
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 177

**Local Government Pension Scheme
Regulations (Northern Ireland) 2000**

Part A

Preliminary

Citation, commencement and retrospection

A1.—(1) These Regulations may be cited as the Local Government Pension Scheme Regulations (Northern Ireland) 2000 and shall come into operation on 1st August 2000 (“the commencement date”) and except as provided in paragraphs (2) to (10) shall have effect from that date.

(2) Part F, except for regulations F7 and F8, regulations G8(3) and G9 shall have effect as from 6th April 1988.

(3) Regulation B2(1) shall have effect as from 1st October 1989.

(4) Regulation B9(2) shall have effect as from 1st April 1990.

(5) Regulation D16(5) shall have effect as from 17th May 1990.

(6) Paragraphs 1(1)(c) and (d) of Schedule D3 shall have effect as from 1st November 1991.

(7) Regulation C6 shall have effect as from 1st January 1993.

(8) Paragraphs 15 and 16 of Schedule C3 shall have effect as from 1st April 1993.

(9) Regulations C12, D7, D9, D11(2)(e), D16(3), E1, H1(2)(h) and H6 shall have effect as from 2nd May 1995.

(10) Regulation K17 shall have effect as from 9th April 1997.

Interpretation

A2.—(1) In these regulations the expressions defined in Schedule A1 have the meanings given to them by that Schedule.

(2) In these regulations, any reference to a Part of these regulations includes a reference to any Schedules to these regulations referred to in that Part, in so far as they apply for its purposes.

(3) So far as is necessary for the purpose of regulation A1(2) to (10) the regulations shall be deemed to have effect from and including 6th April 1988.

Part B

Membership

Eligibility

General eligibility of employees of LGPS employers

B1.—(1) Subject to the provisions of this Part, a person is only eligible to be a member of the occupational pension scheme constituted by these regulations (in these regulations referred to as “the Scheme”) if he is an employee of a LGPS employer.

(2) In these regulations—

- (a) “employee” means an employee whether permanent or temporary; and
- (b) “a LGPS employer” is a local authority as defined in Article 2 of the Order of 1972⁽¹⁾.

Age restrictions: meaning of “latest retirement age” and “LRD”

B2.—(1) A person is only eligible to be a member of the Scheme if he has attained the age of 16 years.

(2) Subject to paragraph (3), a person applying to his employer to join the Scheme who—

- (a) has attained the age of 50 years (or would, on or by the date on which he would otherwise become a member of the Scheme have attained that age), and
- (b) was first employed by the employer and eligible to be a member by virtue of that employment before he attained that age,

is not eligible to be a member of the Scheme if he is given notice in writing to that effect by his employer.

(3) Paragraph (2) shall not apply to a person to whom regulation K17 applies.

(4) Subject to paragraph (5), a person is not eligible to be a member of the Scheme after he has attained the age of 65 and in these regulations, in relation to any person, “latest retirement age” (“LRA”) means that age and “latest retirement date” (“LRD”) means the date by which he attains that age.

(5) A person is only eligible to be a member of the Scheme on and after his LRD if—

- (a) his total period of membership does not exceed the maximum referred to in paragraph (7); and
- (b) at least one of the conditions mentioned in paragraph (6) is satisfied in relation to him.

(6) The conditions mentioned in paragraph (5) are—

- (a) at least one of the following has become payable to him—
 - (i) a pension which is liable to be reduced or suspended under Schedule D5 (re-employed pensioners),
 - (ii) an ill-health retirement grant under regulation D8, or under regulation E4 of the 1992 regulations, or under regulation 28A(2) of the 1981 regulations,
- (b) he has received or is entitled to receive compensation under any enactment 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

(1) As extended by The Housing (Northern Ireland) Order 1981 ([S.I. 1981/156](#)), Part II, Article 5(3)

(2) Regulation 28A was inserted by regulation 5 of [S.R. 1982 No. 58](#)

his taking up employment with a LGPS employer, in the like manner and to the like extent as it would have been if he had remained eligible to belong to the occupational pension scheme to which he belonged or was eligible to belong immediately before suffering the loss.

- (7) The maximum referred to in paragraph (5)(a) is—
- (a) in the case of a Class A member (as defined in paragraph 1(1) of Schedule C4) 40 years, and
 - (b) in the case of a Class B member or a Class C member (as so defined), the aggregate of—
 - (i) his total period of membership before he attained the age of 60 years (disregarding any period in excess of 40 years), and
 - (ii) his total period of membership since he attained that age (but not exceeding 5 years plus any period by which the period mentioned in paragraph (i) fell short of 40 years);and in paragraph (5) and this paragraph “total period of membership” has the meaning given in regulation B13, except that it also includes any additional period of membership which the member has been treated as being entitled to count for the purposes of regulation D7 (enhancement in cases of retirement on grounds of ill-health) or any corresponding earlier provision.

Restrictions by reference to working hours: “part-time” and “variable-time” employees

B3.—(1) If an employee is in two or more employments under a single LGPS employer, he is eligible to be a member of the Scheme in respect of all (but not less than all) of the employments.

