60 years and is no longer in any local government employment.
- (8) A person who is entitled to preserved benefits ceases to be entitled to them—
- (a) if the whole of the aggregate amount of his contributions to the fund, within the meaning of regulation C15, has been returned to him (whether with or without interest) under that regulation or under regulation 16 of the 1981 regulations and, after receiving the return of contributions, he has no further right to reckon any reckonable service to which a transfer value accepted under regulation J8 relates; or
 - (b) if rights in respect of the reckonable service he was entitled to reckon in relation to the employment he ceased to hold have been transferred to a non-local government scheme by virtue of the payment of a transfer value; or
 - (c) if he re-enters local government employment, unless he elects to remain entitled to the preserved benefits; or
 - (d) if the body who employed him in that employment which he ceased to hold certify under regulation E21 that on ceasing to hold it he suffered a material reduction in remuneration.
- (9) An election for the purposes of paragraph (8)(c) must be made by giving notice in writing to the Committee, within 3 months after re-entering local government employment or, such longer period as the Committee may in a particular case allow.
- (10) A person may not make an election under paragraphs (5) or (6)(a) if the retirement pension to which he has become entitled—
- (a) is a pension in relation to which he has a guaranteed minimum under Article 37 of the Pensions Order; and

(b) would, but for regulation E1(3)(a), be reduced under regulation E3(11) to less than his guaranteed minimum pension.

(11) A retirement pension to which a person has become entitled by virtue of paragraph (2) is payable from the first date on which he both—

- (a) has attained state pensionable age; and
- (b) is no longer in any local government employment.

Amount of retirement pension and retiring allowance

E3.—(1) Subject to paragraphs (2) and (9) to (13), and to regulation E26, the annual rate of a person's retirement pension is $\frac{1}{80}$ th of his pensionable remuneration multiplied by the length in years of his reckonable service.

(2) In the case of a person who—

- (a) is entitled under regulations D4, D5, D6(1) or D7 to reckon an additional period as reckonable service; and
- (b) had at the appropriate time (as defined in paragraph 1 of Schedule 3) attained the age of 45 years,

the rate specified in paragraph (1) is increased by $\frac{1}{240}$ th of his pensionable remuneration multiplied by the length in years of that additional period.

(3) Subject to paragraphs (4) to (11) and to regulation E26, the amount of a person's retiring allowance is $\frac{3}{80}$ ths of his pensionable remuneration multiplied by the length in years of his reckonable service; but where paragraph (2) applies his reckonable service does not for the purposes of this paragraph include the additional period.

(4) Subject to paragraph (7), where the person is a married man and a widow's pension may become payable under regulation E5 the amount calculated in accordance with paragraph (3) is reduced by $\frac{2}{80}$ ths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972.

(5) Subject to paragraphs (7) and (8), where—

- (a) the person is a widower; or
- (b) he and his wife are judicially separated; or
- (c) his marriage has been dissolved,

and he satisfies the requirements contained in paragraph (6), the amount calculated in accordance with paragraph (3) is reduced by $\frac{2}{80}$ ths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972, or, if earlier, the date of the death, separation or dissolution.

(6) A person to whom paragraph (5) refers is a person whose wife died or was divorced or judicially separated from him—

- (a) on or after the date on which he first became a pensionable employee within the meaning of these regulations or, as the case may be, an officer within the meaning of the former regulations; or
- (b) while he was subject to a superannuation scheme the service reckonable in which is reckonable by him for the purpose of these regulations and which provided a widow's pension as one of its benefits; or
- (c) during the period between his leaving employment in which he was subject to any such scheme as is mentioned in sub-paragraph (b) and his entry into employment in which he became a pensionable employee or an officer as aforesaid.

(7) In calculating any reduction under paragraphs (4) or (5), no account shall be taken of any reckonable service in respect of which payment under regulation C7 has or is to be treated as having been completed.

(8) No reduction is to be made under paragraph (5) where the person is a woman in relation to whom this regulation applies as provided in regulation E12 and who has not made any election under regulation E12(1)(b) or (2)(b).

(9) Where—

- (a) regulation E2(1)(b)(i) (permanent ill-health, etc.) applies;
- (b) the person has not given a notification under regulation B3, or, having given such a notification, has again by the date of cessation of employment become a pensionable employee by virtue of regulation B4; and
- (c) the total of the person's reckonable service and any qualifying service is not less than 5 years,

he is to be treated for the purposes of this regulation as being entitled to reckon as reckonable service an additional period calculated in accordance with Schedule 9.

(10) Where a person has become entitled to preserved benefits and subsequently receives a return of contributions but regulation E2(8)(a) does not apply, for the purposes of this regulation his reckonable service shall be taken to be the reckonable service which he is entitled to reckon after he receives the return of contributions, excluding reckonable service to which the return of contributions relates.

(11) Subject to paragraph (12), where benefits have been become payable—

- (a) to a man by virtue of an election under regulation E2(5) or (6)(a); or
- (b) to a woman by virtue of regulation E2(5)(c) or (7),

the amounts calculated in accordance with paragraphs (1) to (10) are reduced in accordance with Schedule 11.

(12) A person's retirement pension is not to be reduced under paragraph (11)—

- (a) to less than any minimum rate of equivalent pension benefits applicable under the Insurance Act; or
- (b) in the case of a woman, to less than the annual rate obtained by multiplying 1/80th of her pensionable remuneration by the length in years of the whole period of her service in contracted-out employment.

(13) The rate of a retirement pension payable by virtue of regulation E2(2) is the rate of equivalent pension benefits applicable to the person in respect of any period of reckonable service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.

Ill-health retirement grant

E4.—(1) This paragraph applies to a person—

- (a) who has at any time since 8th December 1980 ceased to hold a local government employment;
- (b) who when he ceased to hold that employment—
 - (i) was entitled to reckon an aggregate of at least one but less than 2 years' reckonable service and qualifying service; and
 - (ii) was incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body;

- (c) who did not cease to hold that employment in consequence of any such offence or misconduct as are mentioned in regulation C15(7);
 - (d) who is not apart from this regulation entitled to any payment out of the fund, other than an injury allowance under regulation 21 of the 1981 regulations or the corresponding provisions of the former regulations or a return of contributions, and has not—
 - (i) received any return of contributions other than one in respect of which a payment was made under regulation 28A(3) of the 1981 regulations; or
 - (ii) received a grant under regulation 28A of the 1981 regulations; and
 - (e) who, if a return of contributions (increased under regulation J10 where that regulation applies) were made to him, would receive a net amount smaller than that of a grant calculated in accordance with paragraph (2).
- (2) A person to whom paragraph (1) applies is entitled to be paid a grant (“an ill-health retirement grant”) of an amount equal to—
- (a) 1/12th of his pensionable remuneration multiplied by the length in years of his reckonable service; or
 - (b) 3/80ths of his pensionable remuneration multiplied by the length in years of the total period he would have been entitled to reckon as reckonable service if—
 - (i) he had continued in local government employment until he had attained the age of 65 years; and
 - (ii) any added period payments had been completed,
 whichever is the lesser amount.

Entitlement to widow’s short-term and long-term pensions

- E5.—**(1) If, at the time of his death, a man—
- (a) was entitled to receive payments in respect of a retirement pension; or
 - (b) would have been so entitled but for the operation of regulation E13 (reduction of certain retirement pensions); or
 - (c) was in a local government employment and—
 - (i) the total of his reckonable service and any qualifying service was not less than 2 years; or
 - (ii) he would if he had then ceased to be employed otherwise than by reason of his death have become entitled to benefits by virtue of regulation E2(1)(e),
 and he leaves a widow or widows she is, or as the case may be, they are jointly, entitled, subject to paragraphs (3) to (5), to a widow’s short-term pension for 3 months after his death and then to a widow’s long-term pension.
- (2) If at the time of his death a man was entitled to preserved benefits and he leaves a widow or widows she is, or as the case may be, they are jointly, entitled, subject to paragraphs (3) to (5), to a widow’s long-term pension.
- (3) A widow is not entitled to any pension by virtue of paragraphs (1) or (2) if when her husband died or became entitled to a retirement pension she was judicially separated from him.
- (4) A widow is not entitled to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if—
- (a) she was not her husband’s wife at some time while he was in local government employment after 31st March 1972 and before the date on which he became entitled to a retirement pension; or
 - (b) her husband became entitled to a retirement pension by virtue of regulation E2(2).

- (5) Where, but for paragraph (4)(a), a widow would have been entitled—
- (a) under paragraph (1) to a widow’s short-term pension and to a widow’s long-term pension; or
 - (b) under paragraph (2) to a widow’s long-term pension,

she is entitled where sub-paragraph (a) applies to a short-term pension and a long-term pension and where sub-paragraph (b) applies to a long-term pension only, calculated in each case in accordance with regulation E6(4).

- (6) A pension to which a widow is entitled by virtue of this regulation—
- (a) is not payable to her during any subsequent marriage or any period of cohabitation outside marriage; and
 - (b) is payable from the end of any such marriage or period only if the Committee in their discretion so decide.

Amounts of widow’s short-term and long-term pensions

- E6.**—(1) Subject to paragraphs (3) to (5), the annual rate of a widow’s short-term pension is—
- (a) where regulation E5(1)(a) or (b) applies and any new employment for the purposes of regulation E13 (re-employed pensioners) was not a local government employment, the annual rate of her husband’s retirement pension immediately before the date of his death, disregarding any reduction under regulation E13;
 - (b) where regulation E5(1)(c) applies and the local government employment was not a new employment for the purposes of regulation E13, a rate equal to his pensionable remuneration; and
 - (c) where regulation E5(1)(c) applies and the local government employment was such a new employment, a rate equal—
 - (i) if the retirement pension was not reduced under regulation E13, to the total of his pensionable remuneration in the new employment and the annual rate of the retirement pension; or
 - (ii) if the retirement pension was so reduced, to the total of his pensionable remuneration in the new employment and the annual rate, if any, at which the retirement pension was payable.
- (2) Subject to paragraphs (3) to (5), the annual rate of a widow’s long-term pension is—
- (a) where paragraph (1)(a) applies, half the annual rate of her husband’s retirement pension immediately before the date of his death;
 - (b) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(i), half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.);
 - (c) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(ii), half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(e);
 - (d) where paragraph (1)(c) applies, the greater of—
 - (i) the total of half the annual rate of her husband’s retirement pension and half the annual rate of the retirement pension to which he would have been entitled in respect of the new employment if on the date of his death he had become entitled under regulation E2(1)(b)(i); and

- (ii) half the annual rate of the retirement pension to which he would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) and notice had been given under regulation E14; and
 - (e) where regulation E5(2) applies, half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(ii).
- (3) For the purposes of paragraph (2)—
- (a) the retirement pension mentioned in paragraph (2)(a) is to be taken to be the pension that would have been payable but for—
 - (i) any increase under regulation E3(2) (certain cases where additional service is reckonable);
 - (ii) any reduction under regulations E3(11) (early payments) or E13 or E28 (National Insurance); and
 - (iii) any surrender under regulation E17; and
 - (b) any retirement pension mentioned in paragraph (2)(b) or (d) is to be taken to be the pension that would have been payable but for any surrender under regulation E17, and if the pension would have been increased under regulation E3(2) or reduced under regulation E28 no account is to be taken of that increase or reduction.
- (4) Where regulation E5(5) (post-retirement marriages) applies—
- (a) the references in paragraphs (1)(a), (2)(a), (c), (d) and (e), and the second reference in paragraph (1)(c)(i), to the retirement pension are to be construed as references to, and
 - (b) for the purposes of paragraph (1)(c)(ii), any annual rate at which the retirement pension was payable is to be taken not to have exceeded the rate of,
- the part of the pension attributable to the whole period of his service in respect of which the pension was payable which was in contracted-out employment.
- (5) If greater than the annual rate calculated in accordance with paragraphs (1) to (4), the annual rate of a widow's pension is the rate obtained by multiplying 1/160th of her husband's pensionable remuneration by the length in years of the whole period of his service which was in contracted-out employment.

Widow's special short-term pension

E7.—(1) If at the time of his death a man was in a local government employment and he leaves a widow but neither of the conditions in regulation E5(1)(c) is satisfied, then unless when he died she was—

- (a) judicially separated from him; or
- (b) cohabiting with another man as his wife,

she is entitled to a widow's special short-term pension at an annual rate equal to his pensionable remuneration.

(2) Where the deceased leaves no eligible child or there is no eligible child in the widow's care, the pension is payable for 3 months after the death.

(3) While there is one eligible child in the widow's care, the pension is payable for 4½ months after the death.

(4) While there are two or more eligible children in the widow's care, the pension is payable for 6 months after the death.

Entitlement to children's short-term and long-term pensions

E8.—(1) If at the time of his death a man—

- (a) was entitled to receive payments in respect of a retirement pension; or
- (b) would have been so entitled but for the operation of regulation E13 (re-employed pensioners); or
- (c) was in a local government employment and the total of his reckonable service and any qualifying service was not less than 2 years,

and he leaves one or more eligible children, they are, subject to paragraphs (3) to (5), entitled to or to the benefit of a children's short-term pension for 3 months after the death and then a children's long-term pension.

(2) If at the time of his death a man was entitled to preserved benefits and he leaves one or more eligible children, they are, subject to paragraphs (4) and (5), entitled to or to the benefit of a children's long-term pension.

(3) No children's short-term pension is payable while a widow's short-term pension is payable under regulation E5(1).

(4) There is no entitlement to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if the deceased became entitled to a retirement pension by virtue of regulation E2(2).

(5) Payments in respect of a pension under this regulation shall not be made to or for the benefit of a female—

- (a) while she is married or during any period of cohabitation outside marriage; or
- (b) from the end of any marriage or period of cohabitation outside marriage unless the Committee in their discretion so decide.

Amounts of children's short-term and long-term pensions

E9.—(1) Subject to paragraph (2), the annual rate of a children's short-term pension is the rate at which a widow's short-term pension is or would have been payable by virtue of regulation E5(1).

(2) Where a widow's short-term pension is payable by virtue of regulation E5(5), the children's short-term pension rate specified in paragraph (1) is reduced by the rate of that pension.

(3) Subject to paragraphs (4) and (5), the annual amount of a children's long-term pension is—

- (a) where there is one eligible child and he is in the care of a widow of the deceased person, one quarter of the deceased person's retirement pension;
- (b) where there is one eligible child and he is not in the care of such a widow, one third of the retirement pension;
- (c) where there are two or more eligible children and—
 - (i) half or more of them are in the care of such a widow; or
 - (ii) fewer than half of them are in the care of such a widow but a widow's pension under regulation E5 is for the time being payable, one half of the retirement pension; and

(d) where there are two or more eligible children and fewer than half of them are in the care of such a widow and no such widow's pension is payable, two thirds of the retirement pension.

(4) For the purposes of paragraph (3), the retirement pension of a deceased person shall be taken to be—

- (a) if he died while in local government employment, the retirement pension to which he would have become entitled if he had then become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.);
- (b) if he was entitled at the time of his death to preserved benefits, the retirement pension to which he would have become entitled if he had then become entitled under regulation E2(1)(b)(ii) (retirement on or after pensionable age); and
- (c) if he was entitled at the time of his death to receive payments in respect of a retirement pension, the retirement pension that would have been payable but for—
 - (i) any increase under regulation E3(2) (certain cases where additional service is reckonable);
 - (ii) any reduction under regulations E3(11) (early payments), E13(re-employed pensioners) or E28 (National Insurance); and
 - (iii) any surrender under regulation E17,

and for the purposes of sub-paragraphs (a) and (b) it is to be assumed that the pension to which the person would have become entitled would not have been subject to any such increase or reduction, and that there has been no such surrender, as is mentioned in sub-paragraph (c).

(5) If a child in respect of whom a children's long-term pension is payable has attained the age of 17 years and is receiving remuneration in respect of full-time training for a trade, profession or calling at an annual rate in excess of the indexed training rate, then—

- (a) the annual rate of the pension is to be reduced by the amount of the excess; or
- (b) the child is to be disregarded for the purpose of calculating the pension,

whichever results in the smaller reduction in its annual rate.

(6) In paragraph (5) "the indexed training rate" means the annual rate at which an official pension within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971(18) would for the time being be payable if it had begun on 1st April 1974 and had then been payable at an annual rate of £250.

(7) The Committee may—

- (a) apportion a children's pension among the eligible children in respect of whom it is for the time being payable in such shares as they think fit; and
- (b) pay the pension or any part of it to a person other than an eligible child, to be applied in accordance with any directions they may give for the benefit of any eligible child or eligible children.

Children's special short-term pension

E10.—(1) If at the time of his death a man was in a local government employment and—

- (a) the total of his reckonable service and any qualifying service is less than 2 years; and
- (b) he leaves one or more eligible children; and
- (c) any such child is in the care of a guardian,

a children's special short-term pension at an annual rate equal to the deceased's pensionable remuneration is payable to the guardian.

