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STATUTORY INSTRUMENTS

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**2014 No. 2336**

**The Armed Forces Pension Regulations 2014**

**PART 5**

**Retirement benefits**

**CHAPTER 1**

**Retired member benefits**

**Retirement on or after reaching normal pension age – active members**

**43.**—(1) A member is entitled to the immediate payment for life of a retirement pension under this scheme if—

- (a) the member ceases to be in pensionable service under this scheme at or after reaching normal pension age; and
- (b) the member has not made a claim for a pension under regulation 44 (retirement before reaching normal pension age – deferred members) in respect of that service.

(2) But a member is not so entitled unless—

- (a) the member has claimed payment of the pension; and
- (b) (i) the member has at least 2 years' qualifying service; or  
(ii) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers).

(3) A member, who is entitled to a retirement earned pension under this regulation, is entitled to immediate payment for life of—

- (a) a retirement added pension, if the retirement account specifies an amount of retirement added pension; and
- (b) a retirement club transfer earned pension, if the retirement account specifies an amount of club transfer earned pension.

(4) The claim for payment of a pension under this regulation must be made by notice in writing to the scheme administrator in such form as the scheme manager requires.

(5) In the event that the member delays making a claim under this regulation after reaching the normal pension age the in-service late payment supplement or the late payment supplement (as applicable) will apply to the account of the member.

**Retirement before reaching normal pension age – deferred members**

**44.**—(1) A member, who is not entitled to immediate payment of a pension under regulation 43 (retirement on or after reaching normal pension age – active members), is entitled to the immediate payment for life of a retirement earned pension under this scheme if the member—

- (a) has reached the age of 55;

- (b) has ceased to be in pensionable service under this scheme; and
  - (c) has claimed payment of pension.
- (2) But a member is not so entitled unless—
- (a) the member has at least 2 years' qualifying service; or
  - (b) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers).
- (3) A member, who is entitled to a retirement earned pension under this regulation, is entitled to immediate payment for life of—
- (a) a retirement added pension, if the deferred member's account specifies a provisional amount of deferred added pension; and
  - (b) a retirement club transfer earned pension, if the retirement account specifies a provisional amount of deferred club transfer earned pension.
- (4) The claim for payment of a pension under this regulation must be made by notice in writing to the scheme administrator in such form as the scheme manager requires.
- (5) The early payment reduction is to apply to the pension amount of the member in the event that the pension is to come into payment before the member's deferred pension age.
- (6) The late payment supplement is to apply to the pension amount of the member in the event that the pension is to come into payment after the member's deferred pension age.

**Annual rate of pension payable to active member who becomes pensioner member**

**45.—**(1) This regulation applies when an active member becomes entitled under regulation 43 (retirement on or after reaching normal pension age – active members) to the immediate payment of a retirement earned pension.

(2) The annual rate of the retirement earned pension payable to the retired member is determined by—

- (a) taking the amount of retirement earned pension specified in the retirement account;
- (b) adding the in-service late payment supplement (if any) specified in that account in relation to that amount;
- (c) adding the late payment supplement (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(3) If a retirement added pension (member and dependants) is payable to the member, the annual rate of that pension is determined by—

- (a) taking the amount of retirement added pension (member and dependants) specified in the retirement account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(4) If a retirement added pension (member) is payable to the member, the annual rate of that pension is determined by—

- (a) taking the amount of retirement added pension (member) specified in the retirement account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(5) If a retirement club transfer earned pension is payable to the member, the annual rate of the pension is determined by—

- (a) taking the amount of club transfer earned pension specified in the retirement account; and
- (b) applying the provisions of regulation 45(2)(b) to (e) to that amount.

#### **Annual rate of pension payable to deferred member who becomes pensioner member**

**46.**—(1) This regulation applies when a deferred member becomes entitled under regulation 44 (retirement before reaching normal pension age – deferred members) to the immediate payment of a retirement pension.