(2) A person who is a variable-time employee of a LGPS employer is only eligible to be a member of the Scheme in respect of that employment if—

- (a) he is a member of the Scheme also in respect of whole-time or part-time employment with a LGPS employer who is so specified; or
 - (b) having been such a member at the same time as being a member in respect of his variable-time employment, he has ceased to hold the whole-time or part-time employment; or
 - (c) he is not also in the whole-time or part-time employment of a LGPS employer and his employer has by a statutory resolution—
 - (i) specified him as being so eligible, or
 - (ii) specified a class of employees to which he belongs as being so eligible.
- (3) For the purposes of these regulations—
- (a) an employee is a variable-time employee if in accordance with his terms of office or contract of employment he is to be treated as such for the purposes of the Scheme and either—
 - (i) his remuneration is calculated by reference to his obligations in his employment (rather than necessarily by reference to the number of hours he has worked), or
 - (ii) he holds an office or employment the functions of which are only exercisable on an occasional basis;
 - (b) an employee is a whole-time employee if his contractual hours are not less than the number of hours which, in accordance with his terms of employment, is the number of contractual hours for a person employed in that employment on a whole-time basis; and
 - (c) an employee is a part-time employee if he is neither a whole-time employee nor a variable-time employee.
- (4) In these regulations—

“the contractual hours” means—

- (i) the number of hours the employing authority is entitled to require the employee to work in each of the contractual weeks, or
- (ii) if there is any cyclical variation in those hours, the average of those hours over the cycle; or
- (iii) if there is any variation in those hours which is not cyclical, the average of those hours over the weeks in such period (not exceeding 12 months) as the employing authority considers appropriate, being a period for which, assuming that there will be no unpaid leave of absence, a wage or salary is payable to the employee; and

“the contractual weeks” means the number of weeks in every period of 12 months for which (on that assumption) a wage or salary is payable to the employee.

Certain office-holders etc. to be treated as employees of LGPS employers

B4. In these regulations, references to employees of a LGPS employer shall be construed as including references to persons who are deemed for the purposes of these regulations to be in the employment of a LGPS employer and other provisions relating to employment by or under a LGPS employer shall be construed accordingly.

Separate employments etc.

B5.—(1) Where a person holds two or more separate employments under one LGPS employer then these regulations apply in relation to each of those employments as if the other or others were held by him under another LGPS employer.

(2) 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⁽³⁾ 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.

Power to extend eligibility to employees of other bodies (“admission agreements”)

B6.—(1) Subject to the following provisions of this regulation, the Committee may make an agreement (in these regulations referred to as “an admission agreement”) with any body specified in paragraph (9) (“the employing body”), providing for employees of the employing body to be eligible to participate in the benefits of the Scheme.

(2) Subject to paragraph (4), an admission agreement may provide for employees, or any specified class or classes of employees, of the employing body to be members of the Scheme.

(3) Subject to paragraph (4) and regulation B9(3), these regulations apply to a person who is such an employee as is mentioned in paragraph (2) (“an admission agreement employee”) and has become a member of the Scheme as if the employing body were a LGPS employer.

(4) An admission agreement may not provide for any person to be a member if he would be ineligible to be a member by virtue of regulation B2(1) or (3), B3, B7 or B8 if he were an employee of a LGPS employer.

(5) Except as provided in paragraphs (6) and (7), an admission agreement may not modify the application of these regulations to any employee so that he has any greater or lesser rights or liabilities than those he would have if he became a member of the Scheme by virtue of regulation B1.

(3) [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 \(N.I. 21\)](#))

(6) An admission agreement may provide that any previous period of employment of an employee by the employing body is to count to such extent as there specified as a period of deemed membership of the Scheme.

(7) An admission agreement—

- (a) shall provide that the agreement shall cease to have effect if the employing body ceases to be a body specified in paragraph (9); and
- (b) may make such other provision for, and contain such incidental provisions relating to, its cessation as the parties consider appropriate.

(8) On making an admission agreement the Committee shall immediately inform the Department of the name of the employing body and the date from which the agreement takes effect.

(9) 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 contributes or to whom any monies are payable from monies appropriated by Measure;
- (e) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986⁽⁴⁾; and
- (f) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997⁽⁵⁾.

(10) 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, is 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.

Ineligibility of employees eligible to join other statutory schemes

B7.—(1) A person is not eligible to be a member of the Scheme by virtue of any employment which also entitles him to belong to another occupational pension scheme provided by or under an enactment.

(4) S.I. 1986/594 (N.I. 3) relevant amending regulations are S.I. 1993/2810 (N.I. 12) and S.I. 1997/1772 (N.I. 15)

(5) S.I. 1997/1772 (N.I. 15)

(2) The reference in paragraph (1) to an enactment—

- (a) includes an enactment in a local Act, but
- (b) excludes Article 9 of the Order of 1972.

Other cases of ineligibility

B8.—(1) Notwithstanding anything in regulations B1 to B3, the following persons are not eligible to be members of the Scheme—

- (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⁽⁶⁾;
- (c) any officer in the employment of the Fire Authority of Northern Ireland who was employed by the Northern Ireland Fire Authority immediately before 1 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) any person in contributory service within the meaning of the Teachers (Superannuation) Act (Northern Ireland) 1950⁽⁷⁾; and
- (e) any person who as a member of staff of the University of Ulster is eligible to participate in the Universities' Superannuation Scheme.

(2) A person is not eligible to be a member of the Scheme in respect of his part-time employment as a member of a fire brigade maintained in pursuance of the Fire Services (Northern Ireland) Order 1984 on terms under which he is or may be required to engage in fire fighting.