(2) In this regulation "guardian" means a person who is not entitled in respect of the deceased to either—

- (a) a widow's special short-term pension by virtue of regulation E7; or
 - (b) a widow's short-term pension and a widow's long-term pension by virtue of regulation E5(1)(c)(ii).
- (3) Where the deceased left a widow who is entitled as mentioned in paragraph (2)(a) or (b)—
- (a) if there is no eligible child in the widow's care, the pension is payable to the guardian—
 - (i) for 1½ months after the death if there is one eligible child in the care of the guardian; and
 - (ii) for 3 months after the death if there are two or more eligible children in the care of the guardian; and
 - (b) if there is an eligible child in the widow's care, the pension is payable to the guardian for 1½ months after the death.
- (4) Where the deceased did not leave a widow who is entitled as mentioned in paragraph (2)(a) or (b), the pension is payable to the guardian—
- (a) for 2 months after the death if there is one eligible child in the care of the guardian; and
 - (b) for 4 months after the death if there are two or more eligible children in the care of the guardian.

Death grant

- E11.**—(1) Subject to paragraphs (10) to (12), if at the time of his death a person—
- (a) was a pensionable employee; or
 - (b) was entitled to receive payments in respect of a retirement pension in relation to which this paragraph applies; or
 - (c) would have been so entitled but for the operation of regulation E15 (re-employed pensioners); or
 - (d) was entitled to preserved benefits; or
 - (e) was in a local government employment and was entitled to reckon at least 2 years' reckonable service, but was not a pensionable employee by virtue of a notification under regulation B3,
- his personal representatives are entitled to receive a lump sum death grant.
- (2) Paragraph (1) applies in relation to a retirement pension if—
- (a) the reckonable service taken into account in calculating the pension amounted to less than 10 years and he had been entitled for less than 5 years to receive payments in respect of the pension; or
 - (b) the reckonable service taken into account in calculating the pension amounted to 10 years or more.
- (3) In paragraphs (4) to (12)—
- A is the deceased's pensionable remuneration;
 - B is 3/80ths of his pensionable remuneration;
 - C is the length in years of his reckonable service;
 - D is the length in years of the reckonable service that would have been taken into account in calculating a retirement pension if he had become entitled to one under regulation E2(1)(b)(i) (permanent ill-health etc.) on the day of his death;
 - E is the length in years of the reckonable service taken into account in calculating his retirement pension;

F is 2/80ths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 in respect of which a widow's pension is payable under regulation E5, other than service in respect of which a return of contributions has been made or payment under regulation C9 has been or is to be treated as having been completed;

G is the total of any payments made to him in respect of retirement pension and lump sum retiring allowance;

H is the length in years of the reckonable service he would have had on attaining pensionable age;

I is the total amount that would (or would but for regulation E13 or his death, or both), have been paid to him by way of retirement pension for the first 5 years after he became (or would but for regulation E13 have become) entitled to receive payments in respect of the pension; and

J is the total of any payments made to him in respect of retirement pension.

(4) Subject to paragraph (10), where paragraph (1)(a) applies the amount of the death grant is the greater of

A and $(B \times D)$.

(5) Subject to paragraphs (10) and (12), where paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) the amount of the death grant is the greater of

A and $(B \times E)$.

(6) Where—

(a) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension by virtue of regulation E2(1)(c); or

(b) paragraph (1)(b) or (c) and paragraph (2)(a) apply and—

(i) the deceased became entitled to the retirement pension by virtue of regulation E2(1)(c); and

(ii) the reckonable service that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until pensionable age is 10 years or more,

the amount of the death grant is the greater of:

$$(B \times E) \text{ or } (F - G) \text{ and } \frac{E}{H} \times (A - (J + G)).$$

(7) Subject to paragraph (11), where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (e), the amount of the death grant is I.

(8) Where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased—

(a) became entitled to the retirement pension by virtue of regulation E2(1)(c) and the reckonable service that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until pensionable age, is less than 10 years; or

(b) became entitled to the retirement pension by virtue of regulation E2(1)(e),

the amount of the death grant is:

$$\frac{E}{H} \times (I - J).$$

(9) Subject to paragraph (10), where paragraph (1)(d) or (e) applies the amount of the death grant is $B \times E$.

(10) Where—

- (a) paragraph (1)(a), (d) or (e) applies; or
- (b) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c),

and a widow's pension is payable under regulation E5, the amount of the death grant is reduced by F.

(11) Where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (e), the amount of the death grant is reduced—

- (a) by J; or
- (b) where the pension was reduced under regulation E13 or had been surrendered in part under regulation E17, by the amount which would have been paid in respect of the pension but for the reduction or surrender.

(12) Where paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c), the amount of the death grant is reduced—

- (a) by G; or
- (b) where the pension was reduced under regulation E13 or had been surrendered in part under regulation E17, by the amount which would have been paid in respect of the retirement pension but for the reduction or surrender.

(13) Subject to paragraph (14), for the purpose of calculating the amount of a death grant under the preceding provisions of this regulation no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years.

(14) Where a death grant is reduced under paragraph (10), any reckonable service to be left out of account under paragraph (13) is to be taken from the beginning of the period of reckonable service.

(15) Where a person qualifies for a death grant under more than one sub-paragraph of paragraph (1), he shall be treated as having qualified under the sub-paragraph which would, in accordance with the preceding paragraphs result in the highest amount of grant being paid.

Pensions of widowers, etc.

E12.—(1) Where a woman who is a pensionable employee—

- (a) has no husband but has a potentially eligible child; or
- (b) having a husband who is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, so elects,

regulations E3 (amount of retirement pension and retiring allowance) and E5 to E10 (widows' and children's pensions) apply in relation to her as if she were a man and, where sub-paragraph (b) applies, as if her husband were a woman.

(2) Where either of the conditions in paragraph (1)(a) and (b) has become satisfied, regulations E5 to E10 do not apply so as to confer any rights on a woman's husband by, or any potentially eligible child she acquires by virtue of or during, a subsequent marriage unless—

- (a) her husband by that marriage is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her; and
 - (b) she elects that those regulations are so to apply.
- (3) An election under paragraphs (1)(b) or (2)(b) is to be made by giving notice in writing to the Committee.
- (4) In this regulation “potentially eligible child” means a child who might become an eligible child on the woman’s death.

Reduction of retirement pension in the case of certain re-employed pensioners

E13.—(1) This regulation applies to a person who, since becoming entitled to a retirement pension in relation to a former employment, has entered a new employment with any scheduled body.

(2) In paragraph (3)—

A is the annual rate of remuneration of the former employment;

B is the amount (if any) by which, immediately before the first day of the new employment, A would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning on and payable from the day after the last day of the former employment; and

C is the annual rate of remuneration of the new employment;

D is the reduced rate of the retirement pension; and

E is the amount (if any) by which D would, immediately before the first day of the new employment, have been increased under Article 69 of the Pensions Order if it had then been the rate of the retirement pension, assuming that that pension had by then qualified for increases under that Order,

and in paragraph (5), A, B and C have the same meanings as in paragraph (3) and—

F is the annual rate of remuneration of the concurrent employment on the last day of that employment; and

G is the amount (if any) by which, immediately before the first day of the new employment, F would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning on and payable from the day after the last day of the concurrent employment.

(3) Subject to paragraphs (4), (5) and (11), while the person holds the new employment the annual rate of the retirement pension is reduced—

(a) if C equals or exceeds $(A + B)$, to zero; and

(b) in any other case, by the amount (if any) which is necessary to secure that $(C + D + E)$ does not exceed $(A + B)$.

(4) This paragraph applies where within the last 12 months of the former employment the person held another concurrent employment in which he is entitled to participate in the superannuation benefits provided by these regulations, has ceased to hold the concurrent employment without becoming entitled in relation to it to a retirement pension, and—

(a) has—

(i) ceased to hold the concurrent employment before ceasing to hold the former employment; and

(ii) entered the new employment within 12 months after ceasing to hold the concurrent employment; or

- (b) has ceased to hold the concurrent employment after ceasing to hold the former employment.
- (5) Where paragraph (4) applies—
- (a) if the person does not devote substantially more of his time to the new employment than he devoted to the concurrent employment during the 12 months before he ceased to hold it, the annual rate of the retirement pension is not reduced; and
- (b) in any other case, the annual rate of the retirement pension is reduced by the amount (if any) by which the aggregate of that rate and C exceeds $A + B + F + G$.
- (6) For the purposes of this regulation the annual rate of remuneration of the former employment is, subject to paragraph (7), to be ascertained in accordance with the Table.

Table

Source of entitlement to the retirement pension	Annual rate of remuneration	
Fixed rate emoluments	Fees	
These regulations, the 1981 regulations or the 1962 regulations ⁽¹⁹⁾	Rate on last day of relevant period for the purposes of regulation E19	Average rate during period by reference to which pensionable remuneration fell to be calculated under regulation E19(10)

(7) For the purposes of paragraph (6), where the person's remuneration was at any material time reduced or discontinued by reason of his absence from duty, and either the absence was due to illness or injury or he made contributions or payments under regulation 14(4) of the 1981 regulations or the corresponding provisions of the former regulations or regulations C2 or C3, then—

- (a) any reduction or discontinuance of fixed-rate emoluments is to be disregarded; and
- (b) any fees are to be averaged over a period of the same length as the period mentioned in the Table but ending immediately before the reduction or discontinuance.

(8) For the purposes of this regulation the annual rate of remuneration of the new employment is, subject to paragraph (9), to be ascertained in accordance with the Table.

Table

Nature of remuneration	Annual rate of remuneration
Fixed-rate emoluments	Rate on first day of employment
Fees	<p>(1) Where fees were receivable in the former employment, the annual rate of those fees ascertained in accordance with paragraph (6).</p> <p>(2) Where no fees were receivable, a rate agreed by the person and the body employing him or, in default of agreement, determined by the Department.</p>

(9) For the purposes of paragraph (8), if fees were receivable in the former employment and are receivable in the new employment and H is greater than J, where—

⁽¹⁹⁾ As amended by S.R. & O. 1973 No. 242

H is the annual rate of remuneration of the former employment; and

J is the annual rate of remuneration of the new employment ascertained in accordance with the Table,

the annual rate of the fees receivable in the new employment, ascertained in accordance with the Table, is to be multiplied by

$$\frac{J}{H}$$

(10) If—

- (a) the person's contractual hours in a part-time new employment are altered; or
- (b) he is transferred to another post under the same employing body at an altered remuneration or his post is regraded,

this regulation applies as if he had again entered a new employment.

(11) If this regulation applies in relation to two or more retirement pensions, each is reduced in proportion to its amount.

(12) It is the duty of a person who has become entitled to a retirement pension—

- (a) to inform any scheduled body with whom he proposes to accept a new employment that he is so entitled; and
- (b) on entering a new employment, forthwith to notify the Committee in writing that he has entered that employment.

(13) In this regulation, "retirement pension" includes an annual pension.

Combined benefits in the case of certain re-employed pensioners

E14.—(1) Subject to paragraph (2), where—

- (a) a person has become entitled to a retirement pension other than one to which he became entitled under regulation E2(2) or one which is reduced under regulation E3(11) ("the first retirement pension"); and
- (b) after becoming so entitled he entered further employment which was or became local government employment; and
- (c) he has ceased to hold the further employment and has become entitled in relation to it to a retirement pension ("the second retirement pension"),

he may, by notice in writing given to the Committee within 3 months after the date on which he became entitled to the second retirement pension, elect that this regulation is to apply to him.

(2) Subject to paragraphs (3) to (5), a person to whom this regulation applies is to be treated as having, on the date on which the second retirement pension became or becomes payable—

- (a) become entitled to payment of an annual retirement pension ("the annual pension") and a lump sum payment ("the lump sum") each calculated by reference to both his reckonable service in the further employment and the reckonable service taken into account in calculating the first retirement pension; and
- (b) ceased to be entitled to the first retirement pension and the second retirement pension.

(3) If in conjunction with the first retirement pension the person was entitled to a retiring allowance—

- (a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation E3(3) from the calculation of the retiring allowance;
 - (b) if he has not received the allowance before becoming entitled as mentioned in paragraph (2)(a) he ceases to be entitled to it;
 - (c) if he has received the retiring allowance and the lump sum would be the same as or less than the retiring allowance, the person—
 - (i) is not entitled to payment of the lump sum; and
 - (ii) is not entitled to the annual pension unless, within 3 months after giving notice under paragraph (1), he pays to the Committee the amount of any difference; and
 - (d) if he has received the retiring allowance and the lump sum is greater than the retiring allowance, the lump sum is reduced by the amount of the allowance.
- (4) If—
- (a) the first retirement pension was, and
 - (b) the second retirement pension would not have been,

subject to reduction under regulation 53 of the 1981 regulations or regulation E28, the annual pension is subject to reduction by the same amount as the first retirement pension.

- (5) If part of the first retirement pension was surrendered under regulation E17—
- (a) the annual pension is to be treated as having been surrendered to the same extent; and
 - (b) any resulting pension becoming payable on the person's death is to be paid by the Committee.

Separate benefits in the case of certain re-employed pensioners

- E15.**—(1) This regulation applies to a person who—
- (a) has become entitled to a retirement pension (a “previous pension”); and
 - (b) after becoming so entitled entered further local government employment; and
 - (c) has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (an “additional pension”); and
 - (d) has not become entitled to the annual pension mentioned in regulation E14 (combined benefits).

(2) If regulation E2(1)(b)(i) (permanent ill-health) did not apply on the person's ceasing to hold an employment in relation to which he became entitled to a previous pension (a “previous employment”), but does apply on his ceasing to hold a further employment, sub-paragraph (1) of paragraph 2 of Schedule 9 applies with the substitution for the words from “the period specified” to the end of the sub-paragraph of the words

$$\frac{243}{365} \text{ — years}$$

(3) Subject to paragraph (4), if when a person dies paragraph (4) of regulation E11 (death grant) applies, it applies with the substitution for the words “is the greater of A and (B × D)” of the words “is (B × D)”; and if paragraph (5) of regulation E11 applies, it applies with the substitution for the words “is the greater of A and (B × E)” of the words “is (B × E)”.

(4) If the person became entitled to a previous pension or to an additional pension by virtue of regulation E2(1)(c) or (e)—

- (a) if P equals or exceeds Q, there is no entitlement under regulation E11 to a death grant in relation to the further employment; and
 - (b) if P is less than Q but (P + R) is greater than Q, R is reduced by the amount of the excess.
- (5) In paragraph (4)—
- (a) P is the total of—
 - (i) every death grant payable in relation to any previous employment calculated in accordance with regulation E11;
 - (ii) payments made in respect of every previous pension;
 - (iii) every retiring allowance to which the person became entitled in conjunction with any previous pension;
 - (iv) any payments made in respect of the additional pension; and
 - (v) any retiring allowance to which the person became entitled in conjunction with the additional pension,
 including in each case any increase under Article 69 of the Pensions Order;
 - (b) Q is the greater of—
 - (i) the aggregate obtained by taking for each previous pension the amount of the pensionable remuneration by reference to which it was calculated and the amount by which that amount would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning on and payable from the day after the last day of the relevant previous employment; and
 - (ii) the amount of the pensionable remuneration by reference to which the additional pension was calculated; and
 - (c) R is the amount of the death grant calculated in accordance with regulation E11 in relation to the further employment.
- (6) In this regulation, “retirement pension” includes an annual pension.

Adjustment of superannuation rights on death of certain re-employed pensioners

E16.—(1) This paragraph applies where—

- (a) a person was entitled to a retirement pension other than one which was reduced under regulation E3(11); and
 - (b) after becoming so entitled he entered further local government employment; and
 - (c) he dies in the further employment; and
 - (d) if he had then ceased to be employed otherwise than by reason of his death he would have been entitled to give notice under regulation E14 (combined benefits).
- (2) Where paragraph (1) applies—
- (a) any benefits payable in respect of the person (except any widow’s short-term pension or children’s short-term pension) are to be calculated; and
 - (b) any surrender of part of a retirement pension has effect,

as if immediately before his death he had become entitled to benefits under regulations E14 or E15, whichever is the more favourable to the person entitled to receive the benefits payable.

Surrender of part of retirement pension

E17.—(1) This regulation has effect subject to Schedule 12.

(2) A person who—

- (a) has become entitled to receive payments in respect of a retirement pension; or
- (b) is a pensionable employee and has attained pensionable age,

may surrender as from the relevant date, in favour of his spouse or any dependent of his (“the beneficiary”), a part of the retirement pension which is or, as the case may be, may become payable to him.

(3) For the purposes of this regulation, the relevant date is the date of becoming entitled to receive payments in respect of the retirement pension; and if the person dies while a pensionable employee he is to be treated as having become so entitled immediately before he died.

(4) An annual pension at a rate which is (according to tables to be prepared from time to time by the Government Actuary) actuarially equivalent at the relevant date to the value of the surrendered part of the retirement pension becomes payable to the beneficiary on the person’s death.

(5) A person who has surrendered part of a retirement pension may surrender further parts of it.

Power to compound certain small pensions

E18.—(1) This paragraph applies where—

- (a) a pensionable employee has become entitled to a retirement pension and has attained state pensionable age; and
- (b) the aggregate of the annual rates of—
 - (i) that pension;
 - (ii) any other retirement pension to which he has become entitled; and
 - (iii) any increase payable under Article 69 of the Pensions Order in respect of any retirement pension to which he has become entitled,does not exceed £195.