(2) The annual rate of the retirement earned pension payable to the member is determined by—

- (a) taking the provisional amount of the member’s deferred earned pension specified in the deferred member’s account;
- (b) adding the late payment supplement( if any) specified in that account in relation to that amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(3) If a retirement added pension (member and dependants) is payable to the member, the annual rate of this pension is determined by—

- (a) taking the provisional amount of the member’s deferred added pension (member and dependants) specified in the deferred member’s account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(4) If a retirement added pension (member) is payable to the member, the annual rate of that pension is determined by—

- (a) taking the provisional amount of the member’s deferred added pension (member) specified in the deferred member’s account;

- (b) adding the late payment supplement (if any) specified in that account in relation to that amount;
  - (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
  - (d) subtracting the commutation amount (if any) specified in that account in relation to that amount.
- (5) If a retirement club transfer pension is payable to the member the annual rate of that pension is determined by—
- (a) taking the provisional amount of the member’s deferred club transfer earned pension specified in the deferred member’s account; and
  - (b) applying the provisions of regulation 46(2)(b) to (e) to that amount.

## CHAPTER 2

### Benefits for pension credit and pension debit members

#### **Pension credit member’s pension**

**47.**—(1) A pension credit member is entitled to the immediate payment for life of a pension credit member’s pension under this scheme—

- (a) (i) when a pension credit member reaches deferred pension age; or
  - (ii) if it is later, when the pension sharing order under which the member is entitled to the pension credit takes effect; and
- (b) the pension credit member has claimed payment of the pension.

(2) The claim for payment of a pension must be made by notice in writing to the scheme administrator in such form as the scheme manager requires.

(3) A pension credit member who has reached 55, but has not reached deferred pension age, may claim early payment of the pension credit member’s pension by written notice to the scheme administrator.

(4) The notice must—

- (a) be in such form as the scheme manager requires; and
- (b) specify the date on which the pension is to become payable (“payable date”).

(5) A pension credit member who claims early payment of a pension credit member’s pension is entitled to the immediate payment for life of that pension on that payable date.

(6) The early payment reduction is to apply to the pension account of a pension credit member in the event that the pension comes into payment before the pension credit member’s deferred pension age.

(7) The late payment supplement is to apply to the pension account of a pension credit member in the event that the pension comes into payment after the pension credit member’s deferred pension age.

#### **Annual rate of pension credit member’s pension**

**48.** The annual rate of the pension credit member’s pension is determined by—

- (a) taking the amount of credited pension specified in the pension credit member’s account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that amount;

- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount.

### **Pension credit member's rights**

**49.**—(1) If regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(1) (early or deferred retirement) applies, the scheme manager must be reasonably satisfied that the requirements of that regulation have been met.

(2) Benefits that are attributable to a pension credit are not to be aggregated with any other benefits to which the pension credit member is entitled under this scheme.

### **Reduction in pension debit member's benefits**

**50.** The benefits to which a pension debit member is entitled under this scheme are subject to the reduction to be made under section 31 of the WRPA 1999.

## CHAPTER 3

### Ill-health benefits

### **Entitlement to ill-health pension: active member with permanent serious ill-health**

**51.**—(1) An active member who has not reached normal pension age is entitled to immediate payment of an ill-health pension if—

- (a) in the opinion of the scheme manager, the member has suffered a permanent breakdown in health involving incapacity for any gainful full time employment;
- (b) the scheme manager has received evidence from a registered medical practitioner that the member is, and will continue to be, incapable of carrying on their occupation because of physical or mental impairment;
- (c) the member has at least 2 years' qualifying service or a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers);
- (d) the member is not entitled to an ill-health pension under regulation 52(1) (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment); and
- (e) the scheme manager has agreed to the member becoming so entitled.

(2) For the purpose of these Regulations, a member's breakdown in health is "permanent" if the scheme manager is of the opinion that the breakdown will continue until the member reaches normal pension age.

(3) A member entitled to immediate payment of an ill-health pension is entitled to an added pension of any description if the retirement account specifies an accrued added pension of that description.

(4) The annual rate of an ill-health pension and any added pension payable under this regulation is calculated in accordance with regulation 54 (annual rate of ill-health pension: active members with permanent serious ill-health).

