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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 188**

**The Local Government Pension Scheme  
Regulations (Northern Ireland) 2014**

**PART 1**

**MEMBERSHIP, CONTRIBUTIONS AND BENEFITS**

**CONTRIBUTIONS**

**Contributions**

**11.**—(1) Subject to regulation 12 (temporary reduction in contributions), an active member shall pay contributions to the Scheme in respect of an employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which 1st April falls for that employment, for each employment in which the member is an active member (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement date of that membership).

(2) The contribution rate applicable to an employment is as specified in the following table, with the contribution rate (specified in the third column) applicable to the band of pensionable pay (specified in the second column) into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

**Table 1**

<i>Band</i>	<i>Pensionable pay range for an employment</i>	<i>Contribution rate for that employment</i>
1	£0 - £14,000	5.5%
2	£14,001 to £21,300	5.8%
3	£21,301 to £35,600	6.5%
4	£35,601 to £43,000	6.8%
5	£43,001 to £85,000	8.5%
6	More than £85,000	10.5%

(3) Where there is a change in employment, or a material change to the terms and conditions of a member's employment, which affects the member's pensionable pay in the course of a financial year, the employing authority may determine that a contribution rate reflecting the different pay range should be applied and the employing authority shall inform the member of the contribution rate applicable and the date from which it is to be applied.

(4) On the first day of the pay period in which 1st April 2016 falls, and on the first day of the pay period in which each subsequent 1st April falls, the figures in the second column of the table

in paragraph (2) are increased by applying the appropriate increase, rounding the result down to the nearest £100 and adding £1 to the first figure in each band apart from band 1.

(5) In paragraph (4) “the appropriate increase” means the amount (where it is greater than zero) by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions beginning on 1st April 2015 to which the 1971 Act applied.

(6) For the purposes of identifying which is the applicable contribution rate under this regulation or regulation 12 (temporary reduction in contributions) any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave; or
- (g) absence due to a trade dispute.

### **Temporary reduction in contributions**

**12.**—(1) An active member may elect to pay reduced contributions in an employment for a period by giving written notice to that active member’s employing authority that the active member wishes to do so.

(2) Where a notice is given under paragraph (1), from the next available payment period following the giving of the notice, the contribution rate payable by the active member on that active member’s pensionable pay in relation to that employment is 50% of that which would otherwise be payable under regulation 11 (contributions).

(3) An active member may cancel the election under paragraph (1) at any time by giving written notice to that active member’s employing authority to this effect.

(4) Where a notice is given under paragraph (3), the contribution rate payable on the active member’s pensionable pay in relation to that employment is as provided by regulation 11 (contributions) from the next available payment period following the giving of the notice.

(5) An active member’s election under paragraph (1) is cancelled from the first available pay period after—

- (a) the automatic re-enrolment date; and
- (b) going on to no pay as a result of sickness or injury provided that the active member is still on no pay at the beginning of that pay period,

and the contribution rate payable on the active member’s pensionable pay in relation to that employment is as provided by regulation 11 (contributions) from that date.

(6) An active member may make a further election under paragraph (1) at any time when that active member is liable to make contributions as is provided by regulation 11 (contributions).

(7) The employing authority of any active member who elects to pay reduced contributions under paragraph (1) shall give that active member information about the effect on that active member’s likely benefits consequent to that election.

### **Contributions during absence from work**

**13.—(1)** An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence from work on child-related leave in accordance with regulation 14 (contributions during child-related leave).

(2) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence on reserve forces service leave in accordance with regulation 15 (contributions during reserve forces service leave).

(3) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence from work because of illness or injury in accordance with regulation 16 (contributions during absence for illness or injury).

- (4) A person remains an active member of the Scheme during any absence from work—
- (a) of the description mentioned in paragraphs (1) to (3);
  - (b) due to a trade dispute; or
  - (c) with permission from the member’s employing authority;

and if in receipt of pay, continues to accrue earned pension in accordance with regulation 25(4) or (5) (active member’s pension accounts).

### **Contributions during child-related leave**

**14.—(1)** An active member on child-related leave shall pay contributions in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) on any pensionable pay received (including statutory pay).

