

## SCHEDULE 2

Regulation 5

### RE-EMPLOYMENT OF MEMBERS

#### *Interpretation*

**1.** In this Schedule—

“active pensioner” means a person who was a pensioner member and an active member immediately before the commencement date and continues as an active member on that date by virtue of regulation 3;

“rejoining pensioner” means a person who was a pensioner member but not an active member immediately before the commencement date, and becomes an active member again on or after that date (otherwise than in an employment which is a new employment to which paragraph 3(1) applies);

“rejoining deferred member” means any person who—

- (a) immediately before the commencement date was a deferred member (or would have been apart from being a pensioner member) but was not an active member; and
- (b) becomes an active member again on or after that date.

#### *Active and rejoining pensioners: general*

**2.** Despite regulation 3—

- (a) the saved provisions shall continue to apply; and
- (b) Part II (except regulations 48 and 49) and Parts III and V of the 1998 Regulations shall not apply,

in relation to an active pensioner or a rejoining pensioner in his capacity as a pensioner member as respects his membership before the commencement date, except where the following provisions of this Schedule provide otherwise.

#### *Re-employment and abatement*

**3.—(1)** Where immediately before the commencement date regulation E15 of the 1987 Regulations (reduction of retirement pensions) applies to any person by virtue of one or more new employments with Scheme employers which continue on that date—

- (a) that regulation shall cease to apply to him if after that date there is a period of more than one month during which he is not employed by any of those Scheme employers; and
- (b) if after such a period the member enters employment with any Scheme employer, regulations 109 and 110 of the 1998 Regulations (abatement) shall apply instead as respects that employment.

(2) Regulations 109 and 110 of the 1998 Regulations shall apply instead of regulation E15 of the 1987 Regulations to a rejoining pensioner and a rejoining deferred member.

#### *Combined benefits*

**4.—(1)** An active pensioner or a former active pensioner may not make an election under regulation E16 of the 1987 Regulations on or after the commencement date, but he may make an election under regulation 28(1) of the 1998 Regulations.

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(2) A rejoining pensioner or a rejoining deferred member or a former such person may not make an election under regulation E16 of the 1987 Regulations on or after the date on which he becomes an active member again, but he may make an election under regulation 28(1) of the 1998 Regulations.

(3) Where an election has been made under regulation E16 of the 1987 Regulations on or after the commencement date by a person who later becomes unable to make such an election by virtue of sub-paragraph (2)–

(a) that election shall continue to have effect, and

(b) that regulation shall continue to apply,

unless he makes an election under regulation 28(1) of the 1998 Regulations affecting the pension in question.

(4) If he does so, regulation 28(1) to (8) of those Regulations shall apply and the saved provisions shall cease to apply to him as respects the pension in question.

#### *Separate benefits and dependants' benefits*

5.—(1) This paragraph applies where an active pensioner, a rejoining pensioner or rejoining deferred member or a former such person does not make an election under regulation 28(1) of the 1998 Regulations.

(2) Regulation 28(9) of those Regulations shall apply in relation to him instead of regulation E17(2) and (3) of the 1987 Regulations.

(3) When he dies, regulation 47 of the 1998 Regulations (dependants of re-employed pensioners) shall apply instead of regulations E6(1)(c), (2)(e) and (3)(b) and E18 of the 1987 Regulations.

(4) However, if he made an election under regulation E16(1) of the 1987 Regulations which continues in effect until his death, regulation 47 of the 1998 Regulations shall apply as if the single pension to which he became entitled by virtue of that election was an unreduced retirement pension within regulation 47(1) of those Regulations.

(5) Regulation 38 (reduction of death grants: re-employed pensioners) of the 1998 Regulations shall apply in relation to him, instead of regulation E17(4), (5) and (6) of the 1987 Regulations, unless sub-paragraph (6) applies.

(6) This sub-paragraph applies if when he dies, by virtue of regulation 47 of the 1998 Regulations, all the benefits payable on his death (except short-term pensions payable under the old provisions or the 1998 Regulations) are calculated on the assumption that he has made an election under regulation 28(1)).