### **Entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment**

**52.**—(1) An active member who has not reached normal pension age is entitled to the immediate payment of an ill-health pension if—

- (a) in the opinion of the scheme manager—
  - (i) the member has suffered a breakdown in health, as a result of which, their capacity for any gainful employment is significantly impaired; and
  - (ii) the breakdown will continue until the member reaches normal pension age;
- (b) the scheme manager has received evidence from a registered medical practitioner that the member is, and will continue to be, incapable of any gainful employment because of physical or mental impairment;
- (c) the member has at least 2 years' qualifying service or a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers);
- (d) the member is not entitled to an ill-health pension under regulation 51(1) (entitlement to ill-health pension: active member with permanent serious ill-health); and
- (e) the scheme manager has agreed to the member becoming so entitled.

(2) A member entitled to immediate payment of an ill-health pension is entitled to—

- (a) an added pension of any description if the retirement account specifies an accrued added pension of that description; and
- (b) a retirement club transfer earned pension, if the retirement account specifies a club transfer earned pension.

(3) The annual rate of an ill-health pension and any added pension payable under this regulation is to be calculated in accordance with regulation 55 (annual rate of ill-health pension: active members with significant impairment of capacity for gainful employment).

### **Deferment of accrued earned pension attributable to a transfer payment**

**53.**—(1) In respect of any amount of accrued pension specified in the active member's account as at the end of the last day of pensionable service which is attributable to a transfer value payment or cash transfer sum ("payment") accepted in relation to the member under Part 8 (Transfers) in the 24 months before the relevant day and the scheme manager so directs, these Regulations apply as if the member had become a deferred member in respect of the rights that accrued in that service by virtue of that payment.

(2) Accordingly where paragraph (1) applies—

- (a) for the purpose of calculating the provisional amount of deferred added earned pension under regulation 35 (account to specify provisional amount of deferred pension), the amount of accrued earned pension is only the amount attributable to that transferred payment; and
- (b) for the purpose of calculating the amount of retirement earned pension or any club transfer earned pension under regulation 40 (account to specify amount of retirement pension), the amount of accrued pension is—
  - (i) the amount specified in the active member's account as at the end of the last day of pensionable service, less
  - (ii) the amount attributable to that payment.

(3) In paragraph (1), "the relevant day" means the day on which the scheme manager provided their opinion, mentioned in either regulation 51 (entitlement to ill-health pension: active member

with permanent serious ill-health) or regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment), by virtue of which the member is entitled to the ill-health pension.

**Annual rate of ill-health pension: active members with permanent serious ill-health**

**54.**—(1) The annual rate of an ill-health pension payable under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member), in the same way as the annual rate of retirement earned pension is calculated, but—

- (a) the references to the member’s retirement earned pension are taken to be references to the enhancement value of the earnings-related part of that pension; and
- (b) the early payment reduction is not subtracted.

(2) In this regulation—

“the earnings-related part”, in relation to the member’s retirement earned pension, means the proportion of that pension not attributable to a transferred pension;

“the enhancement value” means multiplying A by B where—

- (a) A is the member’s retirement earned pension divided by the sum of—
  - (i) for all years up to the last active scheme year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member’s account; and
  - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and
- (b) B is the greater of—
  - (i) the number of years (or parts of years) up to a maximum of 25 years which would have remained, if the active member had continued in scheme employment up to normal pension age; or
  - (ii) X plus N (both expressed as a number of years), where
    - (aa) X is the sum of—
      - (i) for all years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member’s account; and
      - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and
    - (bb) N is half of the number of years (or parts of years) from the last day of pensionable service until normal pension age.

(3) The annual rate of any added pension payable under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member) in the same way as the annual rate of retirement added pension is calculated, but any early payment reduction is not subtracted.

(4) The annual rate of any club transfer pension payable under regulation 51 is calculated in accordance with regulation 45 in the same way as the annual rate of club transfer pension is calculated.

**Annual rate of ill-health pension: active members with significant impairment of capacity for gainful employment**

55.—(1) The annual rate of an ill-health pension payable under regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member), in the same way as the annual rate of retirement earned pension is calculated, but—

- (a) the references to the member’s retirement earned pension are taken to be references to the enhancement value of the earnings-related part of that pension; and
- (b) the early payment reduction is not subtracted.