Joining and leaving the Scheme

Applications for membership

B9.—(1) Subject to the following provisions of this Part, a person who wishes to become a member of the Scheme shall apply to do so by notice given in writing to his employer or future employer.

(2) Subject to paragraphs (3) and (4), an employee is deemed to have made an application to become a member, unless—

- (a) before commencing his employment, or
- (b) in the case of a person to whom this paragraph began to apply after he commenced his employment, before the date on which it began to apply to him,

he notified his employer in writing that he did not wish to become a member of the Scheme.

(3) Paragraph (2) does not apply—

- (a) to a person whose employment is of a casual nature,
- (b) to a person who has previously been a member of the Scheme but has ceased to be a member after giving notification under regulation B11, or
- (c) to a person who before the commencement date was not an employee working at least 30 hours per week.

⁽⁶⁾ S.I. 1984/1821 (N.I. 11)

⁽⁷⁾ 1950 c. 33 (N.I.)

(4) Where a person who has ceased to be employed in an employment in which he was a member at the time of cessation commences a new employment in which he is eligible for membership, he is deemed to have made an application to become a member unless, before commencing his new employment, he notified his employer in writing that he did not wish to be a member of the Scheme.

(5) An application for membership may be withdrawn at any time before the applicant becomes a member.

Admission to the Scheme

B10.—(1) A person who has or is deemed to have applied under regulation B9 and is eligible to be a member of the Scheme shall become a member of it on the appropriate day.

(2) In this regulation, “the appropriate day” means—

- (a) in the case of a person who has applied under regulation B9(1) at least one month before the date on which he commences his employment (or such lesser period before that date as his employer allows), the date on which he commences his employment or such later date as he has specified in his application;
- (b) in any other case where an application is made under that regulation, the first day of the first payment period following the application;
- (c) in the case of a person who is deemed to have applied under regulation B9(2)—
 - (i) if he is a person to whom that paragraph applied on the date when he commenced his employment, that date, and
 - (ii) otherwise, on the date on which it began to apply to him.

(3) In paragraph (2)(b), “payment period” means a period of service to which the employee’s payment of wages or salary relates.

Leaving the Scheme

B11.—(1) Subject to regulation B2(2) and (4), a person shall cease to be a member of the Scheme if—

- (a) he wishes to do so, or
- (b) he ceases to be eligible for membership.

(2) A person who wishes to cease to be a member of the Scheme shall so notify his employer in writing.

(3) Subject to paragraphs (5) and (6), a person giving a notification under paragraph (2) shall cease to be a member of the Scheme—

- (a) in a case where a date of cessation (being a date not earlier than the date of the notification) is specified in the notification, from that date, and
- (b) otherwise, from the first day of the first, or if the LGPS employer so determines, the second payment period following the notification.

(4) In paragraph (3)(b), “payment period” means a period of service to which the employee’s payment of wages or salary relates.

(5) Where a person gives a notification under paragraph (2) within three months after first becoming a member of the Scheme, he shall be treated as never having been a member.

(6) Where—

- (a) a person to whom regulation C8 (absence on reserve forces service) applies has given notification under paragraph (2) before ceasing his former employment or beginning his

leave of absence in order to perform his relevant service (within the meaning of that regulation), and

(b) he is still a member immediately before he commences his relevant service,

then, subject to paragraph (7), the notification shall be of no effect.

(7) A person may elect that paragraph (6) is not to apply, by notice given in writing to the Committee before the end of the period of 12 months beginning with the end of his relevant service (or within such longer period as it may allow), and it shall take all practicable steps to ensure that a person entitled to make such an election is notified of his entitlement.

(8) Any contributions paid by a person with respect to a period during which, by virtue of a notification under paragraph (2), he is not a member of the Scheme shall be returned to him.

Rejoining the Scheme

B12.—(1) Subject to paragraph (3), a person who has once given a notification under regulation B11 may subsequently apply to become a member of the Scheme again.

(2) An application under paragraph (1) shall be made by notice in writing given to the applicant's employer or future employer.

(3) A person who has made an application under paragraph (1) and subsequently gives another notification under regulation B11(2) may only make a further application under paragraph (1) if his employer or future employer consents or—

- (a) he is beginning a new employment with a new employing authority by virtue of which he is eligible to be a member of the Scheme, and
- (b) he applies before or within the period of three months beginning with the day on which he begins that employment, or
- (c) he is a person to whom regulation K17 applies.

(4) Regulation B10 shall apply to an application under paragraph (1) as it applies to an application under regulation B9(1).

Membership periods

Periods of membership: “total period of membership”

B13.—(1) For the purposes of these regulations, in relation to any member the following periods count as periods of membership, in relation to an employment in which he is a member—

- (a) any period for which he has paid (or is treated as having paid) contributions under regulation C3, C5 or C6, (but subject to the provisions of regulation C7(5) and (6));
- (b) any period during which he is absent from duty by reason of illness or injury (whether or not he has paid such contributions for it);
- (c) any period which he is entitled to count as such by virtue of regulation C8;
- (d) any period which he is entitled to count as such by virtue of regulation B6(6), B15, or C9;
- (e) any period which he is entitled to count as such by virtue of regulation K15(1)(a);
- (f) any other period which he is entitled to count as such under paragraph 7 of Schedule M2 and, in particular—
 - (i) any period he became entitled to count as reckonable service by virtue of regulations 39, 40, 48 and 101 of the 1981 regulations, or regulations D4 to D7, D9 or D13 or Part F of the 1992 regulations,
 - (ii) any period of added years,