(2) The pay in paragraph (1) does not include any amount that reduces the active member’s actual pensionable pay on account of possible entitlement to statutory pay.

(3) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pensionable pay (including statutory pay) for any of that period, that active member is treated for the purposes of these Regulations as if that active member had paid contributions for that unpaid period under paragraphs (1) and (2).

### **Contributions during reserve forces service leave**

**15.—(1)** An active member on reserve forces service leave shall pay contributions in accordance with regulation 11 (contributions) or regulation 12 (temporary reduction in contributions).

(2) The contributions under paragraph (1) are payable on the active member’s assumed pensionable pay calculated under regulation 23 (assumed pensionable pay).

### **Contributions during absence for illness or injury**

**16.—(1)** An active member away from employment by reason of illness or injury shall pay contributions in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the active member’s actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is absent from employment by reason of illness or injury and is not entitled to receive pensionable pay (including statutory pay) for any period, that active member—

- (a) is treated for the purposes of these Regulations as if that active member had paid contributions for that period under paragraph (1); and

- (b) if that active member has an arrangement under regulation 18 (additional pension contributions) which was entered into prior to the commencement of the period of absence, that active member is treated for the purposes of these Regulations as if that active member had paid contributions under regulation 18.

### **Employing authority contributions during absences**

17.—(1) An employing authority shall, in respect of an active member on child-related leave, pay contributions in accordance with regulation 73(4) (contributing body's contributions) on the assumed pensionable pay of that member.

(2) An employing authority shall pay contributions in accordance with regulation 73(4) where an active member is absent from employment by reason of illness or injury.

(3) When an active member goes on reserve forces service leave—

- (a) the employing authority shall give the following information in writing to the member—
  - (i) the assumed pensionable pay on which the member is liable to pay contributions in accordance with regulation 11 (contributions) or 12 (temporary reduction in contributions),
  - (ii) details of any pensionable pay being paid by the employing authority to the member during the absence,
  - (iii) the rate of the employer's contribution, being the common rate of the employer's contribution as adjusted by the individual adjustment of that employer's contribution, as specified for the time being in the employing authority's current rates and adjustment certificate, and
  - (iv) details of the Committee;
- (b) employer contributions at the rate of the employer's contribution specified in the employing authority's rates and adjustment certificate are payable to the Committee on the member's assumed pensionable pay less any pensionable pay being paid to the member during the absence.

(4) Where an active member—

- (a) on reserve forces service leave;
- (b) on child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave, or additional paternity leave during which the member receives no pay;
- (c) absent from work due to illness or injury where regulation 16(1) (contributions during absence for illness or injury) applies; or
- (d) absent from work with permission from the member's employing authority,

has an arrangement under regulation 18 (additional pension contributions) the employing authority's contributions under regulations 18(2)(e) or 18(4)(d) (additional pension contributions, shared cost) shall remain payable if that regulation applies; or has a SCAVC arrangement under regulation 19 (additional voluntary contributions) the employing authority's contributions to that SCAVC shall continue to be paid.

(5) Subject to paragraph (6), if an active member who is absent from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave, elects to enter into an arrangement to pay additional contributions under regulation 18 (additional pension contributions), the member's employing authority shall pay contributions under regulations 18(2)(e) or 18(4)(d) (additional pension contributions, shared cost) to meet two-thirds of the cost of the arrangement.

(6) The amount that an employing authority can be required to pay under paragraph (5) may not exceed the cost of an arrangement which would give rise to additional pension accrual equivalent to that which a member would have accrued if treated as receiving assumed pensionable pay for the period of absence from work up to a maximum period of thirty-six months.

(7) In paragraphs (4)(d) and (5) the expression “absent from work with permission” does not include an absence due to a trade dispute.

### **Additional pension contributions**

**18.**—(1) Subject to paragraph (15), an active member who is paying contributions under regulation 11 (contributions) may enter into arrangements to pay additional pension contributions (“APCs”) by regular contributions in accordance with paragraph (2), and a member who is paying contributions under regulation 12 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work), unless the Committee determines in any particular case that it would not be practical to allow APCs to be paid by regular contributions.