(2) Where paragraph (1) applies, the Committee may discharge their liability in respect of—

- (a) any retirement pension to which the pensionable employee has become entitled; and
- (b) if the pensionable employee is a man—
 - (i) any widow’s long-term pension which, in the event of his dying leaving a widow, would be payable to her in respect of his reckonable service; and
 - (ii) any children’s long-term pension which, in the event of his dying leaving an eligible child would be payable to or for the benefit of his eligible child in respect of his reckonable service,

by payment to the pensionable employee of a lump sum of such amount as represents the capital value of the pensions mentioned in sub-paragraphs (a) and (b), calculated in accordance with tables prepared by the Government Actuary.

(3) For the purposes of paragraphs (1) and (2), a pensionable employee shall not be treated as having become entitled to a retirement pension in relation to any employment—

- (a) in which he ceases to be employed in the circumstances mentioned in regulation E2(1)(c); or
- (b) in relation to which he satisfies the requirements of regulation E2(1)(e),

until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(4) This paragraph applies where—

- (a) a widow’s long-term pension is payable to a widow; and
- (b) the aggregate of the annual rates of—

- (i) that pension;
 - (ii) any other widow's long-term pension payable to her; and
 - (iii) any increase payable under Article 69 of the Pensions Order in respect of any widow's long-term pension payable to her,
- does not exceed £260.

(5) Where paragraph (4) applies, the Committee may discharge their liability in respect of any widow's long-term pension payable to the widow by payment to her of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).

(6) This paragraph applies where—

- (a) a children's long-term pension is payable to or for the benefit of an eligible child; and
- (b) the aggregate of the annual rates of—
 - (i) that pension;
 - (ii) any other children's long-term pension payable to or for the benefit of that child; and
 - (iii) any increase payable under Article 69 of the Pensions Order in respect of any children's long-term pension so payable,

does not exceed £260.

(7) Where paragraph (6) applies, the Committee may discharge their liability in respect of any children's long-term pension payable to or for the benefit of the eligible child by payment of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).

Pensionable remuneration

E19.—(1) Subject to paragraphs (4) and (6) to (12) and regulations E20 (pay restraint to be disregarded in certain cases) and E21 (certificates as to reduction in remuneration), a person's pensionable remuneration in relation to a local government employment is his remuneration for so much of the relevant period as he is entitled to reckon as reckonable service in relation to that employment.

(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with—

- (a) the day on which the person ceases to hold the employment or, if earlier, the day on which he becomes entitled to reckon 45 years as reckonable service in relation to the employment, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years; or
- (b) if on the day mentioned in sub-paragraph (a) the person was not a pensionable employee by virtue of a notification under regulation B3, the day on which he ceased to be such under that notification.

(3) Subject to paragraphs (4) and (5), where—

- (a) the person is not entitled to reckon the whole of the period specified in paragraph (2) as reckonable service because he has been absent from duty otherwise than by reason of illness or injury; and
- (b) this paragraph applies to him by virtue of a notice or determination,

the relevant period comprises the last 365 days which he is entitled to reckon as reckonable service.

(4) Where a reduction in the person's remuneration has been certified as material under regulation E21 and this paragraph applies to him by virtue of a notice or determination, the relevant period is—

- (a) if the reduction occurred during the 13 years ending with the day mentioned in paragraph (2), either—
 - (i) such one of the last 5 of those 13 years; or
 - (ii) such consecutive 3 of those 13 years,
as may be specified in the notice or determination; or
- (b) if the reduction occurred during the last 5 of those 13 years, such consecutive 3 of those 5 years as may be specified in the notice or determination;

and where by virtue of this paragraph the relevant period is a period of 3 consecutive years, the person's pensionable remuneration is the aggregate of his remuneration during that period divided by 3.

(5) Where—

- (a) the relevant period would otherwise be the period specified in paragraph (2); and
- (b) either one or each of the 2 immediately preceding years would yield a higher amount of pensionable remuneration; and
- (c) this paragraph applies to the person by virtue of a notice or determination,

the relevant period is the year which yields the highest amount.

(6) If, during the 13 years ending with the day mentioned in paragraph (2), the person's remuneration was reduced or suspended during absence from duty by reason of illness or injury, he is for the purposes of this regulation to be treated as having received the remuneration which he would have received but for the reduction or discontinuance.

(7) If during the 13 years ending with the day mentioned in paragraph (2) the person's remuneration was reduced or discontinued during absence from duty otherwise than by reason of illness or injury and he—

- (a) made contributions under regulation C2 (leave of absence) or a payment under regulation C3 (absence due to trade dispute); or
- (b) contributed under regulation 14(4) or (5) of the 1981 regulations or the corresponding provisions of the former regulations,

he is for the purposes of this regulation to be treated as having received for any period in respect of which he made such contributions or payment the remuneration which he would have received but for the reduction or discontinuance.

(8) For the purposes of this regulation, except its application—

- (a) to regulations E6(1)(b) and (c), E7 and E10 (which concern, respectively, the amounts of widows' pensions and of their special short-term pensions and entitlement to and amounts of children's special short-term pensions); and
- (b) in ascertaining the value of "A" for the purposes of regulation E11(4) or (5) (amount of death grant in certain cases),

the person is, in respect of any period of part-time local government employment, to be treated as having received the remuneration which would have been paid in respect of a single comparable whole-time employment.

(9) Where—

- (a) the person was at any time employed in a single local government employment ("the first employment"); and
- (b) he becomes entitled to a benefit in relation to one or two or more concurrent local government employments ("the second employment"); and

- (c) his remuneration in the first employment becomes material for the purpose of calculating that benefit,

that remuneration is for that purpose to be multiplied by

$$\frac{A}{B}$$

where

A is the annual rate of remuneration of the second employment at the date of cessation and B is the total of the annual rates of remuneration of all the concurrent employments at that date.

(10) Where the whole or a part of the person's remuneration consisted of fees, his pensionable remuneration in respect of them is the annual average of the fees earned by him—

- (a) during the period of 3 years ending with the last day of the relevant period; or
- (b) during such more favourable period, of more than 3 but not more than 5 years, as his last employing authority may allow; or
- (c) if he was entitled to receive fees during part only of the period mentioned in subparagraph (a), during that part of the period.

(11) Where the person is entitled to reckon as reckonable service in relation to the employment which he ceases to hold only part of the period specified in paragraph (2), his pensionable remuneration is his remuneration during that part multiplied by

$$\frac{365}{A}$$

where

A is the number of days comprised in that part.

(12) Where—

- (a) any of the person's remuneration during the relevant period was determined in accordance with an agreement under regulation G5 (notional remuneration); and
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) exceed one and a half times the lower earnings limit, but do not exceed the upper earnings limit, in force under section 4(1) of the Social Security Act (Northern Ireland) 1975(20) at the end of the period; and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

his pensionable remuneration is to be determined by reference to those earnings.

(13) References in this regulation to a notice are references to a notice in writing given by the person to the Committee not later than one month after he is notified under regulation N7 of his entitlement to a benefit.

(14) References in this regulation to a determination are references to a determination given by the Committee in respect of a person who has died while still in local government employment or without having given a notice.

Pay restraint not to affect pensionable remuneration in certain cases

E20.—(1) Paragraph (4) applies to a person if his pensionable remuneration would, apart from this regulation, be less than it would have been but for a relevant limitation.

(2) In this regulation, “relevant limitation” means a limitation of remuneration—

(a) which was necessary in order to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975⁽²¹⁾; and

(b) the effect of which was that any relevant remuneration was less than would, apart from that section, have been payable under an agreement entered into before 1st August 1975.

(3) In paragraph (2), “relevant remuneration” means any remuneration which is material for any of the purposes of regulation E19 (pensionable remuneration).

(4) The pensionable remuneration of a person to whom this paragraph applies shall be taken to be what it would have been but for the relevant limitation.

(5) Paragraph (7) applies to a person who is affected by a staging agreement.

(6) A person is affected by a staging agreement if—

(a) there has been an agreement or award—

(i) which gave rise to rights enforceable by every member of a class or description of employees to which he belonged at a material time;

(ii) which, whether or not it entitled him to any interim increase, entitled him to the payment of remuneration from a specified date at an increased rate (“the final rate”) which was either specified in or to be determined by a method or in a manner specified in the agreement or award; and

(iii) under the terms of which the final rate, or an interim increase, or the first of two or more interim increases, became payable on or before 1st January 1980;

(b) but for considerations of economy the final rate would have been made payable from a date (“the relevant date”) earlier than the date mentioned in sub-paragraph (a)(ii); and

(c) his remuneration at a material time was less than it would have been if the final rate had become payable from the relevant date.

(7) Subject to paragraph (8), where this paragraph applies to a person the amount of any remuneration that is material for the purposes of regulation E19 shall for those purposes be taken to be what it would have been if the final rate had become payable from the relevant date.

(8) Paragraph (7) does not apply to the calculation of a person’s pensionable remuneration for the purposes of regulations E6(1)(b), E7 and E10.

(9) For the purposes of this regulation—

(a) a material time is a time material for the purpose of calculating the person’s pensionable remuneration under regulation E19; and

(b) a class or description of employees may include persons who neither are nor are deemed to be employees of a scheduled body.

Certificates as to reduction in remuneration

E21.—(1) Where a pensionable employee suffers a material reduction in remuneration, he is, subject to paragraph (5), entitled to be issued by the employing authority with a certificate to that effect.

(21) 1975 c. 57; section 1 was amended, and the period for which it had effect extended, by the Price Commission Act 1977 (c. 33), section 17; references to limits set out in documents laid before Parliament in 1976 and 1977 were added by [The Limits on Remuneration Order 1976 \(S. I. 1976/1097\)](#), [The Limits on Remuneration Order 1977 \(S.I. 1977/1294\)](#)

- (2) A person suffers a reduction in remuneration if—
- (a) the remuneration of an employment which he continues to hold is reduced; or
 - (b) he is transferred to another employment under the same scheduled body at a reduced remuneration.
- (3) Subject to paragraph (4), a reduction in remuneration is material if, and only if, it is such that the employee's pensionable remuneration would be likely to be less if the relevant period were the period specified in regulation E19(2) than if it were a period mentioned in regulation E19(4).
- (4) A reduction in remuneration is not material if—
- (a) it did not result from circumstances beyond the employee's control; or
 - (b) it was temporary; or
 - (c) it consisted in the termination of, or a reduction in, a temporary increase in remuneration.
- (5) The employing authority may issue a certificate without an application from the employee, but need not issue a certificate if he does not apply for one within 12 months after the date of the reduction.
- (6) A certificate issued under this regulation is to specify the date of the material reduction and the authority are to keep, for 10 years from that date, a record of the certificate including such information as would be necessary for applying regulation E19(4).

Calculation of part-time service

E22.—(1) For the purpose of calculating the amount of any benefit a period of part-time service in local government employment shall be treated as though it had been whole-time service for a proportionately reduced period.

(2) For the purposes of calculating the amount of any benefit, service during any period which became reckonable as reckonable service by virtue of paragraph 1(5)(a) or a declaration under paragraph 1(5)(b) of Part III of Schedule 2 (whole-time employment in which contractual weeks are fewer than 45) shall be multiplied by

$$\frac{52}{C}$$

where

C is the number of contractual weeks.

Counting of non-contributing service

- E23.**—(1) Subject to paragraph (3), any period which—
- (a) is reckonable as reckonable service by virtue of its having been reckonable under the 1981 regulations as non-contributing service; and
 - (b) does not fall to be treated as having been reckonable as contributing service,
- shall for the purposes of these regulations be counted at half its full length.
- (2) For the purposes of paragraph (1), the full length of a period of part-time non-contributing service is its length as reduced under regulation E22.
- (3) This regulation does not apply for the purpose of—
- (a) determining whether a person is entitled to, or to payment of, a benefit; or
 - (b) ascertaining, where notice was given under regulation 22 of the 1962 regulations, the maximum length of any additional period to which Schedule 3 applies.

Disregard of certain reckonable service in determining entitlement to benefits

- E24.** For the purpose of determining entitlement to any benefit, no account shall be taken of—
- (a) any added years;
 - (b) any additional period reckonable as reckonable service by virtue of regulations D4 to D7 or D13; or
 - (c) except in relation to regulation E2(2), any period reckonable by virtue of regulation J9(1)
 - (a) (transfer values).

Counting of certain reckonable service and non-contributing service in determining entitlement to benefits

E25. For the purpose of determining whether a person is entitled to, or to payment of, a benefit, any reckonable service and non-contributing service which was reckonable for the purpose of determining entitlement to benefits under the former regulations shall be counted at the same length as it would have been counted for the latter purpose.

Disregard of certain reckonable service in calculating amount of benefits

- E26.**—(1) For the purpose of calculating the amount of any benefit under regulation E3—
- (a) subject to paragraphs (2) and (3), no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years; and
 - (b) where an amount is recovered or retained under regulation M3 reckonable service shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation M3(2)(b) by that amount.
- (2) For the purposes of paragraph (1)(a), a period which a person is entitled to reckon as reckonable service by virtue of regulations E3(9) (permanent ill-health) or F6(1)(a) shall be treated as reckonable service before attaining the age of 60 years.
- (3) Where a retiring allowance falls to be reduced under regulation E3(4) or (5) (potential widow's pensions), any reckonable service to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person's reckonable service.
- (4) Where $A + B$ exceeds 45 years, for the purpose of calculating any benefit A is reduced by a period equal to the excess.
- (5) In paragraph (4)—
- A is the total length of the periods reckonable as reckonable service in relation to the relevant employment, excluding any service which is to be left out of account by virtue of paragraph (1)(a); and
 - B is the length of any earlier period which was taken into account in the calculation of a retirement pension or an annual pension under the former regulations.

Counting of certain reckonable service in calculating amount of benefits

- E27.** For the purpose of calculating the amount of any benefit—
- (a) any period which is reckonable as reckonable service by virtue of its having been reckonable under the former regulations as contributing service shall, subject to regulations E22 and E23 (part-time and non-contributing service), be counted at the same length as it would have been counted for the purpose of calculating any benefit under the former regulations; and
 - (b) any reckonable service in excess of a number of complete years shall be counted as

A

365

of a year, where

A is the number of completed days comprised in the excess.

National Insurance

E28.—(1) Where, but for the revocation of the 1981 regulations, the amount of a benefit would have fallen to be reduced under regulations 53 and 54 and paragraphs 1 to 6 of Schedule 13 of those regulations, the amount shall be reduced as if those provisions had not been revoked.

(2) No provision in these regulations—

- (a) for the surrender or assignment of a pension; or
- (b) for the reduction, termination or suspension of a pension, where the provision is invoked for any cause other than one prescribed by regulations made or deemed to have been made under section 56(1)(c) of the Insurance Act (which section describes equivalent pension benefits),

shall apply so as to reduce a pension payable in respect of any period of service to an employee who attains state pensionable age below the minimum rate of equivalent pension benefits applicable in respect of that period under the provisions of Part III of the Insurance Act.

(3) For the purposes of paragraph (2) “service” means service in a non-participating employment which is reckonable for the purpose of calculating any benefits payable to the employee, except any earlier period of such service in respect of which—

- (a) a payment in lieu of contributions has been made; or
- (b) equivalent pension benefits satisfying the requirements of the Insurance Act had already been assured to him.

Benefits not assignable

E29. Every benefit—

- (a) is payable to, or in trust for, the person who is entitled to it under these regulations; and
- (b) is not assignable and is not chargeable with that person’s debts or other liabilities.

Interest on late payment of certain benefits

E30.—(1) Where all or part of—

- (a) a retiring allowance;
- (b) an ill-health retirement grant payable under regulation E4; or
- (c) a death grant,

is not paid within one month after the due date, the Committee shall pay to the person to whom the allowance or grant is payable interest, calculated at the standard rate on a day to day basis from the due date to the date of payment, and compounded with 3 monthly rests, on the amount remaining unpaid.

(2) For the purposes of this regulation the due date is—

- (a) in the case of a retiring allowance which becomes payable by virtue of a notice in writing under regulation E2(5) or (6)(a) given on or after the date on which the allowance by virtue of that notice became payable, the date one month after that notice was given;

- (b) in the case of a part of a retiring allowance which becomes payable by virtue of payments or contributions (other than an increase in contributions made following a decision under regulations N1 or N8) made after the date on which the remainder of the allowance became payable, the date one month after that increase in contributions was paid;
- (c) in the case of a retiring allowance or part of a retiring allowance which becomes payable by virtue of contributions made following a decision under regulations N1 or N8, the date on which that allowance or part of an allowance would have become payable had those contributions been made at the first opportunity which these regulations would otherwise have provided;
- (d) in all other cases in which a retiring allowance or part of a retiring allowance becomes payable, the date on which that allowance or part of an allowance becomes payable;
- (e) in the case of an ill-health retirement grant which becomes payable, the day after the person who is entitled to the ill-health retirement grant ceased to hold his employment;
- (f) in the case of a death grant, the date on which—
 - (i) probate or letters of administration are produced to the Committee; or
 - (ii) the Committee becomes satisfied that the grant may be paid as provided in regulation R4.