#### *Members with preserved rights*

6.—(1) Where immediately before the commencement date there is an election in force in respect of a member's benefits under regulation E2(9)(c) of the 1987 Regulations (elections to remain entitled to preserved benefits), for these Regulations he shall be treated as a deferred member (and not as an active member) as respects his rights to preserved benefits and the membership in question (but see the following provisions of this paragraph).

(2) Sub-paragraph (1) is without prejudice to regulation 31(5) of the 1998 Regulations and applies despite the fact that the member–

(a) continues as an active member by virtue of regulation 3; or

(b) becomes an active member again on or after the commencement date (whether immediately before he does so he is a deferred member or a pensioner member).

(3) Sub-paragraph (1) ceases to apply to a person falling within paragraph (2)(b) as respects any part of his former membership which he elects under regulation 31(1) of the 1998 Regulations to aggregate with later membership.

(4) Sub-paragraph (1) also ceases to apply if any person falling within that sub-paragraph makes an election under regulation 28(1) of the 1998 Regulations.

(5) Where sub-paragraph (4) applies, the member shall cease to be entitled to count under the saved provisions any period of membership to which he is entitled under the old provisions but as respects which he elected under regulation E2(9)(c) of the 1987 Regulations to remain entitled to preserved benefits.

(6) He shall instead be entitled to count that period of membership for the purposes of regulation 8(1)(d) of the 1998 Regulations.

(7) However, regulations 8 to 12 shall apply as to the adjustment of the length of that period as if it had been a period which he was entitled to count by virtue of regulation 6.

*Elections for aggregation: members rejoining immediately before commencement*

7. Where immediately before the commencement date a member was eligible to make an election under regulation E2(9)(c) of the 1987 Regulations by reason of having re-entered local government employment in the period of three months ending at that time, but had not done so—

- (a) he may make an election under regulation 31(1) of the 1998 Regulations at any time whilst he remains an active member in that employment; but
- (b) if he does not make such an election before he ceases to be such a member in that employment, he shall be treated for the purposes of these Regulations as if he had made an election under regulation E2(9)(c) of the 1987 Regulations immediately before the commencement date as respects all the membership as to which he could have made that election.

*Limitations on benefits*

8.—(1) Where an active pensioner, a rejoining pensioner or a rejoining deferred member has not made an election under regulation 28(1) of the 1998 Regulations—

- (a) regulations E11(2) and (13) and E30(1) to (4) of the 1987 Regulations (limitations on benefits) shall continue to apply as respects the benefits derived from his membership before the commencement date; and
- (b) Schedule 4 to the 1998 Regulations shall only apply as respects his membership after that date.

(2) Sub-paragraph (1) ceases to apply to a rejoining deferred member as respects any part of his former membership which he elects under regulation 31(1) of the 1998 Regulations to aggregate with later membership, and accordingly Schedule 4 to the 1998 Regulations shall apply as respects all benefits payable to or in respect of him in relation to the membership aggregated.

*Continuity of elections by certain rejoining deferred members*

9.—(1) This sub-paragraph applies where a rejoining deferred member—

- (a) becomes an active member again—
  - (i) before the expiry of the period of 12 months beginning with the date he ceased to be an active member; and

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- (ii) before becoming entitled to the immediate payment of benefits under the 1987 Regulations;
  - (b) immediately before ceasing to be an active member was making payments under an election made under regulation C6 or C8 of the 1987 Regulations; and
  - (c) elects under regulation 31(1) of the 1998 Regulations.
- (2) Where sub-paragraph (1) applies the member may pay his employing authority in the employment in which he is an active member an amount equal to the amount which would have been payable if he had continued to be an active member and to make those payments.
- (3) That amount must be paid before the expiry of the period of three months beginning with the date he becomes an active member again.
- (4) If he pays them that amount—
- (a) that payment shall be treated as having been made under regulation 54 of the 1998 Regulations; and
  - (b) the election made under regulation C6 or C8 of the 1987 Regulations shall be treated as having been made under that regulation as respects so much of the period of membership as he may not count by virtue of regulation 7 of these Regulations (and accordingly the amounts of his additional contributions shall be determined under regulation 54 of the 1998 Regulations).
- (5) Sub-paragraph (1) does not apply if the member—
- (a) has received a return of contributions which includes additional contributions under regulation C6 of the 1987 Regulations made under the election mentioned in sub-paragraph (1)(b); or
  - (b) has requested such a return of contributions.