(2) Where APCs are to be paid by regular contributions, the arrangements mentioned in paragraph (1)—

- (a) shall, when entered into, be for a complete year or number of years with a minimum period of one year;
- (b) shall specify the amount of extra contribution to be paid each Scheme year;
- (c) shall, where the active member has more than one active member’s pension account, specify which account the APC is to be attached to;
- (d) shall specify the amount of additional pension to be credited to the active member’s pension account at the end of the scheme year; and
- (e) may be funded in whole or in part by the member’s employing authority.

(3) Subject to paragraph (15), an active member who is paying contributions under regulation 11 (contributions) may enter into arrangements to pay APCs by lump sum contribution in accordance with paragraph (4), and an active member who is paying contributions under regulation 12 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulation 13(4)(b) or 13(4)(c) (contributions during absence from work).

(4) Where APCs are to be paid by a lump sum contribution, the arrangements mentioned in paragraph (3)—

- (a) shall specify the amount of extra contribution to be paid;
- (b) shall, where the active member has more than one active member’s pension account, specify which account the APC is to be attached to;
- (c) shall specify the amount of additional pension to be credited to the active member’s pension account at the end of the scheme year; and
- (d) may be funded in whole or in part by the active member’s employing authority.

(5) The amount of additional annual pension that is to be credited to the active member’s pension accounts pursuant to arrangements under this regulation shall not exceed the additional pension limit.

(6) The additional pension limit is £6,500 from 1st April 2015 and that figure is increased on 1st April 2016, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2014 to which the 1971 Act applied.

(7) The amount of the contributions to be paid in respect of arrangements under this regulation is to be determined in accordance with actuarial guidance issued by the Department based on—

- (a) the age of the active member at the time the arrangements commence; and

(b) the gender of the active member.

(8) Actuarial guidance issued by the Department under paragraph (7) may be revised at any time and if so, from the 1st April following any such revision, any contributions payable are to be based on the revised actuarial guidance.

(9) An application by an active member to make arrangements under this regulation shall—

(a) be made in writing to the Committee, and a copy sent to the active member's employing authority if that active member is not employed by the Committee; and

(b) where those arrangements are under paragraph (1), state the length of the period, in whole years ending before the active member's normal pension age, over which the active member wishes to pay additional pension contributions.

(10) The Committee may require an active member to produce a report by a registered medical practitioner of the results of a medical examination, undertaken at the active member's own expense, and may refuse an application to make arrangements under paragraphs (1) to (4) if it is not satisfied that the active member is in reasonably good health.

(11) Arrangements made under paragraph (1) continue until any of the following occurs—

(a) the period entered into has expired;

(b) they are terminated by the active member giving one month's written notice to the Committee;

(c) the member begins to pay reduced contributions under regulation 12 (temporary reduction in contributions) unless the arrangement was to cover a period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work);

(d) the member ceases to be an active member of the Scheme;

(e) the member draws benefits under regulation 31(6) (retirement benefits, flexible retirement pensions);

(f) the member leaves the employment; or

(g) the active member dies.

(12) If arrangements entered into under paragraph (1) terminate for any reason and new arrangements are entered into under that paragraph, the amount of contributions payable is determined under paragraph (7) in accordance with the age of the member at the date the new arrangements are entered into and the actuarial guidance issued by the Department in force at that date.

(13) If additional contributions are paid in accordance with arrangements made under this regulation, and are not refunded under regulation 20 (rights to return of contributions), that member's active member's pension account shall be credited with the amount specified in those arrangements as additional pension at the end of the Scheme year in which the contributions are paid, or at the date the arrangements terminate, if earlier.

(14) If an active member who is paying APCs is granted ill-health retirement benefits in relation to the pension account to which the arrangements are attached, before the end of the period the arrangements made under paragraph (1) were due to cease ("the APC period"), that member is to be treated as having paid the contributions required from the date the active member is granted ill-health retirement benefits, up to the end of the APC period and the additional pension bought by those contributions is to be included in the active member's pension account for the year of leaving.