Increase in certain benefits already payable

E31.—(1) This regulation applies where a person has become entitled, under regulation D13, to reckon an additional period as whole-time reckonable service by virtue of a lump sum payment having been made in accordance with the regulation C7(19).

(2) Where this regulation applies—

- (a) the additional period shall be treated as having been reckonable at the time when the person ceased to be a pensionable employee; and
- (b) the person shall be entitled to receive, within one month after making the lump sum payment, a sum equal to the additional amount he would have received if any benefits already paid to him had been calculated by reference to the increased reckonable service.

Entitlement to benefits where a person has given a notification in accordance with regulation B3

E32. Where regulations E2, E3, E5 to E10, E12, E17 and E18 do not apply to a person because he has ceased to be a pensionable employee by virtue of a notification in accordance with regulation B3, he shall nevertheless on ceasing to hold his employment under an employing authority and subject to the provisions of the aforementioned regulations be entitled to benefits in relation to his service as if he was a pensionable employee.

PART F

WAR SERVICE

Interpretation, etc.

F1. In this Part—

“deceased employee” means a person with war service who died after 31st March 1978 and in relation to whom the conditions specified in regulation F3(2) to (8) were or are deemed to have been satisfied when he died;

“excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces;

“non-effective pay” includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(22), which exempted war gratuities from income tax, applies and gratuities paid to former members of the Palestine Police Force);

“occupational pension scheme” means any scheme or arrangement comprised in one or more instruments or agreements and having, or being capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category; and

“public service scheme” means the Universities' Superannuation Scheme, and any occupational pension scheme—

- (a) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department; and
- (b) which includes provisions for any such whole-time service as is described in regulation F2(1), rendered before becoming entitled to participate in the scheme, to be reckonable as service in respect of which benefits are payable under the scheme;

“war service provisions”, in relation to a public service scheme, means provisions of the kind specified in paragraph (b) of the definition of the latter expression;

and references to war service are to be construed in accordance with regulation F2.

War service

F2.—(1) For the purposes of this Part, a person’s war service is, subject to paragraph (2), the period of his whole-time service at any time after 2nd September 1939 and before 30th June 1950, while 18 years old or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women’s services specified in Schedule 13.

(2) A person’s war service does not include—

- (a) any period in respect of which any non-effective pay or excess remuneration has been received by him and not refunded;
- (b) any period that was, or falls to be treated as having been, reckonable by him as non-contributing or contributing service for the purposes of the 1950 regulations or the Belfast Corporation Superannuation Scheme;
- (c) any period that has at any time been taken into account (whether at its full length or otherwise) for the purpose of calculating any benefit under any other occupational pension scheme; or
- (d) any period that is or has at any time been capable of being taken into account otherwise than under this Part (whether at its full length or otherwise), for the purpose of calculating any benefit under any occupational pension scheme; but in the case of a person to whom regulation F3(2)(d) applies “benefit” does not include a benefit under the war service provisions of a public service scheme.

Election as to war service

F3.—(1) A person with war service in relation to whom the conditions specified in paragraphs (2) to (9) are satisfied, or the personal representatives of a deceased employee, may by notice given in accordance with regulation F5 elect that this regulation shall apply in relation to him.

(2) One at least of the following must be the case:

- (a) he became before 1st July 1950 entitled to participate in the benefits provided by the 1950 regulations or under the Belfast Corporation Superannuation Scheme; or
- (b) a period beginning before 1st July 1950, was, or falls to be treated as having been, reckonable by him otherwise than by virtue of interchange rules as service; or
- (c) he successfully completed before 1st July 1950, or was on 30th June 1950 undergoing and later successfully completed—

- (i) a course of training for the Royal Sanitary Institute's Certificate in Public Health Inspection; or
- (ii) a course of training leading to the issue by the Institute of Municipal Engineers of a testamur of general proficiency; or
- (iii) a course of training leading to the award of a diploma qualifying the holder for appointment to the staff of occupational centres for, and of education departments of institutions for, mental defectives,

and not later than 6 months after completing the course of training he became entitled as mentioned in sub-paragraph (a) or, as the case may be, a period began which was reckonable, or falls to have been reckonable, as mentioned in sub-paragraph (b); or

- (d) none of the foregoing is the case, but a transfer value was accepted and received in relation to him by the Committee or the Belfast Corporation before 1st April 1978 and a scheme is designated under regulation F5(2)(b).

(3) He must on 1st April 1978 have been—

- (a) an employee entitled to participate in the benefits provided by the 1962 regulations; or
- (b) entitled to receive payments in respect of a pension under the former regulations; or
- (c) entitled to a pension under regulation 9(1)(c) of the 1962 regulations; or
- (d) a person to whom regulation 35 of the 1962 regulations or regulation 22 of the 1950 regulations or the corresponding provisions of the Belfast Corporation Superannuation Scheme applied; or
- (e) entitled to superannuation benefits under any local Act.

(4) Except where paragraph (2)(c) or (d) is the case, there must not since the date specified in paragraph (1) have been a continuous period of 12 months or more throughout which none of the following was the case:

- (a) he was entitled as mentioned in paragraph (2)(a); or
- (b) the period mentioned in paragraph (2)(b) was running; or
- (c) he was undergoing such a course of training as is mentioned in paragraph (2)(c); or
- (d) he was entitled as mentioned in paragraph (3); or
- (e) he was entitled to participate in the benefits provided by these regulations or the Belfast Corporation Superannuation Scheme made on 4th August 1964; or
- (f) he was entitled to receive payments in respect of an annual pension under these regulations; or
- (g) he was entitled to a pension under regulation E2(1)(c); or

- (h) he was a person to whom regulation E13 or the corresponding provisions of the former regulations applied.
- (5) Where paragraph (2)(c) is the case, paragraph (4) applies—
- (a) with the substitution for the date specified in paragraph (11) of the date (being a date later than 30th June 1950) on which he became entitled as mentioned in paragraph (2)(a), or, as the case may be, a period began which was reckonable, or falls to be treated as reckonable, as mentioned in paragraph (2)(b); and
 - (b) with the substitution for the reference in paragraph (4)(b) to the period mentioned in paragraph (2)(b) of a reference to such a period as is mentioned in sub-paragraph (a).
- (6) Where paragraph (2)(d) is the case, paragraph (4) applies with the substitution for the date specified in paragraph (11) of the date (being a date later than 30th June 1950) on which he last became entitled as mentioned in paragraph (2)(a).
- (7) If he is a person to whom proviso (a) of regulation 18 of the 1962 regulations or regulation 15(2) and (4) of the 1950 regulations or the corresponding provisions of the Belfast Corporation Superannuation Scheme applied in respect of any service after the end of his war service, he must have repaid to the Committee the sum or amount there mentioned.
- (8) If he is an employee entitled to participate in the benefits provided by these regulations, he must not be entitled to reckon more than 45 years' reckonable service disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.
- (9) If he has become entitled to receive payment in respect of an annual pension under these regulations or the former regulations (including a pension which is for the time being subject to reduction or suspension under regulation E13), no more than 45 years' service must have been taken into account in calculating the amount of that pension.
- (10) Where paragraph (2)(d) applies and the scheme designated under regulation F5(2)(b) is not a scheme specified in Schedule 14, war service is for the purposes of paragraph (1) to be assumed.
- (11) The date mentioned in paragraph (4) is the date before 1st July 1950 and after the end of his war service when, as the case may be—
- (a) he became entitled as mentioned in paragraph (2)(a); or
 - (b) the period mentioned in paragraph (2)(b) began.

Modified application of regulation F3 in certain cases

F4. In the case of a person—

- (a) who after the date specified in regulation F3(11) left local government employment and became entitled to participate in the benefits of another occupational pension scheme; and
- (b) who re-entered local government employment not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph (a) and became entitled in that employment to reckon—
 - (i) as reckonable service or qualifying service; or
 - (ii) as non-contributing or contributing service, or a period of contribution, for the purposes of the former regulations or the Belfast Corporation Superannuation Scheme,

a period at least equal in length to the whole of his service from the date specified in regulation F3(11),

the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

Notice of election

- F5.**—(1) Notice of an election under regulation F3 is to be given in writing to the Committee.
- (2) The person giving notice of an election under regulation F3—
- (a) is to give the Committee, in writing—
 - (i) all information in his possession; and
 - (ii) if the Committee notify him in writing that they so require, any further information specified by them that he can reasonably be expected to obtain, concerning the war service of the person to whom the notice relates, and his past membership of any scheme designated under paragraph (b); and
 - (b) is to designate in the notice the scheme, if any, which he believes complies with regulation F6(3); and
 - (c) may—
 - (i) in that notice; or
 - (ii) at any time before he receives a notification of a decision or determination that the conditions specified in regulation F3(2) to (9) are satisfied in relation to the person to whom that notice relates, by a further notice in writing to the Committee, elect that regulation F6 shall apply with the substitution, in paragraph (1)(a) or (12) as the case may be, for “47%” of any specified lesser percentage; and
 - (d) whether or not he has so elected, may at any time before he receives such a notification withdraw the notice given under regulation F3.

Reckonable service and benefits

- F6.**—(1) Subject to regulation F5(2)(c) and paragraphs (2) to (15), a person in relation to whom regulation F3 applies is entitled, or, as the case may be, shall be deemed to have been entitled—
- (a) in the case of a person entitled on the relevant date—
 - (i) to participate in the benefits provided by these regulations; or
 - (ii) to a retirement pension under these regulations, to reckon as reckonable service a period equal to 47% of his war service; or
 - (b) in the case of a person who became entitled to receive a pension under the former regulations, to receive, in respect of the service in respect of which that pension is payable, the additional benefits specified in paragraph (11).
- (2) Where regulation F3(2)(d) applies and the scheme designated under regulation F5(2)(b) (“the designated scheme”) is a scheme specified in Schedule 14, paragraph (1) applies only if that scheme complies with paragraph (3).
- (3) A scheme complies with this paragraph if—
- (a) it is the first public service scheme the war service provisions of which could have become applicable to the person if he had remained a member of it; and
 - (b) he is, or in the case of a deceased employee was immediately before he died—
 - (i) entitled to reckon the employment in which he was subject to the scheme as reckonable service; or
 - (ii) entitled to a retirement pension in the calculation of which that employment was taken into account as reckonable service.

(4) Where the designated scheme is a scheme specified in Part I of Schedule 14 and complies with paragraph (3), this regulation applies with the substitution throughout for references to 47% of references to 63 $\frac{2}{3}$ %.

(5) Where the designated scheme is a scheme specified in Part II of Schedule 14 and complies with paragraph (3), this regulation applies with the substitution throughout for reference to 47% of references to 46 $\frac{1}{2}$ %.

(6) Where the designated scheme is not a scheme specified in Schedule 14, paragraph (1) applies only if a transfer value, calculated in accordance with Part V of Schedule 16, is received in respect of the period that could have become reckonable under the war service provisions of that scheme.

(7) Where paragraph (1) applies, by virtue of the acceptance of such a transfer value, this regulation applies with the substitution throughout for references to a period equal to 47% of the person's war service of references to the period that could have become reckonable under the war service provisions of the designated scheme.

(8) Where the person was entitled on the relevant date to a retirement pension—

(a) his entitlement under paragraph (1)(a), and to any resulting increase in the rate of his retirement pension, shall be taken to have arisen on—

(i) 1st April 1978; or

(ii) the date on which he ceased to hold his employment,

whichever is the later date; and

(b) if regulation 20(6) of the 1981 regulations or the corresponding provisions of the former regulations applied to him before 1st December 1984—

(i) any increase by virtue of paragraph (1)(a) in the amount of any benefit is not subject to reduction under regulation E3(11); and

(ii) the period that he is entitled by paragraph (1)(a) to reckon as reckonable service is not to be taken into account in calculating the reduction of any benefit falling to be reduced under regulation E3(11).

(9) The relevant date for the purposes of paragraphs (1) and (8) is the date of the election under regulation F3, except in the case of a deceased employee where it is the date of his death.

(10) Any period which a person is or is deemed to have been entitled to reckon as reckonable service by virtue of paragraph (1) shall for the purposes of regulation E3(4) to (7) and of regulation E11(6) and (10) be deemed to be reckonable service before, as the case may be—

(a) 1st April 1972; or

(b) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(11) The additional benefits mentioned in paragraph (1)(b) are—

(a) an additional pension, payable from—

(i) 1st April 1978; or

(ii) the date on which he ceased to hold his employment,

whichever is the later date; and

(b) if the person has received or is entitled to receive payment of a retiring allowance, an additional lump sum,

calculated in accordance with paragraph (12).

(12) Subject to regulation F5(2)(c) and paragraph (15)—

(a) the annual rate of an additional pension; and

(b) the amount of an additional lump sum, specified in paragraph (11) is the amount by which the annual rate of the corresponding original pension or, as the case may be, the amount of the corresponding original lump sum would have been increased if a period equal to 47% of the person's war service had been service, or a period, of a kind which (however described) counted in full in the calculation of the original pension or lump sum.

(13) Where—

(a) before the date of notification of a decision or determination that he is entitled to reckon a period as reckonable service by virtue of paragraph (1), a person in relation to whom regulation F3 applies has been credited with an additional period of service under—

(i) any provision made by an enactment or instrument for compensation for loss of employment or loss or diminution of emoluments or for early retirement in lieu of such compensation; or

(ii) regulation E3(9), (“the enhancement provision”); and

(b) $A + B - C$ exceeds 40 years,

where—

A is the period which would but for this paragraph be reckonable by him as reckonable service by virtue of paragraph (1);

B is the remainder of his reckonable service; and

C is the additional period of service with which he has been credited under the enhancement provision,

the period which is reckonable by him as reckonable service by virtue of paragraph (1) is the total of $40 - (B + C)$ and the amount, if any, by which $(A + B + C) - 40$ exceeds C; except that where the enhancement provision is comprised in regulations made under Article 3 of the Superannuation (Northern Ireland) Order 1973(23) “45” is to be substituted for “40” wherever the latter figure occurs in this paragraph.

(14) Where a person dies who was entitled or deemed to be entitled to any additional benefit specified in paragraph (11) and there is payable in respect of him under the former regulations any benefit similar to a widow's pension, children's pension or death grant payable under Part E (“the death benefit”), the person entitled to receive the death benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at any rate or, as the case may be, of any amount by which the death benefit would have been increased if a period equal to 47% of the deceased person's war service had been service, or a period, which (however described) counted in full in ascertaining entitlement to the death benefit and its rate or amount.

(15) The total of an additional benefit under paragraph (11) or (14) and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

(a) the period equal to 47% of the person's war service had been a period of service before he attained the age of 60 years; and

(b) no more than—

(i) 40 years' service before attaining that age; and

(ii) 45 years' service in all,

had been capable of counting in the calculation of the original benefit.

(16) In calculating a period equal to a percentage of a person's war service for any of the purposes of this regulation, the war service is to be counted as a number of days, arrived at by—

- (a) multiplying the number of complete years of war service, if any, by 365; and
- (b) counting any part of the war service that does not amount to a number of complete years at its actual length in days,

rounding up any fraction of a day resulting from the calculation to the nearest whole day.

Revision of certain elections

F7.—(1) Subject to paragraph (2), where—

- (a) notice of one or more elections under regulation C9(2) or regulation 15(2), (3) or (4) of the 1981 regulations or the corresponding provisions of the former regulations or notice under regulation 14 of the Local Government (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1979⁽²⁴⁾ has been given by or in respect of a person in relation to whom regulation F3 applies; and
- (b) the service thereby specified amounts to the whole of his reckonable service before, as the case may be—
 - (i) 1st April 1972;
 - (ii) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved,

he or his personal representatives may elect that the period which he is or is deemed to be entitled to reckon as reckonable service by virtue of regulation F6(1) is to be treated as having been included in the service specified in the latest notice.

(2) An election under paragraph (1)—

- (a) may not be made unless notice of election under regulation 98 of the 1981 regulations was given within the period of 6 months beginning on the relevant date, or in the case of a deceased employee who died during that period, within the period of 12 months beginning on the date of his death; and
- (b) must, unless they allow a longer period, be made by giving notice in writing to the Committee within 3 months after the date of notification of a decision by the Committee, or as the case may be a determination by the county court under regulation N8 that the person is or is deemed to be entitled to reckon such a period as is mentioned in paragraph (1).

(3) For the purposes of paragraph (2)(a) the relevant date—

- (a) where regulation F3(2)(d) applies, is 12th December 1985; and
- (b) in any other case, is 1st December 1984.

PART G

MODIFICATIONS IN SPECIAL CASES

Application to existing officers

G1. In their application to existing officers these regulations shall have effect subject to the modifications set out in Part I of Schedule 15.