(2) In this regulation—

“the earnings-related part”, in relation to the member’s retirement earned pension, means the proportion of that pension not attributable to a transferred pension;

“the enhancement value” means the value arrived at by multiplying A by B, where—

- (a) A is the member’s retirement earned pension divided by the sum of—
  - (i) for all years up to the last active scheme year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member’s account; and
  - (ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and
- (b) B is X plus N, where—
  - (i) X is the sum of—
    - (aa) for all years up to the last active scheme year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member’s account; and
    - (bb) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and
  - (ii) N is one-third of the number of years (or part of years) from the last day of pensionable service until normal pension age (both X and N to be expressed as a number of years).

(3) The annual rate of any added pension payable under regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member) in the same way as the annual rate of retirement added pension is calculated.

(4) The annual rate of any club transfer pension payable under regulation 52 is calculated in accordance with regulation 45 in the same way as the annual rate of retirement club transfer pension is calculated.

**Entitlement to ill-health pension: deferred member with permanent serious ill-health**

56.—(1) A deferred member, who has not reached deferred pension age, is entitled to immediate payment of an ill-health pension if—

- (a) the member makes a claim to the scheme administrator for immediate payment of the pension;



- (b) the member has at least 2 years' qualifying service or a transfer value payment otherwise than from another occupation pension scheme has been accepted in relation to the member under Part 8 (Transfers);
  - (c) in the opinion of the scheme manager, after consulting the scheme medical adviser, the member has suffered a permanent breakdown in health involving incapacity for any gainful full-time employment; and
  - (d) the scheme manager has agreed to the member becoming so entitled.
- (2) For the purpose of these Regulations, a member's breakdown in health is "permanent" if the scheme manager is of the opinion that the breakdown will continue until the member reaches deferred pension age.
- (3) A member entitled to immediate payment of an ill-health pension is entitled to—
- (a) an added pension of any description if the retirement account specifies an accrued pension of that description; and
  - (b) a retirement club transfer earned pension, if the retirement account specifies a club transfer earned pension.
- (4) The annual rate of an ill-health pension, any added pension and any club transfer pension payable under this regulation is calculated in accordance with regulation 46 (annual rate of pension payable to deferred member who becomes a pensioner member) but without subtracting the early payment reduction.

#### **Scheme manager's review of ill-health awards**

- 57.—**(1) This regulation applies if—
- (a) a member is entitled to a pension under regulation 51, 52 or 56 (entitlement to ill-health pension: active member with permanent serious ill-health; entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment; or entitlement to ill-health pension: deferred member with permanent serious ill-health); and
  - (b) it appears to the scheme manager, after consulting the scheme medical adviser, that there is evidence that the scheme manager would not be of the same opinion as to the member's condition if the scheme manager reconsidered the question, as the opinion by virtue of which the entitlement arose.
- (2) The scheme manager may review the member's condition under this regulation.
- (3) No review is to be made under paragraph (2) after—
- (a) the member, in receipt of a pension under regulation 51 or 52 (entitlement to ill health pension: active member with permanent serious ill-health; or entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment) has reached normal pension age; or
  - (b) the member, in receipt of a pension under regulation 56 (entitlement to ill-health pension deferred member with permanent serious ill-health) has reached deferred pension age.
- (4) If on any such review, in the case of a member who is entitled to a pension under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health), the scheme manager is of the opinion that—
- (a) the member has not suffered such a breakdown as is mentioned in regulation 51, but
  - (b) the member meets the condition in regulation 52,

the scheme manager may determine that the member is to cease to be entitled to a pension under regulation 51 and to become entitled to a pension under regulation 52 at the end of the period of 3 months beginning with the date on which that determination is made.

(5) If on any review under paragraph (2), in the case of a member who is entitled to a pension under regulation 52, the scheme manager is of the opinion that the member has not suffered such a breakdown as is mentioned in regulation 52, the scheme manager may determine that the member is to cease to be entitled to a pension under regulation 52 at the end of the period of 3 months beginning with the date on which that determination is made.