(15) If an active member fails to pay all the additional contributions due under arrangements made under paragraph (1), and paragraph (14) does not apply to that member, that member's active member's pension account shall be credited, in the scheme year when the contributions ceased, with additional pension of an amount to reflect the pension acquired in that year calculated in accordance with actuarial guidance issued by the Department.

(16) Where an arrangement is one to which regulation 17(5) (employing authority contributions during absences) applies, application by an active member to make the arrangements under this regulation shall be made before the expiry of a period of thirty days beginning with the day on which the active member returns to work.

(17) Where an active member to whom regulation 13(4) (contributions during absence from work) applies has an arrangement under this regulation which was entered into prior to the commencement of the period of absence, the APCs under that arrangement—

- (a) shall be paid by the active member during any period of child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave, or additional paternity leave during which the active member receives no pensionable pay;
- (b) shall be paid by the active member during any period of reserve forces service leave where regulation 15(1) (contributions during reserve forces service leave) applies;
- (c) shall be paid by the active member during any period of absence for illness or injury where regulation 16(1) (contributions during absence for illness or injury) applies; and
- (d) shall be paid by the active member during any period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work).

#### **Additional voluntary contributions**

19.—(1) An active member may enter into arrangements to pay additional voluntary contributions (“AVCs”) or to contribute to shared cost additional voluntary contribution arrangements (“SCAVCs”) in respect of an employment.

(2) The arrangements mentioned in paragraph (1) shall be a scheme established under an agreement between the Committee and a body approved for the purposes under the 2004 Finance Act (“the AVC provider”), registered in accordance with the 2004 Finance Act and administered in accordance with the 2004 Finance Act, the 2004 Pensions Act and the Pensions (Northern Ireland) Order 2005(1).

(3) Where an active member wishes to make contributions to an arrangement under paragraph (1) that active member, or the AVC provider authorised by the active member to act on that active member’s behalf, shall specify in a written notice given both to the Committee and the active member’s employing authority, if the active member is not employed by the Committee—

- (a) the percentage of pensionable pay or the amount that the member wishes to contribute from pensionable pay in respect of an employment in each pay period (but see paragraph (4)); and
- (b) whether any of the contributions are to be used to provide life assurance benefits payable upon death in service as an active member and, if so, the proportion or amount to be so used.

(4) Where a member is paying AVCs for life assurance and where the pensionable pay in a pay period, net of any deductions made by the employing authority, is less than the AVC due, the member may pay the contribution due by way of a payment directly to the AVC provider or to the employing authority for onward transmission to that body in order to ensure that the life assurance cover continues.

(5) A member may vary the amount specified in, or cease contributing to, an arrangement by service of a further written notice given to the member’s employing authority and the Committee by the member or by the AVC provider authorised by that member to act on that member’s behalf.

(6) For the purposes of regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(2) the retirement date used for the

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(1) S.I. 2005/255 (N.I. 1).

(2) S.R. 2014 No. 79

purposes of Schedule 6 to those regulations is, where no acceptable date has been specified for that purpose by the member, normal pension age or, if the member has already attained normal pension age, age 75.

(7) If a member draws benefits under regulation 31(1), (2), (4), (5), (7), (10), (11), (12) (retirement benefits) or regulation 36 (early payment of retirement pension on ill-health grounds: active members) or, if a member who draws benefits under regulation 31(6) (retirement benefits, flexible retirement pensions) makes an election to draw the realisable value in the AVC arrangement at the same time, that member shall notify the Committee in writing that the realisable value, under arrangements made under this regulation,—

- (a) is to be taken in full or in part by the member as a lump sum, and where only part is taken as a lump sum, the member shall specify the amount to be so taken; or
- (b) to the extent that the realisable value has not been taken as a lump sum, it is to be used—
  - (i) to purchase additional pension under the Scheme, the amount of which is to be determined by the Committee in accordance with actuarial guidance issued by the Department; or
  - (ii) to purchase an annuity from one or more insurance companies (within the meaning of section 275 of the 2004 Finance Act.