⁽²⁴⁾ S.R. 1979 No. 214 as extended by the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1980 (S.R. 1980 No. 265), regulation 9

Special provisions for the reckoning by existing officers as service of certain kinds of employment prior to 1st April 1950

G2.—(1) Where an existing officer was entitled—

- (a) by virtue of regulation 5(6) of the 1950 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme to reckon as service any period of employment between 1st April 1939 and 4th February 1948, during which he was subject to the Act of 1937 or any other scheme approved for the purposes of regulation 5(6) of the 1950 regulations;
- (b) by virtue of regulation 15(1)(a) of the 1950 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme to reckon as service any period of employment prior to 1st April 1950 which was reckonable at that date for the purpose of calculating superannuation benefits under the Act of 1865, the Act of 1869, the Act of 1875, the Act of 1919 or any local Act;
- (c) by virtue of the proviso to regulation 15(8) of the 1950 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme to reckon as service any period of employment prior to 1st April 1950 under an employing authority;
- (d) by virtue of regulation 15(1)(a) or (b) of the 1951 Scheme to reckon as service any period of employment with the North of Ireland Chemical Company Ltd., the Holywood Gas Company or the Belfast Society for providing Nurses for the Sick Poor; or
- (e) by virtue of the proviso to regulation 23 of the 1951 Scheme to reckon as service any period of employment prior to 1st April 1950 reckonable at that date for the purpose of calculating superannuation benefits under the Act of 1943 and any period of employment after that date up to the date when the proviso became applicable to him and in respect of which he had contributed in accordance with the terms thereof,

and that period of employment would have continued to be reckonable under the former regulations had these regulations not been made, then any such period of employment as aforesaid shall be reckonable as service in relation to the employment in which he is a pensionable employee.

(2) Where an existing officer who was subject to the provisions of the Act of 1943 and who did not exercise the option referred to in regulation 23 of the 1951 Scheme is transferred to an office which is, or holds an office which becomes, one which prior to 1st April 1950 would have been pensionable under the Act of 1869, any period of employment under the Belfast Corporation prior to 1st April 1950 which would have been at the date when this regulation becomes applicable to him reckonable as service for the purposes of that Scheme if he had exercised the option under that regulation, shall be reckonable as service under these regulations; but the period of employment from 1st April 1950 to the said date shall be reckonable as service only if he notifies the authority by whom he is employed, being a district council or public body, within 3 months after that date that he intends to pay and pays to that authority all arrears of contributions as from 1st April 1950 either in a lump sum or by such instalments as that authority may allow and in respect of such instalments the provisions of paragraph 2 and 3 of the second Schedule to the 1962 regulations shall apply as if those regulations had not been revoked.

(3) In this regulation—

“the 1951 Scheme” means the Superannuation Scheme made by the Belfast Corporation under section 5A of the Act of 1950, as amended, on 20th April 1951.

Added years in the case of certain existing officers

G3.—(1) Subject to paragraph (2), where an existing officer to whom regulation 43(1) of the 1962 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme applied possessing technical, professional or other special qualifications was appointed when above

30 years of age to an office under an employing authority for the due and efficient discharge of the duties of which such qualifications were required, the employing authority may, upon his resignation, retirement or death, direct that there shall be added to the length of his service as such officer such number of years not exceeding 10 as the employing authority may fix and any such years so added shall be reckonable as years of contributing service.

(2) A direction shall not be made under paragraph (1) in respect of an existing officer if a consent has been given in respect of him under regulation 43(1) of the 1981 regulations or under the corresponding provision of the former regulations.

(3) There shall be paid into the fund by an existing officer in respect of whom a direction is made under paragraph (1), or by his personal representatives, for each of the years added to his service by virtue of the direction, a contribution equal to 5% of the amount of the annual remuneration payable to him during the year which commenced on 1st April 1950, together with compound interest thereon as from 1st January 1952, up to the day preceding 1st December 1962, at the rate of 2½% per annum and as from 1st December 1962, at the rate of 3¼% per annum.

(4) There shall be paid into the fund by the employing authority in respect of an existing officer in respect of whom a direction is made under paragraph (1) such amount as may be actuarially determined as representing the difference between the amount of the contributions required to be made by the existing officer in accordance with paragraph (3) and the capital value of the additional liability falling upon the fund by virtue of the direction having been made.

(5) Any service reckonable by virtue of a direction made under paragraph (1) in relation to a person who has ceased to be a pensionable employee shall be deemed to have been reckonable immediately before 1st April 1972.

Application to certain female nurses, physiotherapists, midwives and health visitors

G4. In their application to a pensionable employee to whom regulation 50 of the 1981 regulations applied, these regulations shall have effect subject to the modifications set out in Part II of Schedule 15.

Power to agree notional remuneration

G5.—(1) An employing authority may from time to time enter into an agreement with the bodies or persons representative of any class or description of employee of that authority specifying the method by which an amount representing the whole of the remuneration of a member of that class or, as the case may be, an employee of that description or such part of his remuneration as is specified in the agreement shall, in respect of the period during which the agreement remains in force, be determined.

(2) Where an employee of an employing authority belongs to a class or description of employee in relation to which an agreement entered into by that body under paragraph (1) is in force, then in respect of the period during which that agreement remains in force and the employee in his employment under that authority remains an employee of that class or description, the amount determined in relation to him in accordance with the method specified in the agreement as the amount representing the whole of his remuneration or, as the case may be, such part of his remuneration as is specified in the agreement shall be deemed for the purposes of these regulations to be his remuneration or, as the case may be, such part of his remuneration as is so specified.

(3) Where an employing authority enter into an agreement under paragraph (1) they shall send a written notification of that fact, which shall include a conspicuous statement directing the attention of the employee to the place at which he may obtain information about details of the agreement, to each of their employees who is a member of a class or, as the case may be, an employee of a description, to which the agreement relates.

(4) The notification required by paragraph (3) shall be sent—

- (a) in the case of a person in the employment of the employing authority on the date on which the agreement was entered into, as soon as is reasonably practicable after that date; and
- (b) in the case of a person entering the employment of that authority after that date, within 3 months after he has entered that employment.

PART J

INTERCHANGE, ETC.

Interpretation

J1. In this Part—

“Communities' scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities;

“Community institution” includes a body treated as one of the Communities' institutions for the purposes of the Communities' scheme;

“local Act authority” and “local Act scheme” have—

- (a) in relation to any time before 25th March 1972, the same meanings as in the Act of 1937; and
- (b) in relation to any time on or after 25th March 1972, the same meanings as in section 8 of the Act of 1972;

“pension” does not include an allowance; and

“service” means service or employment with any employer.

Outwards transfers

J2.—(1) Subject to paragraphs (6) and (7), a transfer value shall be paid in relation to a person who has ceased to be employed in local government employment and has become employed in approved non-local government employment if the conditions in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the local government employment, or the commencement of the approved non-local government employment, or both the cessation and the commencement, occurred before 1st March 1993.

(3) The conditions are that—

- (a) he has made a written request to the Committee for the transfer value to be paid; and
- (b) subject to paragraph (4), the request was made not later than 6 months after 1st March 1993, or, if later, 6 months after the date on which he became employed in his approved non-local government employment; and
- (c) the scheme managers of his approved non-local government scheme have agreed to accept the transfer value; and
- (d) in the case of a person who ceased to be employed in his local government employment before 31st March 1972, the Committee has consented to the payment of the transfer value; and
- (e) in the case of a person who received a return of contributions in relation to his local government employment (other than a person falling within paragraph (7)), he has within 3 months of making his request under sub-paragraph (a) paid to the Committee—

- (i) a sum equal to the contributions returned to him (together with any interest which he was paid);
 - (ii) a sum equal to any deduction made on account of tax under section 209(2) of the Income and Corporation Taxes Act 1970⁽²⁵⁾; and
 - (iii) compound interest on both those sums calculated in accordance with regulation J7 for the period beginning with the date on which he received the return of contributions and ending on the date of his request under sub-paragraph (a) (but no interest is to be paid if that period is less than 6 months).
- (4) The Committee may in any particular case extend the period mentioned in paragraph (3)(b).
- (5) The Committee shall not give its consent under paragraph (3)(d) unless—
- (a) in the interval between the employments the person was in employment outside the United Kingdom in relation to which rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948⁽²⁶⁾ applied; or
 - (b) the person left his local government employment with a right to a prospective pension under a local Act scheme,
- and he has not previously made an application for a transfer value to be paid to the scheme managers in question in relation to his local government employment which was refused.
- (6) A transfer value shall not be paid in relation to a person—
- (a) who has received any benefit (other than a return of contributions) in respect of his local government employment; or
 - (b) who ceased to be employed in local government employment on or after 6th April 1978 having reached state pensionable age, unless his accrued pension for the purposes of Schedule 16 relates solely to service after he reached state pensionable age; or
 - (c) who ceased to be employed in local government employment on or after 6th April 1978 and who has become employed in approved non-local government employment (other than employment with a Community institution) which is not contracted-out employment for the purposes of the Pensions Order, unless—
 - (i) the person is a married woman or widow who has made, or is treated as having made, an election for the purposes of Article 5(2) of that Order and she has not revoked that election and, in consequence, on the cessation of her local government employment she has no accrued rights under these regulations to a guaranteed minimum pension in connection with that employment; or
 - (ii) an election has been made under Article 44(2) of that Order to pay a contributions equivalent premium with a view to extinguishing the person's accrued rights under these regulations to a guaranteed minimum pension in connection with his local government employment; or
 - (d) in respect of whom a transfer value has been paid by the Committee since he ceased to be employed in his local government employment; or
 - (e) who, on becoming employed in approved non-local government employment became entitled, without any condition as to receipt of a transfer value, to reckon service in his local government employment in relation to his approved non-local government employment; or

⁽²⁵⁾ 1970 c. 10

⁽²⁶⁾ 1948 c. 33

- (f) if a direction has been made in relation to his service in his local government employment under regulations C15(8) or M1 or any corresponding provision of earlier legislation or the former regulations.
- (7) In relation to a person who—
 - (a) ceased to be employed in local government employment on or after 15th August 1975 but before 26th August 1977 with an aggregate of at least 5 years' reckonable and qualifying service; or
 - (b) ceased to be employed in local government employment on or after 26th August 1977, and has received a return of contributions in relation to that employment, a transfer value may only be paid in relation to service in respect of which he is entitled to preserved benefits.

Additional transfer value on outwards transfer in certain cases

J3.—(1) Notwithstanding regulation J2(6)(d), where after 31st March 1978 there has been paid in respect of a person to whom regulation F3 applies a transfer value in the calculation of which the period that he became entitled by regulation F6(1)(a) to reckon as reckonable service was not taken into account, an additional transfer value shall be paid in respect of that period.

(2) Notwithstanding regulation J2(6)(d), where a transfer value has been paid before 1st April 1978 in respect of a person in relation to whom one of the conditions in regulation F3(2)(a) to (d) is satisfied and the conditions in regulation F3(4) to (9) were satisfied at the time of payment, an additional transfer value shall be paid if the conditions in paragraph (3) are satisfied.

(3) The conditions are that the scheme managers of a public service scheme not specified in Schedule 14—

- (a) have made a written request to the Committee for the additional transfer value to be paid;
- (b) have given them particulars of the service (being such whole-time service as is described in regulation F2(1)) to which it is to relate, and the rate or amount, as the case may be, to be used in ascertaining C of the formula set out in Part V of Schedule 16; and
- (c) have certified that on payment of the additional transfer value the person will be entitled to reckon extra service for the purposes of the scheme,

but an additional transfer value shall not be paid in the case of an officer who transferred to a government department on 1st October 1973 under an order made under sections 134 or 135 of the Local Government Act (Northern Ireland) 1972(27) or any other transferred provision.

Amount of transfer value, etc.

J4.—(1) The amount of any transfer value payable under regulation J2 and of any additional transfer value payable under regulation J3(1) shall be calculated in accordance with the provisions of Parts I to IV of Schedule 16.

(2) The amount of any additional transfer value payable under regulation J3(2) shall be calculated in accordance with Part V of Schedule 16.

(3) The transfer value or additional transfer value shall be paid to the scheme managers by the Committee out of the fund.

(4) The Committee shall provide the scheme managers and the person to whom the transfer value or additional transfer value relates with a written notice showing how it was calculated.

(5) A notice provided to a person under paragraph (4) shall include a statement of the kind required by regulation N7(2)(c).

Termination of right to payment out of the fund

J5. Notwithstanding any provision of these regulations or of the former regulations (except regulations J3 and J6), where a transfer value is to be or has been paid under regulation J2 no other payment or transfer of assets shall, subject to regulations J3 and J6, be made out of the fund on account of the service to which the transfer value relates.

Rights where a person transfers to the Communities' scheme and leaves without a right to either an immediate or prospective pension

J6.—(1) This regulation has effect to confer rights on a person and those claiming through him where—

- (a) the person became employed by a Community institution after having been employed in local government employment; and
- (b) the scheme managers of the Communities' scheme were paid a transfer value under regulation J2 in relation to his previous service in local government employment; and
- (c) he ceased to be employed in his employment with the Community institution without the right to an immediate or prospective pension; and
- (d) the Committee has been paid for the credit of the fund—
 - (i) a sum equal to the amount of the transfer value which the scheme managers received; and
 - (ii) compound interest on that sum calculated in accordance with regulation J7 for the period beginning with the date on which the transfer value was received by the scheme managers and ending on the date on which the Committee was paid the sum required by (i) above (but no interest is to be paid if that period is less than 6 months).

(2) Where the person ceased to be employed in his local government employment on or after 1st March 1993 in circumstances in which he would, apart from regulations J2 to J5, have been entitled to a pension (other than a pension under regulations E1(3)(b) or E2(2)) in respect of the service to which the transfer value relates, he and those claiming through him shall, subject to paragraph (4), have the same rights as they would have had by virtue of these regulations (so far as applicable) if the payment of the transfer value had not been requested or made.

(3) Where the person ceased to be employed in his local government employment on or after 1st March 1993 in circumstances in which he would not, apart from regulations J2 to J5, have been entitled to a pension (other than a pension under regulations E1(3)(b) or E2(2)) in respect of the service to which the transfer value relates, he and those claiming through him shall, subject to paragraph (4), have the same rights as they would have had by virtue of these regulations (so far as applicable) if—

- (a) on the termination of his local government employment he had been entitled to reckon an aggregate of 5 years' reckonable and qualifying service; and
- (b) the payment of the transfer value had not been requested or made.

(4) Paragraphs (2) and (3) shall not confer any right to—

- (a) a return of contributions; or
- (b) the payment of any benefit for any period ending on or before the date on which he left his employment with the Community institution.

(5) For the purposes of this regulation references to those claiming through a person shall be construed as references to his widow, dependants, children and personal representatives so far as is appropriate in his particular case.

Compound interest on certain sums

J7. Compound interest under regulations J2(3)(e)(iii) and J6(1)(d)(ii) and Parts I (paragraph 1(2)) and V of Schedule 16 is to be calculated—

- (a) at the rate of 6% with yearly rests for each complete period of a year ending before 1st April 1977 (any residual period of less than a year is to be ignored); and
- (b) at the rate of 2¼% with 3-monthly rests for each complete period of 3 months beginning after 31st March 1977 (any residual period of less than 3 months is to be ignored).

Inward transfers

J8.—(1) Subject to paragraphs (5) and (6), a transfer value offered to the Committee by the scheme managers of a persons previous non-local government scheme shall be accepted by them and shall, together with the amount of any limited revaluation premium under Article 47 of the Pensions Order repaid to the Committee by the Department of Health and Social Services, be credited to the fund if the conditions specified in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the non-local government employment, or the commencement of the local government employment, or both the cessation and commencement, occurred before 1st March 1993.

(3) The conditions are that—

- (a) except where the transfer value is offered as mentioned in paragraph (5)(a) and is in respect of such a period as is mentioned in paragraph (5)(b), or relates only to service reckonable under the war service provisions of a public service scheme, he has made a written request to the Committee for the transfer value to be accepted; and
- (b) subject to paragraph (4), the request was made not later than 6 months after 1st March 1993 or, if later, 6 months after the date on which he became employed in his local government employment; and
- (c) the transfer value is not offered on conditions which are inconsistent with the provisions of these regulations; and
- (d) except in the case of a person who became employed in his local government employment on or after 26th August 1977 and who ceased to be employed in his non-local government employment on or after 31st March 1972, the Committee have consented to the transfer value being accepted; and
- (e) in the case of a person who became employed in his local government employment before 31st March 1972, he was employed in local government employment on that date.

(4) The Committee may in any particular case extend the period mentioned in paragraph (3)(b).

(5) A transfer value which—

- (a) is offered by the scheme managers of a public service scheme in relation to a person in relation to whom a transfer value was accepted and received before 1st April 1978; and
- (b) is in respect of a period which could if he had not ceased to be employed in his non-local government employment have become reckonable under the war service provisions of the scheme,

shall not be accepted unless it is one calculated in accordance with Part V of Schedule 16.