(6) If on any review under paragraph (2), in the case of a member who is entitled to a pension under regulation 56 (entitlement to ill-health pension: deferred member with permanent serious ill-health), the scheme manager is of the opinion that the member has not suffered such a breakdown as is mentioned in regulation 56, the scheme manager may determine that the member is to cease to be entitled to a pension under regulation 56 at the end of the period of 3 months beginning with the date on which that determination is made.

(7) If on any review under paragraph (2), the scheme manager proposes a change of pension payments, the scheme manager must—

- (a) notify the member in writing that the scheme manager proposes to make such a change;
- (b) include the reason for the scheme manager's decision; and
- (c) give the member information about rights under—
  - (i) the arrangements established by the scheme manager for the resolution of disputes relating to this scheme that are in force at the time the notification is given; and
  - (ii) Part 10 of the PSA 1993 (investigations: the Pensions Ombudsman).

### **Member's request for review of ill-health awards**

**58.**—(1) This regulation applies if a member—

- (a) is entitled to a pension under regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment); or
- (b) has received a lump sum under regulation 19 of the EDP 2014 (lump sum awards: incapacity for armed forces service).

(2) The member may request a review of the member's condition under this regulation—

- (a) at any time before the fifth anniversary of the day on which the member became entitled to the pension or lump sum; or
- (b) after that time if, in the opinion of the scheme manager, the circumstances are exceptional.

(3) The request must be made by notice in writing to the scheme administrator in such form as the scheme manager requires, including reasons for the review.

(4) If a member requests a review of their condition under this regulation, the scheme manager must—

- (a) review the question whether the member has suffered a permanent breakdown in health involving incapacity for any gainful employment in relation to regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health); and
- (b) if the scheme manager is of the opinion that the member has suffered such a breakdown, determine whether—
  - (i) the member had suffered such a breakdown at the time when the member became entitled to the pension under regulation 52; or
  - (ii) the condition, by virtue of which the member became so entitled, has deteriorated so that the member suffered such a breakdown later.

- (5) If on any review under paragraph (4), the scheme manager is of the opinion that the member—
- (a) has suffered such a breakdown as is mentioned in paragraph (4)(a); and
  - (b) had done so at the time when the member became entitled to the pension under regulation 52,

then the member's entitlement under regulation 52 ceases and regulation 51 applies as if the conditions mentioned in that regulation were met at the time the member ceased to be in service by virtue of which the member was eligible to be an active member of this scheme, and accordingly the member immediately becomes entitled to payment of such an amount as is specified in paragraph (6).

(6) The amount referred to in paragraph (5) is such an amount as represents the difference between the pension payments that have been made to the member under regulation 52 and those to which the member was actually entitled under regulation 51.

- (7) If on any review under paragraph (4), the scheme manager is of the opinion that—
- (a) the member has suffered such a breakdown as is mentioned in paragraph (4)(a), but
  - (b) the condition by virtue of which the member became entitled to the pension under regulation 52 has deteriorated so that the member suffered such a breakdown later,

then the member's entitlement to a pension under regulation 52 ceases and the member is entitled to a pension calculated under regulation 51 from the date on which the review was requested.

(8) If a member within paragraph (1)(b) requests a review of the member's condition under this rule, the Secretary of State must—

- (a) review the question whether the member has suffered a breakdown in health as a result of which the member's capacity for gainful employment is significantly impaired; and
- (b) if, the Secretary of State is of the opinion that the member has suffered such a breakdown, determine whether—
  - (i) the member had suffered such a breakdown at the time when the member became entitled to payment of the lump sum under EDP 2014 regulation 19, or
  - (ii) the condition by virtue of which the member became so entitled has deteriorated so that the member suffered such a breakdown later.

(9) If—

- (a) on any review under paragraph (8), the Secretary of State is of the opinion that the member—
  - (i) has suffered such a breakdown as is mentioned in paragraph (8)(a); and
  - (ii) had done so at the time when the member became entitled to payment of the lump sum under EDP 2014 regulation 19; and
- (b) the conditions in regulation 52(1)(b) and (c) are met then regulation 52 applies from the time when the conditions in 52(1)(a) are first met, and accordingly the member is entitled to a pension under that regulation payable from that time and the scheme manager may set off against such entitlement the amount of the lump sum paid under EDP 2014 regulation 19.