(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of a lump sum, that sum does not form part of the total amount referred to in regulation 34(2) (election for lump sum instead of pension).

(9) A person with an arrangement under paragraph (1) who becomes a deferred member of the Scheme is entitled to a deferred AVC account with the AVC provider.

(10) A member shall transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 108 (rights to payment out of pension fund).

(11) Where a member aggregates a deferred member's pension account or a deferred refund account with an active member's pension account, the realisable value in any deferred AVC account shall be transferred to an arrangement under this regulation and the member may make an election to make further payments to the arrangement.

(12) If—

- (a) an active member who is paying contributions to an AVC or SCAVC for the purpose of life assurance dies;
- (b) an active member who is paying contributions to an AVC or SCAVC other than for the purpose of life assurance dies;
- (c) a deferred member dies and has a deferred AVC account attached to the deferred member's pension account;
- (d) a pension credit member, who has been awarded a share of a member's AVC account, dies before drawing benefits; or
- (e) a member who has made an election under paragraph (7)(b)(ii) dies before the annuity has been purchased,

the Committee shall decide that any life assurance sum due under sub-paragraph (a), and the realisable value of any arrangement under sub-paragraphs (b) to (e) should be paid to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.

(13) Where a member has attained the age of 75 at the date of death, any tax chargeable under section 206 of the 2004 Finance Act (special lump sum death benefits charge) is to be deducted from the payment due under paragraphs (12) or (14).



(14) If the total of payments due under paragraph (12) have not been paid before the expiry of two years beginning with the date of the member's death or, where the Committee did not know about the member's death within that period, beginning with the date on which the Committee could reasonably have been expected to have become aware of the member's death, an amount equal to the shortfall shall be paid to the member's personal representatives.

(15) Regulations 80 (first instance decisions - general) and 102 (forfeiture of pension rights after conviction for employment-related offences) do not apply in relation to an annuity purchased under paragraph (7)(b)(ii) and regulation 21(1)(b) (exclusion of rights to return of contributions) does not apply to any AVCs paid by the member.

### **Rights to return of contributions**

**20.**—(1) If a person's qualifying service in the Scheme determined under regulation 3(5) (active membership) is for less than two years, that person is entitled, when that active membership ceases, to be repaid by the Committee—

- (a) any contributions paid under or in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) in relation to that active membership;
- (b) any additional contributions paid by the person under regulation 18 (additional pension contributions) in relation to that active membership;
- (c) the realisable value of any AVC or SCAVCs paid by the person, or SCAVCs paid by the employing authority under a salary sacrifice scheme, under regulation 19 (additional voluntary contributions) in relation to that active membership (other than such contributions paid for life assurance cover or additional survivor benefits); and
- (d) any contributions included in a transfer value payment received from a registered pension scheme or from a pension scheme or arrangement of a European Pensions Institution that could have been refundable under that arrangement.

(2) Where a person is entitled to repayment under paragraph (1)(c), the realisable value of any SCAVC contributions paid by the employing authority are repayable to the employing authority (other than contributions specifically paid for additional life assurance cover, in respect of additional survivor benefits or paid by the employing authority under a salary sacrifice scheme).

(3) A person entitled to repayment under paragraph (1)(a), (b) or (d) is also entitled to interest on the sum due under those paragraphs if repayment is not made before the expiry of one year beginning with the date active membership ceased.

(4) Interest due under paragraph (3) is calculated at one per cent above base rate on a day to day basis from the date active membership ceased and compounded with three-monthly rests.

(5) The Committee shall refund contributions to a person entitled under paragraph (1) when the person requests payment, or on the expiry of a period of five years beginning with the date the person's active membership ceased if no request is made before then or, if the person attains age 75 before then, on the day before attaining age 75.

(6) If a person entitled to a repayment under paragraph (1) dies before the payment is made, the Committee shall pay the sum due to the person's estate.

(7) The Committee may deduct any tax due under the 2004 Finance Act or certified amount due under section 57 (deduction of contributions equivalent premium from refund of scheme contributions) of the 1993 Act from any repayment under paragraph (1) and where any such deduction is made shall ensure that the money withheld is used to discharge the tax liability or is included in the contributions equivalent premium liability due under section 51 (payment of state scheme premiums on termination of certified status) of the 1993 Act.