- (iii) any period which by virtue of the interchange rules became reckonable under the former regulations,
 - (g) any other period which he is entitled to count as such under Schedule C5.
- (2) For the purposes of these regulations, a member's "total period of membership" is the aggregate of the periods he is entitled to count under paragraph (1) (disregarding any period which he is entitled to count under more than one of paragraphs (a) to (g)), but subject—
- (a) to Part I of Schedule B1 (which provides for the exclusion of certain periods of membership for certain purposes);
 - (b) to Part II of that Schedule (which provides for the inclusion for certain purposes in the total period of membership of certain periods, which are not periods of membership in relation to the employment in which a person is a member, as respects certain benefits in respect of that employment); and
 - (c) to Schedule C4 (which provides for the limitation of periods of membership for certain purposes).

Length of period of membership: calculation of benefit

B14.—(1) For the purpose of calculating the amount of any benefit under these regulations—

- (a) a period of membership in excess of a number of complete years shall be counted as the appropriate fraction of a year (and accordingly references to the length in years of membership shall be taken as references to the number of complete years and any fraction of a year in the period of membership); and
- (b) subject to paragraph (3), a period of membership in part-time service in local government employment shall be treated as though it had been a proportionately reduced period of membership in whole-time local government employment.

(2) In paragraph (1)—

"the appropriate fraction" means the fraction of which—

- (a) the numerator is the number of complete days comprised in the excess; and
- (b) the denominator is 365; and

"proportionately reduced" means reduced in the proportion which the number of contractual hours during the period of part-time service in the employment, bears to the number of contractual hours of that employment if it were on a whole-time basis.

(3) Paragraph (1)(b) does not apply in determining a member's total period of membership for the purposes of regulation D7(2) (qualification for enhancement of pension in cases of ill-health) and is subject to paragraph 4 of Schedule D3 (additional membership in such cases).

Special power of employing authority to increase period of membership

B15.—(1) Subject to paragraphs (2) and (3), if the body employing an employee who is eligible to be a member of the Scheme (in these regulations referred to as "the employing authority") is satisfied that, having regard to the interests of the efficient exercise of its functions, there are exceptional reasons for doing so, it may resolve to add an additional period of membership to a member's period of membership.

(2) A resolution under paragraph (1)—

- (a) may only be passed before or within 6 months after the person becomes a member in the authority's employment, and

(b) may not be passed after he has attained the age of 59 years, unless he did so after becoming such a member.

(3) The additional period is to be specified in the resolution and is not to exceed the maximum period which would be applicable under regulation C10(1) (taking the references in regulation C10(6)(a) and (b) to the date of the election as references to the date of the resolution and, in the case of a person who at the date of the resolution had not become a member in the employment of the authority, treating him as if he had on that date become such a member on the scale of remuneration at which the employment was offered to him).

(4) Where the employing authority has passed a resolution under paragraph (1) and the member—

- (a) remains in his employment under that authority until his NRD (within the meaning of regulation C2(1)),
- (b) on ceasing to hold that employment before his NRD is incapable of discharging efficiently the duties of the employment by reason of ill-health or infirmity of mind or body, or
- (c) dies while in that employment,

the additional period specified in the resolution may be counted as a period of membership.

(5) In any other case where the employing authority has passed such a resolution the member is entitled to count as a period of membership the appropriate proportion of the additional period of membership specified in the resolution.

(6) In paragraph (5) “the appropriate proportion” means the proportion which the period during which the member has been in the employment of the employing authority bears to the period during which the member would have been in that employment if he had remained in it until his NRD (within the meaning of regulation C2(1)).

Part C

Members' Contributions

Preliminary definitions

Meaning of “remuneration”

C1.—(1) Subject to paragraphs (2) and (3) and Schedule C4 (limitations on contributions and benefits), in these regulations “remuneration”, in relation to an employee, means the total of all the salary, wages, fees and other payments paid to him for his own use in respect of his employment, and any other payment or benefit specified in his contract of employment as being a pensionable emolument.

(2) “Remuneration” does not include—

- (a) payments for non-contractual overtime;
- (b) any travelling or subsistence allowance or any other allowance paid to an employee in respect of expenses incurred in relation to the employment;
- (c) any payment made to an employee in consideration of loss of holidays;
- (d) any payment accepted by an employee in lieu of notice to terminate his contract of employment; or
- (e) the money value to the employee of the provision of a motor vehicle or any payment accepted by him in lieu of such provision.

(3) Schedule C1 shall have effect for the purpose of making further provision as to the meaning of “remuneration” (including provision for the amount of notional remuneration to be agreed collectively).

Meaning of “normal retirement age” and “NRD”

C2.—(1) In these regulations, in relation to any member, “normal retirement date” (“NRD”) means—

- (a) in the case of a member who by his 60th birthday has a total period of membership of at least 25 years, that birthday;
- (b) in the case of a member who first has such a total period of membership by a date after his 60th birthday but before his 65th birthday, the day after that date;
- (c) in the case of a member who by his 60th birthday has a total period of membership of at least 10 years, provided that he was a contributory employee before 1st April 1972, that birthday; or
- (d) in the case of a member who does not fall within paragraphs (a), (b) or (c), his 65th birthday;

and “normal retirement age” means his age on his NRD.