(6) A transfer value under paragraph (1) shall not be accepted in relation to a person if—

- (a) his non-local government employment was contracted-out employment for the purposes of the Pensions Order; and
- (b) his non-local government scheme was not a statutory scheme or a scheme which is to be treated for the purposes of Schedule 17 as being a statutory scheme; and

- (c) the transfer value would not secure a resultant pension at least equal to—
- (i) the annual equivalent of his guaranteed minimum in respect of service to which the transfer value relates; and
 - (ii) where equivalent pension benefits were, but would not remain, assured by his non-local government scheme, the annual rate of those benefits.
- (7) A person's resultant pension shall be calculated in accordance with the formula:

$$R = \frac{N}{80} \times S$$

where—

R is the annual amount of the resultant pension;

N is the reckonable service (expressed in years and fractions of a year) which would, apart from paragraph (5), be credited to him under regulation J9(1)(a) if the transfer value were to be accepted by the Committee;

S is the annual rate of his remuneration on becoming employed in his local government employment (if he is paid weekly, the annual rate shall be calculated by multiplying the weekly rate by 52.18).

(8) A person's guaranteed minimum shall be calculated in accordance with Article 37 of the Pensions Order (except that paragraphs (7) and (8) shall be ignored) by reference to the regulations applying in relation to that Article and the orders in force under Article 23 of that Order, when he becomes employed in his local government employment, and the annual equivalent shall be calculated by multiplying the guaranteed minimum by 52.18.

Right to reckon service

J9.—(1) Where a transfer value (other than one to which regulation J8(5) applies) has been accepted in relation to a person under regulation J8—

- (a) he shall, subject to regulation J10(4), (5) and (6), be entitled to reckon as reckonable service a period calculated in accordance with Schedule 17 for all purposes of these regulations except that of determining whether there is any entitlement to benefit (other than any benefit under regulation E2(2)); and
- (b) he shall be entitled to reckon as qualifying service all the service to which the transfer value relates.

(2) A period reckonable under paragraph (1)(a) shall be treated as reckonable service after 31st March 1972 for the purposes of making any calculation under these regulations.

(3) Service reckonable under paragraph (1)(b) shall count at its actual length.

(4) The Committee shall provide the person with a written notice stating the periods of service which he is entitled to reckon under paragraph (1)(a) and (b) and, in the case of a person who became employed in his local government employment before 1st April 1980, whether or not his retirement pension is subject to reduction under regulations J11 or J12.

(5) A notice under paragraph (4) shall contain a statement of the kind required by regulation N7(2)(c).

Increase in return of contributions

J10.—(1) Where—

- (a) a person to whom regulation J9 applies ceases to be employed in employment in which he is a pensionable employee in circumstances in which a return of contributions is payable to him under regulation C15(3) and (4);
- (b) he would have been entitled to a return of contributions under his non-local government scheme in respect of service to which the transfer value accepted under regulation J8 relates on the termination of his non-local government employment if a transfer value had not been payable; and
- (c) no previous increase has been made under this regulation in relation to that service,

the sum due to him under regulation C15(3) and (4) shall be increased by an amount equal to the return of contributions (including any interest) which would have been paid to him under his non-local government scheme in respect of that service in the circumstances specified in subparagraph (b) if it had been paid when the transfer value was received by the Committee.

(2) Where compound interest is payable on the contributions to be returned under regulation C15(3) and (4), compounded interest calculated at the same rate and in the same manner shall also be payable on the amount of the increase under paragraph (1) for the period beginning with the date on which the transfer value was received by the Committee and ending on the date on which he ceased to be employed in the employment in which he was a pensionable employee.

(3) Nothing in paragraphs (1) and (2) shall confer any entitlement to an increase on account of contributions which were returned to and were not subsequently repaid by the person who paid them.

(4) Where a sum due under regulation C15(3) and (4) is increased under paragraph (1) by an amount equal to the whole of the person's contributions in connection with the service to which the transfer value relates and that is the only service to which the transfer value relates, his right to reckon service under regulation J9(1)(a) (but not under regulation J9(1)(b)) on account of the transfer value shall be extinguished when the increased payment is made.

(5) Where a sum due under regulation C15(3) and (4) is increased under paragraph (1) and paragraph (4) does not apply, the person's right to reckon service under regulation J9(1)(a) (but not under regulation J9(1)(b)) on account of the transfer value shall be reduced in accordance with the formula in paragraph (6) when the increased payment is made.

(6) The formula mentioned in paragraph (5) is—

$$A = B \times \frac{(C - D)}{C}$$

where—

A is the reduced service which the person is entitled to reckon under regulation J9(1)(a) after the payment is made;

B is the service which he is entitled to reckon under regulation J9(1)(a) before the payment is made;

C is the service which he is entitled to reckon under regulation J9(1)(b); and

D is the service on account of which the increase under paragraph (1) is made and, for this purpose, the service shall count at its actual length.

(7) Service is to be expressed in years and fractions of a year for the purpose of making the calculation in paragraph (6).

National Insurance modification for flat-rate retirement pension

J11.—(1) The retirement pension of a person to whom regulation J9 applies shall be reduced in accordance with paragraph (2) where—

- (a) he became employed in his local government employment before 1st April 1980; and
 - (b) on becoming employed in his local government employment he was subject to regulation 42(2) of the 1962 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme; and
 - (c) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation J9(1)(a).
- (2) Regulation 53(2) of the 1981 regulations shall be taken to have applied in relation to the period which he is entitled to reckon under regulation J9(1)(a) as if—
- (a) during that period he had been a person subject to regulation 42(2) of the 1962 regulations; and
 - (b) that period were service after the relevant date.
- (3) In this regulation “relevant date” means 31st March 1950 or, where the pension is reduced under regulation 53(2)(a), (b), (c) or (d) of the 1981 regulations, such other date as is appropriate.

National Insurance modification for graduated retirement pension

J12.—(1) The retirement pension of a person to whom regulation J9 applies shall be reduced by the amount specified in paragraph (2) where—

- (a) he became employed in his local government employment after 31st December 1973 and before 1st April 1980; and
 - (b) his non-local government scheme was a statutory scheme; and
 - (c) in calculating the amount of the transfer value accepted under regulation J8 a deduction was made in connection with graduated retirement benefit under section 35 of the Insurance Act; and
 - (d) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation J9(1)(a).
- (2) The specified amount is the reduction in connection with graduated retirement benefit under section 35 of the Insurance Act which would have been made to the person’s pension under his non-local government scheme in relation to the service to which the transfer value relates if on ceasing to be employed in his non-local government employment—
- (a) he had reached state pensionable age; and
 - (b) he had become entitled to the immediate payment of a pension under that scheme instead of the payment of a transfer value.
- (3) The reduction under this regulation shall take effect on the date on which the person’s retirement pension becomes payable or, if later, the date on which he reaches state pensionable age and shall be additional to any reduction required by regulation J11.
- (4) The reduction under this regulation shall be treated for the purposes of Schedule 16 as a reduction made in connection with graduated retirement benefit under section 35 of the Insurance Act.

Certain persons who become subject to other superannuation schemes

J13.—(1) Subject to paragraph (2), this regulation applies to a person who is in an employment in which he is an admitted employee within the meaning of regulation B5, and for whose superannuation in that employment (“the relevant employment”) the body employing him can make other provision under an approved non-local government scheme which would be a contracted-out scheme in relation to the employment for the purposes of the Pensions Order.

(2) This regulation does not apply to a person unless he gives written notice to the body employing him, and to the Committee, that he wishes it to apply to him, and they consent to its doing so.

(3) On the person's becoming subject in the relevant employment to an approved non-local government scheme, he shall be treated for the purposes of these regulations, except regulations C15 (return of contributions) and J2 to J6, as having ceased to hold the relevant employment.

(4) On, but not before, the actual termination of the relevant employment, the person may, unless regulation J14 applies to him, request the payment of a transfer value under regulation J2.

(5) If a transfer value is requested in the circumstances mentioned in paragraph (4)—

- (a) regulations J2 to J6 apply as if the person had continued to be employed in his local government employment until the date of the actual termination of the relevant employment; but
- (b) Schedule 16 applies as if his local government employment had ended on the day before he became subject to the approved non-local government scheme.

Transfer of pension rights

J14.—(1) Where—

- (a) regulation J13 applies to a person; and
- (b) on the date on which he becomes subject to the approved non-local government scheme he has not reached state pensionable age; and
- (c) before that date he has given written notice to the Committee and, to his employing authority that he wishes to transfer his pension rights under these regulations to the approved non-local government scheme; and
- (d) the scheme managers, the Committee and his employing authority have each given their consent before that date,

the Committee shall, subject to paragraphs (4) and (6), pay to the scheme managers out of the fund a transfer value calculated in accordance with Schedule 16.

(2) The Committee shall not give their consent under paragraph (1)(d) unless the person transferring his pension rights will acquire pension rights under the approved non-local government scheme at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers under regulation J2.

(3) The Committee shall provide the person transferring his pension rights with sufficient information in writing to check that the condition in paragraph (2) is satisfied.

(4) If—

- (a) the number of persons transferring their pension rights under paragraph (1) from the fund to the same or a different approved non-local government scheme as part of the same transfer scheme is more than 9 but less than 100; and
- (b) the fund's assets immediately before any transfer takes place are not adequate, or are more than adequate, to meet the accrued actuarial liabilities of the fund at that time,

the total payable under paragraph (1) (or, as the case may be, the respective totals) shall be adjusted to the extent that the fund's actuary and the actuary of the approved non-local government scheme consider appropriate in the circumstances.

(5) If any question arises as to the application of paragraph (4) or the actuaries are unable to agree on the adjustment to be made under that paragraph, the adjustment (if any) to be made shall be decided by an actuary appointed by the Department.

(6) If the number of persons transferring their pension rights under paragraph (1) from the fund to the same or a different approved non-local government scheme as part of the same transfer scheme is 100 or more—

- (a) no payment shall be made under that paragraph; and
- (b) the fund shall be apportioned in accordance with Schedule 18.

(7) Where paragraph (6) applies in relation to any person, he shall be treated for the purposes of regulation D3(7) as if a transfer value had been paid in relation to him under paragraph (1).

(8) Notwithstanding anything in the former regulations or these regulations, where a payment or transfer of assets is to be or has been made under this regulation or under Schedule 18 no other payment or transfer of assets shall be made out of the fund on account of service or employment to which the payment or transfer of assets under this regulation or under Schedule 18 relates.

(9) A person shall be treated for the purposes of this regulation as having transferred his pension rights on the date on which he becomes subject to the approved non-local government scheme.

(10) For the purposes of this regulation, a transfer scheme is a scheme agreed between the scheme managers, the Committee and the employing authority providing for the transfer of pension rights under this regulation of a number of persons.

(11) “Accrued actuarial liabilities” means the actual and potential liabilities of the fund in connection with any service or employment before any transfer takes place.

Revaluation of guaranteed minimum in certain cases

J15.—(1) This regulation applies where a person has ceased to be a pensionable employee and the guaranteed minimum in relation to his pension is appropriately secured within the meaning of Article 53C(4) of the Pensions Order(28).

(2) The earnings factors of such a person shall be determined for the purposes of Article 37(2) of the Pensions Order by reference to the last Order under Article 23 of that Order to come into force before the end of the tax year in which he ceased to be a pensionable employee and without reference to the last such Order to come into force before the end of the final relevant year.

(3) The weekly equivalent mentioned in Article 37(2) of the Pensions Order is to be increased in accordance with any additional requirements for the time being prescribed for the purposes of Article 47(1)(b) (exclusion from liability to pay a limited revaluation premium) of that Order.

(4) In this regulation “relevant year” has the meaning given in Article 37(9) of the Pensions Order.

PART L

INJURY ALLOWANCES, ETC.

Interpretation

L1. In this Part—

- “benefits” means any allowance or lump sum payable under this Part;
- “relevant body” has the meaning given by regulation L7; and
- “relevant employment” has the meaning given by regulation L2(2).

(28) Article 53C was inserted by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 1, paragraph 2, amended by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Schedule 9, paragraph 17 and the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)), Article 26, Schedule 6 and the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)), Schedule 4, paragraph 9

Persons to whom Part L applies

L2.—(1) This Part applies to a person employed in a relevant employment if he—

- (a) sustains an injury; or
- (b) contracts a disease,

as a result of anything he was required to do in carrying out his work.

(2) Relevant employment is employment otherwise than as any member of the fire brigade as defined in Article 2(2) of the Fire Services (Northern Ireland) Order 1984⁽²⁹⁾ or as an employee pensionable under the superannuation scheme provided in regulations for the time being in force under Article 11 of the Order or as an employee of Citybus Limited or Ulsterbus Limited—

- (a) with a body specified in Schedule 19; or
- (b) as a pensionable employee with any admitted body not specified in Schedule 19.

(3) A person is to be treated for the purposes of paragraph (1) as having sustained an injury as mentioned in that paragraph if—

- (a) he sustains the injury while travelling as a passenger by a vehicle with the express or implied permission of his employer to or from his place of work; and
- (b) at the time of the injury the vehicle was being operated, otherwise than in the course of a public transport service, by or on behalf of his employer or pursuant to arrangements made by his employer.

Loss of employment through permanent incapacity

L3.—(1) If, as a result of an incapacity which is likely to be permanent caused by the injury or disease, a person to whom this Part applies ceases to be employed in a relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted) he shall be entitled to an annual allowance.

(2) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(3) The relevant body may suspend or discontinue the allowance if the person becomes capable of working again.

(4) The allowance is not to be paid at a rate which exceeds 85% of the person's annual rate of remuneration in respect of the employment when he ceased to be employed.

(5) In ascertaining for the purposes of paragraph (4) a person's annual rate of remuneration in respect of the employment when he ceased to be employed—

- (a) the annual rate of any fluctuating element of his remuneration is to be estimated by reference to an average taken over a representative period;
- (b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind at the date on which he ceased to be employed;
- (c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is to be taken to be the annual rate which would have applied if he had not been absent;
- (d) if at that date he was entitled to an allowance under regulation L4 by reason of a reduction in his remuneration, whether as a result of the same or of some other injury or disease, the annual rate is to be taken to be the annual rate which would have applied if his remuneration had not been reduced;

- (e) if his remuneration is retrospectively altered as a result of a pay award, the annual rate of his remuneration is to be based on the retrospective pay award; and
 - (f) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the date on which he ceased to be employed.
- (6) In determining the amount of the allowance the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation L8.

Reduction in remuneration

L4.—(1) If as a result of the injury or disease a person to whom this Part applies suffers a reduction in his remuneration while he is employed in relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted) and regulation L3 does not apply he shall be entitled to an allowance while the reduction continues.

(2) A person's remuneration is to be treated for the purposes of paragraph (1) as reduced if at any time it is lower than it would have been but for the injury or disease.

(3) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(4) The amount of the allowance, together with the person's remuneration in the relevant employment, is not in any year to exceed the remuneration he would have been paid if he had not sustained or contracted the injury or disease.

(5) In determining the amount of the allowance under this regulation the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation L8,

Allowances for pensioners

L5.—(1) If on ceasing to be employed in a relevant employment a person becomes entitled under regulation E2 to receive payments in respect of an annual retirement pension and—

- (a) immediately before ceasing to be so employed he was entitled to an allowance under regulation L4; and
 - (b) on ceasing to be so employed he does not become entitled to an allowance under regulation L3; and
 - (c) regulation E19(4) or proviso (iv) to regulation 41 of the 1981 regulations does not apply,
- the relevant body may (if there is such a shortfall as is mentioned in paragraph (2)(a)) pay him an allowance under this regulation.

(2) An allowance under this regulation—

- (a) is not in any year to exceed the amount by which the annual rate of the retirement pension falls short of what it would have been if the amount of the allowance paid under regulation L4 during the relevant period (within the meaning of regulation E19(2)) had been part of his remuneration in the relevant employment; and
- (b) continues for such period as the relevant body may determine.

Death benefits

L6.—(1) If a person to whom this Part applies dies as a result of the injury or disease—

- (a) if he leaves a widow who qualifies under paragraph (2), she shall be entitled to an annual allowance or lump sum; and

- (b) if he leaves a dependant, the dependant shall be eligible for an annual allowance or lump sum.
- (2) A widow qualifies for an annual allowance or lump sum unless—
 - (a) her marriage to the person in question took place after he ceased to be employed in relevant employment and he was not subsequently employed in such employment; or
 - (b) at the date of death she was judicially separated or cohabiting with another man as his wife.
- (3) The allowance or lump sum is to be paid by the relevant body and is to be of such amount as the body may from time to time determine or, as the case may be, may determine.
- (4) In determining the amount of any allowance or lump sum the relevant body is to have regard to all the circumstances of the case including the matters specified in regulation L8.
- (5) An allowance to a widow shall cease if she remarries or cohabits with another man as his wife, but if she again becomes a widow or the marriage is dissolved or the cohabitation ceases the relevant body may restore the allowance for such period as they may determine.
- (6) An allowance to a dependant shall continue for such period as the relevant body may determine.
- (7) This regulation shall apply with necessary modifications to a widower who at the date of his wife's death is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her.