(8) This regulation is subject to regulation 21 (exclusion of rights to return of contributions).

**Exclusion of rights to return of contributions**

**21.**—(1) A person is not entitled to a return of contributions under regulation 20 (rights to return of contributions) if that person—

- (a) becomes an active member of the Scheme again within one month and one day of ceasing active membership in an employment, or before the date a return of contributions has been issued by the Committee, whichever is the later;
- (b) left the employment because of—
  - (i) an offence of a fraudulent character; or
  - (ii) grave misconduct,
 in connection with the employment;
- (c) benefits from a transfer value payment to another registered pension scheme or to a qualifying recognised overseas pension scheme;
- (d) continues as an active member in another employment held concurrently with the employment in which that person has ceased to be an active member; or
- (e) is an active member and dies in service.

(2) Where paragraph (1)(e) applies the employing authority may direct payment out of the pension fund of a sum equal to all or part of the member's contributions to the member, the member's spouse, civil partner, nominated co-habiting partner or any of the member's dependants.

**Meaning of “pensionable pay”**

**22.**—(1) Subject to regulation 23 (assumed pensionable pay), an employee's pensionable pay is the total of—

- (a) all the salary, wages, fees and other payments paid to the employee; and
  - (b) any benefit specified in the employee's contract of employment as being a pensionable emolument.
- (2) But an employee's pensionable pay does not include—
- (a) any sum which has not had income tax liability determined on it;
  - (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
  - (c) any payment in consideration of loss of holidays;
  - (d) any payment in lieu of notice to terminate a contract of employment;
  - (e) any payment as an inducement not to terminate employment before the payment is made;
  - (f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
  - (g) any payment in consideration of loss of future pensionable payments or benefits;
  - (h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation of other employees; or
  - (i) any payment made by the employing authority to a member on reserve forces service leave.

**Assumed pensionable pay**

**23.**—(1) During the period the circumstances specified in paragraph (2) apply in relation to an employment, the pensionable pay that an active member is, in relation to that employment, treated as receiving for the purposes of these Regulations (including this regulation), other than regulations 11

to 16 (contributions), is that member's assumed pensionable pay calculated in accordance with paragraphs (4) and (5).

- (2) The circumstances are that the member—
  - (a) is on leave due to sickness or injury and is on reduced contractual pay or no pay;
  - (b) is on child-related leave; or
  - (c) is absent on reserve forces service leave.
- (3) Paragraph (2)(c) does not apply in respect of any period of employment which qualifies the member for benefits under any other occupational pension scheme in respect of that employment.
- (4) The annual rate of assumed pensionable pay for an employment for a scheme year is—
  - (a) where the member is paid monthly—
    - (i) the pensionable pay the member received relating to that employment in the three most recent pay periods in which the member received pay preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members), the pay period in which, respectively, the ill-health retirement or death occurred;
    - (ii) less any lump sum received, during that period, that is not payable every pay period;
    - (iii) with the resulting sum being grossed up to an annual figure;
    - (iv) to which any regular lump sum payment received in the twelve months preceding the date specified in paragraph (4)(a)(i) should be added.
  - (b) where the member is paid otherwise than monthly—
    - (i) the pensionable pay the member received relating to that employment in the twelve most recent pay periods in which the member received pay preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members), the pay period in which, respectively, the ill-health retirement or death occurred;
    - (ii) less any lump sum received, during that period, that is not payable every pay period;
    - (iii) with the resulting sum being grossed up to an annual figure;
    - (iv) to which any regular lump sum payment received in the twelve months preceding the date specified in paragraph (4)(b)(i) should be added.
- (5) For the purposes of paragraph (4) a “regular lump sum” is a payment for which the member's employer determines there is an expectation that such a payment would be paid on a regular basis.
- (6) The assumed pensionable pay that a member is treated as receiving is adjusted by the revaluation adjustment on the first day of the second Scheme year which commenced after the first date on which the member is treated as receiving assumed pensionable pay.