(2) Where for any purpose of the regulations it is necessary to determine a person’s NRD or normal retirement age before he attains that age, it shall be assumed that his local government employment and membership of the Scheme will be continuous.

Standard contributions

Member’s standard contributions

Subject to regulations C5 to C7 and C26, a member shall, at such intervals as the Committee may determine, make contributions in respect of every employment in relation to which he is a member—

- (a) in the case of a manual worker, at the rate of five per cent. of his remuneration in the employment, and
- (b) in the case of an officer, at the rate of six per cent. of that remuneration.

Contributions payable for previous part-time employment

C4.—(1) This regulation applies to—

- (a) a person employed on contractual hours of less than 15 hours per week or contractual weeks of under 35 weeks per year who becomes a member on the commencement date; and
- (b) an existing member of the Scheme at the commencement date who before joining the Scheme worked for a LGPS employer for less than 15 hours per week.

(2) A person to whom paragraph (1) applies may elect by notice in writing to the Committee within six months of the commencement date (or such longer period as the Committee may allow) that his period of membership shall if he makes the appropriate payment to the fund have effect from a date, as specified in the notice, earlier than the commencement date but not earlier than 1st January 1993.

(3) The “appropriate payment” for the purposes of paragraph (2) is a payment equal to the contributions which the person would have been required to make under regulation C3 if he had throughout the period from the date specified in the notice to the earlier of the date immediately

before the commencement date, or the date immediately before his membership commenced, been a pensionable employee.

(4) The payment under paragraph (2) is to be made, unless the Committee allows a longer period, within six months of the date on which the person is notified by the Committee of its amount.

(5) A member who becomes a member on the commencement date who has made a payment under paragraph (2) is entitled to count as a period of membership the period for which the payment was made.

(6) The employer or former employer will pay employer's contributions at rates commensurate with the members' contributions for the appropriate period.

Effect of absences on contributions

Leave of absence from duty

C5.—(1) A member who is on leave of absence from duty in an employment with reduced or no remuneration (otherwise than by reason of illness or injury) shall not make any contribution under regulation C3 in respect of the employment for the period of his absence.

(2) Unless regulation C6 (maternity leave) applies to a member who is so absent, the member shall—

- (a) for a period of 30 days beginning on the first day of the leave of absence, or
- (b) if the period of absence is shorter, for the period of it,

make contributions of amounts equal to the contributions he would have been required to make under regulation C3 on the remuneration he would have received during that period but for the leave of absence.

(3) If the member 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 the period of his absence up to a maximum of 36 months, or 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 1996⁽⁸⁾, or
- (b) as a juror at an inquest under the Coroners Act (Northern Ireland) 1959⁽⁹⁾,

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 employee to perform relevant service (within the meaning of regulation C8 (absence on reserve forces service)).

Maternity absence

C6.—(1) This regulation applies to a person who—

- (a) has a period of maternity absence; and

⁽⁸⁾ S.I. 1996/1141 (N.I. 6)

⁽⁹⁾ 1959 c. 15 (N.I.)

- (b) immediately before that period was a member or had applied under regulation B9 or B12 to become a member.
- (2) A person to whom this regulation applies—
 - (a) in relation to any period (“the relevant period”) which is, or is part of, a period of maternity absence for which she is entitled to receive remuneration, shall make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C3, if her remuneration in the employment were equal to the remuneration which she is entitled to receive for the relevant period; and
 - (b) in relation to any period (“the unpaid period”) which is, or is part of, a period of maternity absence and for which she is not entitled to receive remuneration, may elect to make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C3 if for the unpaid period her remuneration in the employment were equal to the remuneration she was entitled to receive immediately before the beginning of the unpaid period.
- (3) An election under paragraph (2)(b) shall be made by notice in writing to the employing authority given before the expiry date of the period of the 30 days beginning with the earlier of—
 - (a) the day on which the member returns to duty; and
 - (b) the day on which she ceases to be employed by that authority.
- (4) Paragraph (2) does not affect the right of an employee to give notice under regulation B11 (leaving the Scheme) during a period of maternity absence.
- (5) In this Part “period of maternity absence” means any period throughout which a woman—
 - (a) is absent from duty by reason of pregnancy or confinement; and
 - (b) may exercise the right under her contract of employment to return to work.
- (6) For the purposes of this regulation references to “the relevant period” and “the unpaid period” do not include any period before the day on which the application under regulation B9 or B12 to become a member first has effect.

Absence owing to trade dispute

- C7.**—(1) This regulation applies to a person who—
- (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) was a member immediately before—
 - (i) that period, or
 - (ii) where two or more periods of absence occurred in consequence of a single trade dispute, the first of those periods;
- and in this regulation a period for which a person to whom this regulation applies was so absent is referred to as a “relevant absence”.
- (2) Subject to paragraph (4) and regulation C26, if a person to whom this regulation applies gives notice in writing that he wishes this paragraph to apply (or, in a case within paragraph (7), his personal representatives do so), an amount equal to 16 per cent. 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,
- is payable in respect of the relevant contribution period to the authority to whom notice was given; and in this regulation “relevant contribution period” means a period which—

- (i) is coextensive with one of the intervals at which a person to whom this regulation applies was required under regulation C3 to make standard contributions, and
- (ii) includes all or part of a relevant absence.