The relevant body

- L7.**—(1) The relevant body for the purposes of this Part is—
- (a) the body by whom the person in question was employed immediately before he first qualifies for any benefit under this Part; or
 - (b) if he dies without qualifying for any benefit under this Part, the body which last employed him in a relevant employment before his death; or
 - (c) if the body specified in sub-paragraph (a) or (b) has ceased to exist, the body to which he would have been transferred if he had continued in the employment in question.
- (2) Any question arising under paragraph (1)(c) as to the identity of the body to which the person would have been transferred shall be determined by the Department and such determination shall be final.

Rights and payments to be taken into account in determining amount of benefit

- L8.** In determining the amount of any benefit under this Part the relevant body is to have regard to—
- (a) any right to benefit under section 14 or Chapter IV or Chapter V of Part II of the Act of 1975 or corresponding provisions of earlier enactments;
 - (b) any other statutory right to benefit or compensation;
 - (c) any right to receive superannuation benefit (whether payable under an enactment or otherwise); and
 - (d) any damages recovered and any sum received by virtue of a contract of insurance.

Retrospective effect

- L9.**—(1) Subject to the following provisions of this regulation, this Part applies even if the injury or disease was sustained or contracted before 1st March 1993.

(2) Regulation L3, L4, L5 or L6, as the case may be, does not apply if the relevant event occurred before 1st December 1982, but, subject to the following provisions of this regulation, does apply if the relevant event occurred on or after that date and before 1st March 1993.

(3) For regulations L3 and L5 the relevant event is the cessation of the employment, for regulation L4 it is the reduction of remuneration and for regulation L6 it is the death of the employee.

(4) If adequate provision has already been made for the person in question under regulation 21 of the 1981 regulations, this Part does not apply to him.

(5) If regulation L3, L4, L5 or L6 applies in any case by virtue of paragraph (2) and paragraph (4) does not apply, the relevant body shall decide what benefit, if any, is to be granted in accordance with the applicable regulation for any past or future period but in making that decision they shall take into account any allowance to which the person is or was entitled under regulation 21 of the 1981 regulations.

Finance

L10.—(1) Benefits under this Part are not to be met out of the fund.

(2) Where—

- (a) an allowance under regulation 21 of the 1981 regulations is payable in addition to any benefit under this Part; and
- (b) the relevant body are the employing authority for the purposes of regulation 21(5) of the 1981 regulations (repayment to the fund),

the allowance shall be treated for the purposes of paragraph (1) as a benefit under this Part.

Notice of decisions

L11. The relevant body shall give notice in writing of any decision relating to any benefit under this Part to the person affected and shall inform him about his right of appeal under regulation N8.

PART M

FORFEITURE, ETC.

Forfeiture of rights

M1.—(1) If—

- (a) a person has been convicted of an offence in connection with an employment in which he was a pensionable employee; and
- (b) he has (whether before or after the conviction) ceased to hold that employment in consequence of that offence; and
- (c) on an application made within 3 months after the conviction by the body who were his employing authority in that employment, a Minister of the Crown has certified that the offence either was gravely injurious to the State or is liable to lead to serious loss of confidence in the public service,

the Committee may direct that all or any of the rights enjoyed by or in respect of him under these regulations with respect to his previous service shall, subject to paragraph (2), be forfeited.

(2) Unless the person ceased to hold his employment in consequence of—

- (a) an offence of treason; or

- (b) one or more offences under the Official Secrets Acts 1911 to 1989⁽³⁰⁾ for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years,

no direction may be given under paragraph (1) which would deprive him of his guaranteed minimum pension or would, in the event of his leaving a widow, deprive her of her widow's guaranteed minimum pension.

- (3) A body making an application to a Minister of the Crown for a certificate under paragraph (1)
- (c) shall at the same time send copies of the application to the person concerned and to the Committee.

Transfer of certain sums from the fund

M2.—(1) This regulation applies where—

- (a) a person (“the former employee”) has ceased to hold an employment in which he was a pensionable employee in consequence of—
 - (i) an offence of a fraudulent character; or
 - (ii) grave misconduct,in connection with that employment; and
- (b) the body who were his employing authority in that employment (“the former employing authority”) have suffered direct financial loss by reason of the offence or misconduct; and
- (c) either—
 - (i) he became entitled to benefits under regulation E2(1) and a direction has been given under regulation M1(1); or
 - (ii) he did not become so entitled and the total of his reckonable service and qualifying service is less than 2 years.

(2) Where this regulation applies and the former employing authority are the Committee, they may retain an appropriate amount in the fund.

(3) Where this regulation applies and the former employing authority are not the Committee, the Committee shall, subject to paragraph (5), pay them an appropriate amount out of the fund if requested to do so.

(4) An appropriate amount is an amount which does not exceed the lesser of—

- (a) the amount of the direct financial loss; and
- (b) the amount of any contributions which could have, but have not, been returned to the former employee, or paid to his spouse or a dependant under regulation C15(8).

(5) Where a payment in lieu of contributions has been made, or is due, in respect of the former employee, the Committee may reduce a payment under paragraph (3) by half the amount of the payment in lieu of contributions.

(6) If after making a payment under paragraph (3) the Committee are required to pay a transfer value in respect of the former employee, the former employing authority shall repay them the amount of that payment if requested to do so.

Recovery or retention by employing authority of certain sums from the fund

M3.—(1) This regulation applies where a person (“the former employee”)—

(30) 1911 c. 28, 1920 c. 75, 1939 c. 121, 1989 c. 6

- (a) has ceased to hold an employment in which he was a pensionable employee in consequence of a criminal, negligent or fraudulent act or omission on his part in connection with that employment;
 - (b) has incurred some monetary obligation, arising out of that act or omission, to the body who were his employing authority in that employment (“the former employing authority”); and
 - (c) is entitled to benefits under regulation E2(1).
- (2) Where this regulation applies the former employing authority may recover or retain out of the fund an amount which (subject to any different agreement in writing between them and the former employee) does not exceed the lesser of—
- (a) the amount of the monetary obligation; and
 - (b) the actuarial value, at the time of the recovery or retention, of all rights enjoyed by or in respect of the former employee under these regulations with respect to his previous service, other than rights enjoyed by virtue of the receipt of a transfer value from the scheme managers of a non-local government scheme.
- (3) The Committee shall give the former employee not less than 3 months' notice of the amount to be recovered or retained under paragraph (2).
- (4) The former employee is entitled to a certificate from the Committee showing the amount retained under paragraph (2), the manner in which it is calculated, and the effect of the recovery or retention on his benefits or prospective benefits.
- (5) In the event of any dispute as to the amount to be recovered or retained under paragraph (2), the former employing authority are not entitled to recover or retain any amount except after the monetary obligation has become enforceable under an order of a competent court or the award of an arbitrator.

PART N

DECISIONS AND APPEALS

Initial decisions

N1.—(1) Any question arising under these regulations concerning the rights or liabilities of any person other than a scheduled body shall be decided in the first instance by the body concerned.

(2) Where the body by whom any such question falls to be decided is ascertainable by reference to regulations N2 to N6, that body is for the purposes of this regulation and of regulation N8 the body concerned.

(3) A decision by an employing authority does not bind any other employing authority.

Decisions by employing authorities as to status of employees

N2.—(1) In relation to every employment under them of each of their employees a scheduled body are to decide—

- (a) whether the employee is an officer or a manual worker;
- (b) whether he is a whole-time, a variable-time or a part-time employee;
- (c) whether he has undergone to their satisfaction any medical examination required under regulation B1(6); and
- (d) whether he is a pensionable employee.

(2) If the body decide that a person is a pensionable employee in any employment they shall also decide—

- (a) which of his emoluments are remuneration on which contributions are payable; and
- (b) if he is a part-time employee, the proportion which his contractual minimum hours of employment in each week bear to those of a comparable whole-time employment.

(3) The questions specified in paragraph (1) and, where applicable, paragraph (2) are to be decided—

- (a) within 3 months after the person enters the employment; and
- (b) as soon as is reasonably practicable after—
 - (i) any change occurs in the number of his regular or usual hours of employment; or
 - (ii) any other change occurs in, or in relation to, the employmentwhich is material for the purposes of these regulations.

Decisions by the Committee as to status of employees

N3.—(1) In relation to any employment in which a person is a pensionable employee the Committee are to decide—

- (a) what previous service or employment (if any) he is entitled to reckon—
 - (i) as reckonable service; and
 - (ii) as qualifying service;
- (b) whether it includes any, and if so what, periods of service as a part-time employee;
- (c) what proportion of whole-time service his service during any such period represents;
- (d) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the Insurance Act in respect of any period of non-participating employment;
- (e) the amount of any payment in lieu of contributions;
- (f) what rate of contribution the employee is liable to pay to the fund; and
- (g) whether he is entitled to reckon as reckonable service—
 - (i) any, and if so how many, added years; or
 - (ii) any, and if so what, additional period.

(2) The questions specified in paragraph (1) are to be decided as soon as is reasonably practicable after the person becomes a pensionable employee in the relevant employment.

Decisions by the Committee as to war service

N4.—(1) Within 6 months after receiving notice of an election under regulation F3 and the information mentioned in regulation F5(2)(a), the Committee are to decide whether the conditions specified in regulation F3(2) to (9) are satisfied in relation to the person in respect of whom the notice was given.

(2) If they decide that those conditions are satisfied in relation to the person, the Committee are, within 12 months after the date of notification of that decision—

- (a) in the case of a person who is a pensionable employee or entitled to a retirement pension under regulation E2, to decide what period if any he is entitled, or is to be deemed to have been entitled, to reckon as reckonable service by virtue of regulation F6(1)(a); or

(b) in any other case, to decide to which, if any, of the additional benefits specified in regulation F6(11) and (14) he or any other person is entitled.

(3) If the Committee decide that a period is reckonable as mentioned in paragraph (2)(a), the Committee are, within 3 months after the date of notification of that decision, to decide whether regulation D8 applies.

Decisions by the Committee as to entitlement to benefits

N5.—(1) Any question whether a person is entitled to a benefit under these regulations is to be decided by the Committee.

(2) For the purposes of paragraph (1), “benefit” includes a return of contributions but does not include a benefit specified in Part L or regulation F6(11) or (14).

(3) Any such question as is mentioned in paragraph (1) is to be decided as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee.

Decisions by the Committee as to amount of benefits

N6.—(1) Where a person is entitled to a benefit which is or may become payable out of the fund, the Committee are to decide the amount of the benefit.

(2) The amount of a benefit is to be decided as soon as is reasonably practicable after the person becomes entitled to it.

(3) For the purposes of this regulation “benefit” includes a return of contributions and a benefit specified in regulation F6(11) or (14).

Notification of decisions

N7.—(1) As soon as is reasonably practicable after deciding any question, the body concerned shall send a written notification of their decision to every person whose rights or liabilities the question concerns.

(2) The written notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision; and
- (b) in the case of a decision as to the amount of benefit, a statement showing how the amount is calculated; and
- (c) in any case, a conspicuous statement directing the person’s attention—
 - (i) to the address from which he may obtain further information about the decision, including details of any calculation of service or benefits; and
 - (ii) to his right of appeal to the county court under regulation N8.

Appeals

N8. Where the body concerned have either decided or failed to decide any such question as is mentioned in regulation N1, that question shall be determined by the county court having jurisdiction in the county in which such pensionable employee or person as is mentioned in regulation N1(1) is employed or was last employed or, where that employee or person is employed or was last employed in 2 or more counties, in one of those counties.

PART P

ADMINISTRATION AND MANAGEMENT

Constitution and powers of the Committee

P1.—(1) For the purposes of these regulations the Committee shall be constituted in accordance with Part I of Schedule 20.

(2) The Committee shall have the powers specified in Part II of Schedule 20.

(3) The expenses and allowances payable by the Committee shall be in accordance with Part III of Schedule 20.

Management of the fund

P2.—(1) The fund shall be managed and maintained by the Committee.

(2) The Committee shall in each year carry and credit to the fund—

- (a) the amounts contributed during the year by pensionable employees entitled to participate in the benefits of the fund;
- (b) the amounts payable by scheduled bodies under regulation P7;
- (c) all dividends and interest arising during the year out of the investment or use of moneys forming part of the fund, and any capital moneys resulting from the realisation of investments or from the repayment of moneys used temporarily for other authorised purposes;
- (d) the amount of any additional contributory payments received by the Committee under these regulations; and
- (e) any other sum which the Committee may become liable to carry to the fund under these regulations.

Use and investment of fund's moneys

P3.—(1) Subject to paragraphs (3) to (9), the Committee—

- (a) shall invest any moneys forming part of the fund maintained by it (“fund moneys”) that are not for the time being required to meet payments to be made out of the fund under these regulations; and
- (b) may vary the manner in which any fund moneys are for the time being invested.

(2) For the purposes of this regulation and of regulation P2(2)(c) investment includes any contract which by virtue of section 659 of the Act of 1988 (extension of pension schemes' tax exemptions to dealings in financial futures and traded options) is to be regarded as an investment for the purposes of the enactments referred to in that section.

(3) The Committee shall not—

- (a) make any investment in securities of companies other than listed securities so as to cause the total value of such investments (except investments made in accordance with a scheme under section 11 of the Trustee Investments Act 1961(31)) to exceed 10% of the value at the time of all investments of fund moneys; or
- (b) make any investment, other than—

(31) 1961 c. 62 as amended by The Transfer of Functions and Adaption of Enactments Order 1973 (S.R. & O. (N.I.) 1973 No. 256); Financial Services Act 1986 (c. 60) section 212(2), Schedule 16

- (i) an investment made in accordance with a scheme under section 11 of the Trustee Investments Act 1961; or
 - (ii) an investment falling within paragraph 1 of Part I or paragraph 1 or 2 of Part II of the first Schedule to that Act; or
 - (iii) a deposit with the Bank of England, an institution authorised under Part I of the Banking Act 1987(32) or a person for the time being specified in Schedule 2 to that Act,
- so as to result in more than 5% of the value at the time of all investments of fund moneys being represented by a single holding, or more than 20% of that value being represented by investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body; or
- (c) make any deposit falling within sub-paragraph (b)(iii) so as to bring the aggregate of fund moneys deposited with any one bank, institution or person other than the National Savings Bank to an amount which exceeds 10% of the value at the time of all investments of fund moneys; or
 - (d) lend to any person other than Her Majesty's Government in the United Kingdom or the Government of the Isle of Man, or use as mentioned in paragraph (2), or deposit with a person specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987, any further fund moneys so as to bring the aggregate of all fund moneys so lent, used or deposited to an amount which exceeds 10% of the value at the time of all investments of fund moneys.
- (4) For the purposes of paragraph (3)(d) moneys are not lent if they are—
- (a) invested in registered securities to which section 1 of the Stock Transfer Act 1963(33) or section 1 of the Stock Transfer Act (Northern Ireland) 1963(34) applies or in listed securities; or
 - (b) deposited with the Bank of England an institution authorised under Part I of the Banking Act 1987 or a person for the time being specified in paragraphs 1 to 11 of Schedule 2 to that Act.
- (5) The Committee, subject to paragraph (6), may appoint one or more investment managers to manage and invest fund moneys on their behalf.
- (6) The Committee shall not make an appointment under paragraph (5) unless—
- (a) they have considered the value of the fund moneys to be managed by the investment manager or, as the case may be, by each of the investment managers to be appointed and are satisfied that it will not be excessive, having regard to proper advice, to the desirability of securing diversification of the management of the fund, and to the value of the assets of the fund; and
 - (b) the terms of the appointment—
 - (i) provide for the appointment to be terminable by not more than one month's notice given by the Committee;
 - (ii) require the investment manager to provide the Committee at least once every 3 months with a report setting out the action he has taken under the appointment;
 - (iii) require the investment manager to comply with such instructions as the Committee, or a sub-committee or officer employed by the Committee when exercising authority under paragraph 2 of Part II of Schedule 20 may give;

(32) 1987 c. 22 as amended by The Banking Act 1987 (Exempt Persons) Order 1989 (S.I. 1989/125)

(33) 1963 c. 18; section 1 as amended by the Finance Act 1964 (c. 49), section 26(7) and Schedule 9, and the Post Office Act 1969 (c. 48), section 108(1)(f)

(34) 1963 c. 24 (N.I.)

- (iv) require the investment manager to have regard to the need for diversification of investments of fund moneys, and to the suitability of investments of any description of investment which he proposes to make and of any investment proposed as an investment of that description; and
- (v) prohibit the investment manager from making investments which would contravene paragraph (3).

(7) Where the Committee have made an appointment under paragraph (5) they shall, at least once every 3 months, review the investments made by the investment manager and from time to time consider the desirability of continuing or terminating the appointment.

(8) In the discharge of their functions under this regulation the Committee shall have regard—

- (a) to the need for diversification of investments of fund moneys; and
- (b) to the suitability of investments of any description of investment which they propose to make and of any investment proposed as an investment of that description; and
- (c) to proper advice, obtained at reasonable intervals.

(9) Where the Committee appoints an investment manager under paragraph (5) they shall have regard—

- (a) in determining the terms of the appointment, to proper advice; and
- (b) in exercising their functions under paragraph (7)—
 - (i) to the need for diversification of investments of fund moneys;
 - (ii) to the suitability of investments of any description of investment which the investment manager has made and of any investment made as an investment of that description; and
 - (iii) to proper advice.