(10) If—

- (a) on any review under paragraph (8), the Secretary of State is of the opinion that—
  - (i) the member has suffered such a breakdown as is mentioned in paragraph (8)(a), but
  - (ii) the condition by virtue of which the member became entitled to payment of the lump sum under EDP 2014 regulation 19 has deteriorated so that the member suffered such a breakdown later, and
- (b) the conditions in regulation 52(1)(b) and (c) are met,

then regulation 52 applies from the date when the ill-health condition (as defined in paragraph 1 of Schedule 28 to the FA 2004) is first met, and accordingly the member is entitled to a pension under that regulation payable from that date.

## CHAPTER 4

### Options

#### **General option to exchange part of the pension for lump sum**

**59.**—(1) A member may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum.

(2) If a member so opts, for every £1 by which the amount of the member's annual rate of pension is reduced, the member is to be paid a lump sum of £12.

(3) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purpose of Part 4 of the FA 2004 (see section 241 of that Act).

(4) This regulation does not apply to a pension derived from pension credit rights if the pension debit member from whose rights the pension is derived has exercised the option before the date on which the pension sharing order takes effect.

(5) The option under this regulation must be exercised by notice in writing to the scheme administrator in such form as the scheme manager requires no earlier than 6 months and no later than 1 month before the first pension payment is made.

(6) An option exercised under paragraph (1) must apply to added pension and earned pension to which a member is entitled in equal proportions.

#### **Option for members in serious ill-health to exchange whole pension for lump sum**

**60.**—(1) An active member, deferred member or pension credit member may opt to exchange the whole of the member's pension under this Part for a lump sum if the scheme manager—

(a) is satisfied that the member is expected to live for less than 12 months; and

(b) has received evidence from a registered medical practitioner that this is the case.

(2) The option must be exercised before the pension becomes payable.

(3) A member who exercises the option is to be paid as soon as is reasonably practicable.

(4) Where an active member exercises the option, the amount of the lump sum is equal to the total annual amount of an ill-health pension under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill health), multiplied by 5.

(5) Where a deferred member exercises the option, the amount of the lump sum is equal to the total amount of ill health pension under regulation 56 (entitlement to ill health pension: deferred member with permanent serious ill health), multiplied by 5.

(6) Where a pension credit member exercises the option, the amount of the lump sum is equivalent, in the opinion of the scheme manager, having regard to guidance from the scheme actuary, to the value of their pension credit rights.

(7) In paragraph (4) and (5), "annual amount" in relation to a pension means the sum of the following amounts—

(a) the amount of the annual rate of the pension to which the member would be entitled under this Part apart from the option; and

(b) the amount of any increase in the annual rate of pension payable under the PIA 1971, calculated—

- (i) as at the time payment would otherwise first be due; but
- (ii) disregarding any service that the member might have accrued if the member had continued in service until that time.

(8) An option under this regulation is to be exercised by notice in writing to the scheme administrator in such form as the scheme manager requires.

## CHAPTER 5

### Allocation

#### **Election to allocate pension**

**61.**—(1) An active member or deferred member may elect to allocate a part of the amount of the annual rate of any of the member’s pensions under this scheme to another person.

(2) No election may be made in respect of an ill-health pension payable under regulations 51, 52 or 56 (entitlement to ill-health pension: active member with permanent serious ill-health; entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment; or entitlement to ill-health pension: deferred member with permanent serious ill-health) or an added pension (member).

(3) The member may not elect to allocate more than the permitted percentage of the member’s annual pension under this scheme.

(4) In paragraph (3) “the permitted percentage” means 37.5%, or such lower percentage as appears to the scheme manager, after consultation with the scheme actuary, to be capable of being allocated under this rule without risking that a part of the pension to which any person becomes entitled on the death of the member after age 75 does not qualify as a dependants’ scheme pension for the purpose of section 167 of the FA 2004 (the pension death benefit rules) (see paragraphs 16 to 16B of Schedule 28 to that Act).