(3) An authority shall pay to the fund any sum it receives by way of full or part payment of the amount mentioned in paragraph (2).

(4) Notice under paragraph (2) shall be given in writing to the authority which is or, as the case may be, was last the employing authority in relation to the person to whom the notice relates, before the expiry—

- (a) of the period of three months beginning with the day after the last day of the relevant contribution period,
- (b) where all or part of more than one relevant contribution period is included in a relevant absence which occurred in consequence of a single trade dispute, of the period of three months beginning with the last day of the last of the relevant contribution periods, in respect of which the notice is given, or
- (c) in the case of a notice within paragraph (7), of the period of twelve months beginning with the date of the deceased employee's death, or
- (d) within such longer period as the authority may allow;

and, in any case where the notice relates to more than one relevant contribution period included in a relevant absence which occurred in consequence of a single trade dispute, the notice is of no effect unless it is given in respect of all the relevant contribution periods.

(5) A period of absence from duty without remuneration (otherwise than on leave of absence) does not count as a period of membership unless—

- (a) it was a relevant absence, and
- (b) the amount specified in paragraph (2) has been paid in respect of every relevant contribution period all or part of which was included in that relevant absence.

(6) Where the amount specified in paragraph (2) has been paid in respect of a relevant contribution period, so much of any relevant absence as was included in that period may count as a period of membership, whether or not a contract of employment continued to subsist during the relevant absence or any part of it.

(7) Where a person to whom this regulation applies dies before the end of the period of three months specified in paragraph (4)(a) without giving notice under paragraph (2), his personal representatives may give that notice.

(8) For the purposes of paragraph (1)—

- (a) where—
 - (i) a person's contract of employment is terminated in consequence of a trade dispute, and
 - (ii) not later than the day after the end of the trade dispute, he again becomes an employee of the same LGPS employer and a member,
 notwithstanding the termination, he is to be treated as having been absent from duty;
- (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 was a party to the trade dispute.

(9) In this regulation “trade dispute” has the meaning given by Article 2(4) and (7) of the Industrial Relations (Northern Ireland) Order 1992⁽¹⁰⁾.

Absence on reserve forces service

C8.—(1) Subject to the following provisions, this regulation applies where a person—

- (a) ceases to be employed in the employment in which he is a member; or
- (b) is granted leave of absence from duty in such an employment,

in order to perform relevant service; and, in relation to such a person, references to his former employment and employer are to that employment and his employer in that employment.

(2) Subject to paragraph (3), where this regulation applies—

- (a) if the person is entitled under any provision of these regulations to pay additional contributions, make payment by instalments or make any other payment (except by lump sum) to the fund, he shall be treated for the purposes of these regulations as if he has paid them throughout the period of his relevant service;
- (b) if (and only if) during any period of the person’s relevant service the total of—
 - (i) his pay for performing relevant service (including marriage, family and similar allowances), and
 - (ii) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) (Northern Ireland) Order 1953⁽¹¹⁾, equals or exceeds the remuneration he would have received if he had continued to be employed in his former employment, he shall pay to the fund all such contributions and payments as would have been payable under these regulations if he had so continued; and
- (c) subject to regulation C25, all contributions and payments so made shall be treated for the purposes of these regulations as if made under the provision under which they would have been made if he had so continued.

(3) Paragraph (2) does not apply to contributions payable under regulation C24 (additional voluntary contributions), but if—

- (a) before the commencement of his relevant service the person was paying such contributions which were not to be used to provide benefits payable in the event of death, and
- (b) he has not elected to discontinue making those contributions,

he may continue to make those contributions during the period of his relevant service.

(4) Where this regulation applies to a person then, subject to paragraph (6)—

- (a) the period of relevant service shall be counted as a period of membership in relation to his former employment;
- (b) if during that period he dies or attains his normal retirement age, he shall be deemed to have been serving in that employment at that time; and
- (c) if during that period he becomes permanently incapable of efficiently discharging the duties of that employment by reason of ill-health, injury or infirmity of mind or body, he shall be deemed to have been so serving at the time when he ceased to perform relevant service.

(5) Where—

- (a) a person to whom this regulation would otherwise apply is not a member when he ceases his employment or begins his leave of absence from it, but

⁽¹⁰⁾ S.I. 1992 No. 807 (N.I. 5)

⁽¹¹⁾ S.I. 1953/197

- (b) before doing so he has duly made an application under regulation B9 or B12 to become a member, then—
 - (i) that application shall continue to have effect despite his so ceasing or his leave of absence so beginning and this regulation shall apply to him as if he were a member at that time, but
 - (ii) the period before the date on which his application takes effect shall be excluded from his relevant service.
- (6) This regulation does not apply to any person in respect of any period of relevant service—
 - (a) after the date on which he elects to receive a return of contributions under regulation C21; or
 - (b) if he elects that it is not to do so by giving notice in writing to the Committee not later than 12 months after the end of the period of relevant service to which the notice relates (or within such longer period as it may allow).
- (7) Subject to paragraph (6), in this regulation “relevant service” means service (other than for the purposes of training only)—
 - (a) in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment of, any reserve or auxiliary force, or members of such a force, or the recall of service pensioners;
 - (b) in pursuance of any obligation or undertaking to serve when called upon as a commissioned officer; or
 - (c) rendered by virtue of section 28 or 65 of the Reserve Forces Act 1996(12);
 and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking—
 - (i) to accept a permanent commission or a commission for a fixed term, or
 - (ii) to serve for the purposes of periodical training.
- (8) In paragraph (7)—
 - “reserve or auxiliary force” means the whole or part of the Royal Navy Reserve (including the Royal Fleet Reserve), the Royal Marines Reserve, the Territorial Army, the Army Reserve, the Air Force Reserve, the Royal Air Force Volunteer Reserve or the Royal Auxiliary Air Force;
 - “service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—
 - (a) in respect of service in the Royal Navy, the Royal Marines, the regular army and the regular air force or any reserve or auxiliary force which has been called out on permanent service or which has been embodied, or
 - (b) in respect of that and other service.