(10) The Committee may pay out of fund moneys any costs, charges and expenses incurred by them in the discharge of their functions under this regulation.

(11) For the purposes of this regulation—

“companies” includes companies established under the law of any territory outside the United Kingdom;

“listed securities” means securities in respect of which a listing has been granted and not withdrawn—

- (a) on an investment exchange in the United Kingdom which is a recognised investment exchange within the meaning of the Financial Services Act 1986(35);
- (b) on an investment exchange outside the United Kingdom of international repute;

“proper advice” means the advice of a person who is reasonably believed by the Committee to be qualified by his ability in and practical experience of financial matters;

“securities” includes shares, stock and debentures;

“single holding” means investments—

- (a) in securities of, or in loans to or deposits with, any one body, other than investments in unit trust schemes; or
- (b) in units or other shares of the investments subject to the trusts of any one unit trust scheme; or
- (c) in the acquisition, development or management of, or in any advance of money upon the security of, any one piece of land; or

- (d) in the acquisition of any one chattel.

Accounts, audit and annual report

P4.—(1) The Committee shall keep accounts of all income and expenditure of the fund.

(2) The Secretary of the Committee shall make up the accounts of the income and expenditure of the Committee to the end of each financial year and shall forward 3 copies of a statement of such accounts duly signed and dated by him to the Department not later than 30th June after the expiration of the financial year to which the accounts relate.

(3) The accounts kept by the Committee shall be audited annually by a local government auditor who shall report on the accounts audited and shall send his report, together with 2 audited copies of the statement of such accounts duly signed by him, to the Department within 14 days after completion of the audit.

(4) The Department on receipt of the auditor's report and the audited copies of the statement of accounts shall send a copy of such report and statement of accounts to the Secretary of the Committee who shall—

- (a) lay such copy of the report and statement of accounts before the next meeting of the Committee; and
- (b) forward a copy of such report and statement of accounts as aforesaid to each employing authority.

(5) The local government auditor may require—

- (a) the production before him of all books and documents of the Committee which he thinks necessary for the purpose of the audit;
- (b) any person holding or accountable for any such book or document to appear before him at the audit or any adjournment thereof; and
- (c) any such person to make and sign a declaration as to the correctness of the book or document.

(6) The Committee shall annually at such time as the Department may direct make to it a report of their proceedings during the preceding year, and the Department shall lay a copy of such report before the Assembly.

Periodical valuation of fund

P5.—(1) The Committee shall, unless the Department shall otherwise direct, obtain an actuarial valuation of the assets and liabilities of the fund as at 31st March in the year 1992 and in every third year thereafter, together with a report by the actuary.

(2) Unless the Department allows an extended period, the valuation and report are to be obtained within 12 months from the date as at which the valuation is made.

(3) The Committee shall, within 6 months after the date referred to in paragraph (2) or within such extended period as the Department may allow, furnish the actuary who is to consider the condition of the fund with such information as he may require.

(4) Forthwith upon receiving any such valuation and report the Committee shall—

- (a) send copies of them to the Department and copies thereof to each employing authority whose employees contribute to the fund;
- (b) send the Department a copy of the revenue account with which the actuary was provided; and

(c) unless the report contains a summary of the assets of the fund at the date as at which the valuation was made, send the Department such a summary.

(5) In addition to the periodical valuation and report required by paragraph (1) the Committee may at any other time obtain a valuation and report on the assets and liabilities of the fund and if such a valuation and report are obtained the provisions of paragraph (4) shall apply to such valuation and report.

Actuary's certificates

P6.—(1) The Committee shall as soon as is reasonably practicable after obtaining a valuation under regulation P5 obtain from the same actuary a certificate specifying—

(a) in respect of all employing authorities the rate per cent which in his opinion, the amount of the employer's contribution payable in each year of the period specified in paragraph (2) should bear to the total remuneration on which contributions will during that year be payable to the fund under regulations C1 and C2 by their employees, so that such rate shall at all times be as nearly constant as may be and so that the fund shall be solvent, having regard to the then existing and prospective liabilities of the fund arising from circumstances common to all employing authorities; and

(b) in respect of any such employing authority as may be named in the certificate, the amount (expressed as a rate per cent or in money terms) by which in his opinion the amount of the employer's contribution should in any such year of the period mentioned in subparagraph (a) as is specified in the certificate be increased to take account of the then existing and prospective liabilities of the fund arising from circumstances peculiar to that employing authority or be reduced to take account of the then existing and prospective benefits accruing to the fund arising from such circumstances.

(2) The period referred to in paragraph (1) is the period of 3 years beginning with 1st April in the year following.

(3) Forthwith upon receiving a certificate under this regulation the Committee shall send a copy of it to the Department and to each body whose employees contribute to the fund.

Employer's contributions

P7.—(1) A scheduled body shall contribute to the fund in each year of any period of 3 years for which a certificate is required to be obtained under regulation P6 a sum equal to the remuneration on which contributions have during that year been paid to the fund under regulation C1 or C2 by their employees multiplied by the common rate of employer's contribution specified under regulation P6(1)(a) for that year, increased or, as the case may be, reduced in accordance with any individual adjustment specified for the year in respect of the body under regulation P6(1)(b).

(2) A scheduled body shall, during each year of every such period as is mentioned in paragraph (1), pay to the fund at the end of each of the intervals determined under regulation P10, on account of the sum required by paragraph (1) to be paid in that year, a sum equal to the remuneration on which contributions have during the interval been paid to the fund under regulation C1 or C2 by their employees multiplied by the common rate of employer's contribution specified under regulation P6(1)(a) for that year, increased or, as the case may be, reduced by—

(a) any percentage; or

(b) a part, proportionate to the length of the interval, of any amount expressed in money terms, that has been specified as an individual adjustment for the year in respect of the body under regulation P6(1)(b).

(3) If all or part of any sum due under paragraph (2) remains unpaid at the end of the period of 10 days after the date on which it becomes due, the Committee may require the employing authority

to pay interest, calculated at the standard rate on a day to day basis from the due date of payment to the date of payment, and compounded with 3-monthly rests, on the amount remaining unpaid.

(4) Interest paid under paragraph (3) shall be carried to the fund.

Employer's additional contributions

P8.—(1) Where immediately before 1st March 1993 any payments remained to be made by an employee under regulation 43 of the 1981 regulations his employing authority shall, so long as he remains in their employment, pay to the fund—

- (a) contributions equal to the amounts payable by the employee under regulation C10(2); or
- (b) where the amounts payable by the employee—
 - (i) were reduced under proviso (ii) to regulation 43(3) of the 1981 regulations or the corresponding provision of the former regulations; or
 - (ii) were or are reduced by virtue of the payment of a lump sum under regulation 43(4) of the 1981 regulations or Schedule 7 to these regulations,

contributions equal to the amounts that would have been payable by the employee but for the reduction.

(2) Where on the employee's ceasing to hold his employment the employing authority agree to pay a sum under paragraph 4A(5) of Schedule 10 to the 1981 regulations (as deemed by virtue of regulation C10(4) of these regulations to have continued to have effect) and the employee pays the required amount for the purposes of that paragraph, the employing authority shall pay the agreed sum to the fund before the end of the period of one month beginning on the date of the employee's payment.

(3) If all or part of the agreed sum remains unpaid at the end of that period, the Committee may require the employing authority to pay interest, calculated at the standard rate on a day to day basis from the day after the end of the period to the date of payment, and compounded with 3-monthly rests, on the amount remaining unpaid.

(4) Interest paid under paragraph (3) shall be carried to the fund.

Employer's further payments

P9. Any extra charge on the fund resulting from a resolution under regulation D7 (increase of reckonable service) shall be repaid to the fund by the scheduled body concerned.

Payments by employing authorities to the Committee

P10.—(1) Every scheduled body shall pay to the Committee at such intervals of not more than 12 months as the Committee may determine—

- (a) all amounts from time to time deducted from the remuneration of their pensionable employees under these regulations;
- (b) any amount received by them under regulation C3, by deduction from remuneration or otherwise, during the interval; and
- (c) any extra charge payable under regulation P9, the amount of which has been notified to them by the Committee during the interval.

(2) Payments made in pursuance of, and interest paid under paragraph (5) on sums due under, paragraph (1)(a) to (c) shall be carried to the fund.

(3) Subject to paragraph (4), every payment under paragraph (1)(a) is to be accompanied by a statement showing—

- (a) the name and remuneration of each of the pensionable employees in relation to whom the payment is made;
- (b) the amounts comprised in the payment which represent deductions from the remuneration of each of those employees and the periods in respect of which the deductions were made;
- (c) which of the employees referred to in sub-paragraph (a) and amounts referred to in sub-paragraph (b) are employees paying, and amounts representing deductions in respect of instalments under regulation C7 or additional contributions under regulation C11;
- (d) the amount of the remuneration of those employees from or in respect of whom deductions have not been made; and
- (e) the names of any pensionable employees from whose remuneration no deductions have been made.

(4) The Committee may direct that, instead of complying with paragraph (3), the bodies making payments to them under paragraph (1)(a) are to provide them with the information mentioned in paragraph (3) in such form, and at such intervals of not more than 12 months, as may be specified in the direction.

(5) If all or part of any sum due under the provisions of this regulation remains unpaid at the end of the period of 10 days after the date on which it becomes due, the Committee may require the body concerned to pay interest, calculated at the standard rate on a day to day basis from the due date of payment to the date of payment, and compounded with 3-monthly rests, on the amount remaining unpaid.

Extra charges resulting from early retirement

P11. Where a retirement pension and retiring allowance are payable under regulation E2(1)(b)(iii), the employing authority shall pay to the Committee such an amount as may be actuarially determined which represents the cost to the Committee of paying such pension and allowance before the pensionable employee would be entitled to the payment of such benefits under paragraph (1)(a), (b)(ii) or (e) of that regulation.

Pensions Order payments

P12.—(1) Any increase in a pension which is required by virtue of Articles 43A to 43C (protection of pensions) of the Pensions Order(36) shall be paid out of the fund.

(2) Any payment which the Committee are required to make as a result of a person's taking out a right to a cash equivalent under Schedule 1A to the Pensions Order(37) shall be made out of the fund.

PART R

MISCELLANEOUS POWERS AND DUTIES OF AUTHORITIES

Information to be supplied by certain employees

R1.—(1) Subject to paragraph (4)—

- (a) within 3 months after a person enters the employment of a scheduled body; and

(36) Articles 43A to 43C were inserted by the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) Schedule 4, modified by the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 444), and amended by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Article 8 and Schedule 3, paragraph 3

(37) Schedule 1A was inserted by the Social Security (Northern Ireland) Order 1985, Schedule 1, paragraph 3

(b) within 6 months after any change which is material for the purposes of these regulations occurs in or in relation to a person's employment under a scheduled body;
the body are to request the person in writing to provide them with the documents specified in paragraph (2).

(2) The documents mentioned in paragraph (1) are—

- (a) a statement in writing of all his previous periods of employment (whether by a scheduled body or by any other person) and any national service and war service; and
- (b) copies of all notifications previously given to him under these regulations or the former regulations.

(3) A request under paragraph (1) is to include a conspicuous statement directing the attention of the employee to the importance of his providing full and accurate information and warning him that any omission or inaccuracy may prejudice the ascertainment of his rights under these regulations.

(4) Paragraph (1) does not apply where the body are satisfied—

- (a) that the person is not a pensionable employee; or
- (b) that they, or the Committee, already have a complete and accurate record of any previous service or employment which is material for the purposes of these regulations.

Records to be kept by authorities

R2.—(1) A scheduled body are to keep, in such form as they think fit, a record of—

- (a) the name of; and
- (b) all their decisions under regulation N2 in relation to,

each of their pensionable employees.

(2) The Committee are to keep, in such form as they think fit, a record of—

- (a) the name of; and
- (b) all their decisions under regulation N3 or N4 in relation to,

every pensionable employee.

Transmission of documents and information

R3.—(1) A scheduled body are to send to the Committee as soon as is reasonably practicable—

- (a) copies of all documents provided under regulation R1;
- (b) copies of all notifications of decisions made under regulation N2;
- (c) copies of all statements and statutory declarations provided under regulation C13; and
- (d) such other documents and information as the Committee may reasonably require for the purpose of discharging their functions under these regulations.

(2) A scheduled body other than the Committee—

- (a) on receiving from a pensionable employee notice of his intended retirement; or
- (b) on giving an employee notice to terminate his employment in circumstances in which he may become entitled to a return of contributions or to a benefit payable out of the fund; or
- (c) on becoming aware of any other circumstances which may necessitate any payment out of that fund,

are to comply, as soon as is reasonably practicable, with the requirements in paragraph (3).

(3) The requirements mentioned in paragraph (2) are to inform the Committee of the notice or other circumstances and—

- (a) send them particulars of the employee's remuneration during the period that is relevant to a decision on the amount of the benefit that may become payable to or in respect of him; and
- (b) send them a copy of any relevant medical or death certificate and of any certificate issued by the body under regulation E21 (reduction in remuneration).

(4) The Committee when notifying a person who is not in their employment of a decision under regulations N3 or N4 are to send a copy of the notification to the body, if any, who are the employing authority in relation to that person.

(5) If the Committee decide, or the county court determines under regulation N8, that the conditions specified in regulation F3(2) to (9) are satisfied in relation to a person, and regulation F3(2)(d) applies and the scheme designated under regulation F5(2)(b) is not a scheme specified in Schedule 14, the Committee shall as soon as is reasonably practicable—

- (a) inform the scheme managers of the designated scheme that on receipt by the Committee of a transfer value (calculated in accordance with Part V of Schedule 16) regulation F6(1) (reckonable service and benefits in respect of war service) would apply to the person; and
- (b) inform them of the rate or amount, as the case may be, to be used in ascertaining C of the formula set out in that Part.

Payments due in respect of deceased persons

R4.—(1) This regulation applies where a person dies and the total of—

- (a) any sums that were due to him under these regulations; and
- (b) any other sums payable under these regulations to his personal representatives

(“the amount due”) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967⁽³⁸⁾ and applying in relation to the death.

(2) Where this regulation applies the Committee may, without requiring the production of probate or letters of administration of the estate of the deceased person, pay out of the fund—

- (a) to the personal representatives; or
- (b) to the person, or to or among any one or more of any persons, appearing to the Committee to be beneficially entitled to the estate,

the whole or any part of the amount due.

(3) A person to whom a payment is made under paragraph (2) is, and the Committee are not, liable to account for the amount paid to him.

Pensions Order premiums

R5.—(1) Where a contributions equivalent premium under Part III of the Pensions Order is paid in respect of any pensionable employee, the Committee shall be entitled to charge to the fund a sum not exceeding the amount of that premium, less the amount (if any) which the Committee could recover or retain under Article 48 of that Order in respect of the premium.

(2) Where such a contributions equivalent premium is refunded under regulation 23(3)(c) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985⁽³⁹⁾, the Committee shall credit to the fund a sum equal to the amount of the premium.

⁽³⁸⁾ 1967 c. 5 (N.I.)
⁽³⁹⁾ S.R. 1985 No. 259

(3) Where a transfer premium under Article 46A(40) or a limited revaluation premium under Article 47 of the Pensions Order is paid in respect of any officer the Committee shall be entitled to charge to the fund a sum not exceeding the amount of that premium.

PART 5

MISCELLANEOUS AND SUPPLEMENTAL

Periods of time

S1. Where a period of time specified in any regulations revoked by these regulations is current at the commencement of these regulations, these regulations have effect as if the corresponding provision of these regulations had been in force when that period began to run.

Application to benefits in respect of former employments

S2.—(1) Subject to paragraph (2), these regulations apply in relation to benefits which—

- (a) were before 1st March 1993 being paid; or
- (b) may on or after that date become payable,

to or in respect of persons who before that date ceased to hold, or died while in, a local government employment.

(2) Where—

- (a) a provision of these regulations (“the new provision”) re-enacts with any modification a provision of any regulations revoked by these regulations (“the former provision”); and
- (b) a person to whom a benefit in relation to which the new provision applies was being paid, or may become payable, as mentioned in paragraph (1) is placed in a worse position by the new provision than he would have been in if the former provision had continued to have effect,

he may, by notice in writing given to the Committee within 3 months after 1st March 1993 elect that the new provision shall apply in relation to the benefit as if it had re-enacted the former provision without modification.

(3) In this regulation “benefit” includes an allowance, a gratuity, and a return of contributions.

Revocations

S3. (1) (a) Part II of the Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991(41) is hereby revoked; and

- (b) Regulation 10 of the Local Government (Superannuation)(Reserve Forces) Regulations (Northern Ireland) 1991(42) is hereby revoked.

(2) The regulations specified in Schedule 21 are hereby revoked.

(40) Article 46A was inserted by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 1, paragraph 1 and amended by the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)) Article 26, Schedule 6

(41) S.R. 1991 No. 19

(42) S.R. 1991 No. 492

Sealed with the Official Seal of the Department of the Environment on

L.S.
16th December 1992.

J. McCormick
Assistant Secretary