(5) If a member wishes to allocate pension to more than one person—

- (a) a separate election must be made in respect of each of them; and
- (b) the limit under paragraph (4) applies to the total amount allocated.

(6) If—

- (a) an election does not comply with paragraph (4), or
- (b) taken together the member’s elections do not so comply,

the scheme administrator may treat the election or, as the case may be, each of the elections, as then allocating such smaller amount as would result in the election, or the elections taken together so complying.

#### **Procedure for allocation election**

**62.**—(1) An allocation election must be made not earlier than 6 months before the pension becoming payable or any other date advised to the member by the scheme administrator (“the closing date”).

(2) A member may at any time before the closing date—

- (a) revoke an election; or
- (b) amend an election by altering the amount allocated by it.

(3) An election and any revocation or amendment of an election must be made in writing in such form as the scheme manager requires and be lodged with the scheme administrator.

(4) Subject to paragraphs (5) and (7), an election takes effect on the closing date.

- (5) An election has no effect if—
  - (a) the member dies before the closing date; or
  - (b) the person in whose favour it is made (“the beneficiary”) dies before that date; or
  - (c) the scheme manager is not satisfied that at the time the election is made the beneficiary is the member’s spouse or civil partner or a person who in the opinion of the scheme manager meets one of the conditions specified in paragraph (6).
- (6) The conditions are—
  - (a) that the person is financially wholly or mainly dependent on the member; or
  - (b) that the member and the person are financially interdependent.
- (7) An election has no effect unless—
  - (a) before the closing date, the member has—
    - (i) made a declaration about the member’s state of health in such form as the scheme manager may request; and
    - (ii) if requested by the scheme manager, provided evidence relating to the member’s health in accordance with that request; and
  - (b) the scheme manager is satisfied that at the date on which the member makes the declaration the member is in good health.

### **Effect of allocation**

- 63.**—(1) If an allocation election for the allocation of a member’s pension to another person (“the beneficiary”) has taken effect—
- (a) the member’s pension is reduced accordingly (even if the beneficiary predeceases the member); and
  - (b) if the beneficiary survives the member, on the member’s death the beneficiary becomes entitled to the payment of a pension for life of such amount as the scheme manager may determine, after consultation with the scheme actuary, having regard to—
    - (i) the amount of the allocation to the beneficiary; and
    - (ii) the beneficiary’s and member’s age and gender.
- (2) But the scheme manager may withhold payment from the beneficiary if—
- (a) (i) the member dies before the expiry of the period of 2 years beginning with the date on which the election takes effect; and
  - (ii) the scheme manager is satisfied that the member made a false declaration about the member’s state of health in connection with making the election; or
  - (b) the scheme manager is of the opinion that—
    - (i) the member made the election under duress, or
    - (ii) the member was mentally impaired at the time when the member made the election and would not have made the election apart from the impairment.
- (3) An allocation election is to be disregarded for the purpose of this regulation if it would result in a pension being paid under this regulation to a beneficiary who is neither—
- (a) the member’s spouse or civil partner on—
    - (i) the date on which the member becomes entitled to the pension; or
    - (ii) when the member dies; nor

- (b) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to the FA 2004 when the member dies.
- (4) If the scheme manager proposes to withhold payment under paragraph (3), the scheme manager must notify the person in writing that the scheme manager proposes to do so and include the reason for the scheme manager's decision.
- (5) Such a notification must give the person information about rights under—
  - (a) the arrangements established by the scheme manager for the resolution of disputes relating to this scheme that are in force at the time the notification is given; and
  - (b) Part 10 of the PSA 1993 (Investigations: the Pensions Ombudsman), in respect of any decision made under paragraph (3).

**Adjustment of allocated benefits for the Finance Act 2004 where member dies over 75**

- 64.**—(1) This regulation applies if—
- (a) a member dies after reaching the age of 75; and
  - (b) but for this regulation, any part of a pension to which a person otherwise becomes entitled under this Chapter on the member's death would not qualify as a dependants' scheme pension for the purposes of section 167 of the FA 2004 (the pension death benefit rules) (see paragraphs 16 to 16C of Schedule 28 to that Act).
- (2) The benefit payable to the person may be adjusted in such manner as is determined by the scheme manager.