Additional payments to improve benefits

Payments to increase membership: calculation of all benefits

C9.—(1) Subject to the following provisions, if a member elects at any time to make additional periodical payments under this regulation, then, in relation to the relevant employment, he may count as a period of membership (but not for the purposes of determining entitlement to any benefit)—

- (a) if he completes the additional payments, the period in respect of which payment was made; and
 - (b) if he begins making the additional payments but does not complete payment, an additional period calculated in accordance with regulation C19.
- (2) The additional payments—
- (a) are payable from the member's next birthday after the date of the election at such intervals as the Committee may determine, and
 - (b) cease to be payable on the day before—
 - (i) his NRD, or
 - (ii) if his NRD is not his birthday, the last birthday before his NRD.
- (3) An employee may not make an election under paragraph (1) if the Committee has resolved that he should undergo a medical examination at his own expense and he has not done so to its satisfaction.
- (4) An election under this regulation shall be made by notice in writing given to the Committee.

Maximum length of additional periods to be purchased under regulation C9

C10.—(1) Subject to regulation C26, the maximum length of the period in respect of which payment may be made under regulation C9 in respect of a person is the length (expressed in years and fractions of a year) of the period (if any) by which his potential period of membership falls short of the relevant maximum number of years at the appropriate time.

(2) In paragraph (1) “potential period of membership”, in relation to any person, means the period which (apart from the payment) he would be entitled to count as a period of membership in relation to his local government employment if he continued in it until he attained the age of 65.

(3) Subject to paragraph (4) and to Schedule C4 (limitations on contributions and benefits), “the relevant maximum number of years”, in relation to any person, means 40 years.

(4) In the case of a person (other than an excluded member) who at the appropriate time was entitled to, or had received, superannuation benefits in respect of any local government employment or under any non-local government scheme, the relevant maximum number of years specified in paragraph (3) in relation to him is to be reduced, in accordance with the certificate of an actuary, to the extent necessary to ensure that the aggregate of—

- (a) the relevant income benefits: and
- (b) the pension equivalent of the relevant capital benefits,

will not exceed two-thirds of his pensionable remuneration.

(5) In paragraph (4)—

“excluded member” means a member whose pensionable remuneration in the first year of his employment during which he is a member does not exceed one quarter of the permitted maximum for the purposes of section 590C of the Income and Corporation Taxes Act 1988⁽¹³⁾ (earnings cap) for the year of assessment in which that first year ends;

“pension equivalent” has the meaning given in regulation 5(5)(b) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993⁽¹⁴⁾;

“the relevant income benefits”, in relation to a member, means the aggregate annual amount of—

⁽¹³⁾ 1988 c. 1; section 590C was inserted by the Finance Act 1989 (c. 26), section 75, Schedule 6, paragraphs 1, 4, 18(2) and amended by the Finance Act 1993 (c. 34)

⁽¹⁴⁾ S.I. 1993/3016

- (i) the actuarial value, expressed as an annuity payable to him, of the pension benefits mentioned in paragraph (4); and
 - (ii) the part of his retirement pension attributable to his period of membership before his NRD:
- “the relevant capital benefits”, in relation to a member, means the aggregate amount of—
- (i) his retirement grant, and
 - (ii) any lump sum comprised in the pension benefits mentioned in paragraph (4).
- (6) For the purposes of paragraphs (4) and (5)—
- (a) it is to be assumed that the person will, until his NRD, continue in the same local government employment and on the same terms and conditions (including, in particular, his scale of remuneration) as at the date of the election;
 - (b) any period of membership on or after the date of the election is to be disregarded; and
 - (c) regard is to be had to any advice from the Commissioners of Inland Revenue as to the calculation of the value of the earlier benefits.
- (7) The appropriate time is—
- (a) except where paragraph (b) applies, the first day of the earliest period that the person is entitled to count as a period of membership in relation to his local government employment; or
 - (b) if that period is—
 - (i) a period of service under an officer of a LGPS employer or former local authority; or
 - (ii) a period during which the person was subject to a non-local government scheme other than one which was or became a statutory scheme,
 the first day of the earliest period of local government employment that the person is entitled to count as a period of membership in relation to his local government employment.

Amounts of payments under regulation C9

C11.—(1) The amount to be paid by way of additional periodical payments by a member who has made an election under regulation C9(1) in respect of an additional period is the appropriate percentage of his remuneration for the time being, multiplied by the length of that period.

- (2) For the purposes of paragraph (1)—
 - (a) “the appropriate percentage”, in relation to a member, is the percentage in the relevant Table in Part I of Schedule C2 appropriate to his age on his next birthday after the date of the election and to his normal retirement age; and
 - (b) the lengths of periods are to be expressed in complete years and any fraction of a year.

Purchase by part-time employees of additional periods under regulation C9

C12.—(1) Subject to the following provisions of this regulation, where a person makes an election under regulation C9 in relation to a part-time employment to make additional payments in respect of a period—

- (a) the period he may count as a period of membership under paragraph (1) of that regulation, is the appropriate fraction of the period he would be entitled to count in respect of that period if he were a whole-time employee (“the notional whole-time period”);

- (b) the maximum which applies in his case by virtue of regulation C10, is the appropriate fraction of the maximum which would apply in his case if he were a whole-time employee; and
 - (c) the amount to be paid by him in accordance with regulation C11 shall be calculated in the same manner as if he were a whole-time employee purchasing the notional whole-time period, but taking his remuneration as his actual remuneration for the time being (and not the remuneration he would have been paid for a single comparable whole-time employment).
- (2) In paragraph (1) “appropriate fraction”, in relation to an employee, means the fraction of which the numerator is the number of his contractual hours and the denominator is the number of contractual hours of a single comparable whole-time employment.
- (3) Where—
- (a) any person has made an election under regulation C9 which has effect in relation to part-time employment; and
 - (b) that employment ceases to be part-time and becomes whole-time employment;
- then—
- (i) he may continue to pay contributions under the election in relation to the whole-time employment at the same percentage of his pensionable remuneration as the contributions he paid in relation to the part-time employment; and
 - (ii) the additional period in respect of the contributions paid in relation to the whole-time employment shall be calculated on the same basis as if he had been in that whole-time employment when he made the election.
- (4) Where—
- (a) any person has made an election under regulation C9 which has effect in relation to whole-time employment; and
 - (b) that employment ceases to be whole-time and becomes part-time employment;
- then—
- (i) he may continue to pay contributions under the election in relation to the part-time employment at the same percentage of his pensionable remuneration as the contributions he paid in relation to the whole-time employment, and
 - (ii) the additional period in respect of the contributions paid in relation to the part-time employment shall be calculated on the same basis as if he had been in that part-time employment when he made the election.
- (5) The previous provisions of this regulation do not apply to an election made by a person under regulation C5 of the 1992 regulations (or having effect as if so made) but, if he so elects by notice in writing to the Committee, then—
- (a) payments made by him on and after the date when the election takes effect shall be made by reference to his actual remuneration for the time being; and
 - (b) the period of membership which he is entitled to count by virtue of them shall be calculated on the same basis as if the previous provisions of this regulation had always applied in respect of his election.
- (6) A person may not make an election under paragraph (5) after the beginning of the period of one year ending with his NRD.

Payments to avoid reduction of retirement grant and death grant

C13.—(1) Subject to the following provisions of this regulation, a member—

- (a) whose retirement grant would be subject to reduction under paragraph 1, 2(1) or 3(1) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse's pension); or
- (b) whose death grant would be subject to reduction under regulation E5 (surviving spouse deductions from certain death grants),

may, by notice in writing given to the Committee, elect to make additional periodical payments under this regulation in order to avoid all or part of the reduction—

- (i) in his retirement grant; and
- (ii) in any death grant that may become payable under Part E.

(2) A notice under paragraph (1) shall specify whether the reduction is to be avoided in respect of the whole or only a specified part—

- (a) in the case of a male member, of his membership before 1st April 1972 or before any earlier date on which—
 - (i) he was judicially separated from his wife: or
 - (ii) his marriage was dissolved: or
 - (iii) he became a widower,
- (b) in the case of a female member who has given notice under paragraph 1(1) of Schedule F1, of her membership which is or is treated for the purposes of paragraph 2(2) of Schedule D2 as being membership before 1st April 1972; and
- (c) in the case of a female member who has made such an election as is mentioned in paragraph 2 of Schedule F1, of her membership before 1st April 1972.

(3) An election may not be made in respect of a period of membership of less than one year unless—

- (a) the whole of the person's period of membership in the case of a person described in paragraph (2) before 1st April 1972; or
- (b) where he has previously made an election in respect of part of that membership, the remainder of it,

amounts to less than one year.

- (4) An election under this regulation may be made by any person from time to time, but not—
 - (a) if in the particular case the Committee so resolves, without his having, at his own expense, undergone a medical examination to its satisfaction; nor
 - (b) after making an election under regulation C9(5)(b) of the 1992 regulations (or any corresponding previous provision) to make payment by instalments.
- (5) Where—
 - (a) this regulation applies to a woman by virtue of her having made such an election as is mentioned in paragraph 2 of Schedule F1;
 - (b) she has made (or is treated as having made) an election under paragraph (1) or regulation C9 of the 1992 regulations (or any corresponding previous provision);
 - (c) this regulation subsequently applies to her by virtue of paragraph 2(1) of Schedule D2; and
 - (d) she makes a further election under paragraph (1),

then—

- (i) any payments made under this regulation pursuant to the election referred to in subparagraph (b) shall be deemed to have been made pursuant to the further election, and

- (ii) any additional sums payable by her pursuant to the further election shall be determined accordingly by the fund's actuary.

Payments to increase widower's pension by counting membership before 1st April 1972

C14.—(1) Subject to the following provisions of this regulation, a member who—

- (a) is a married woman,
- (b) is entitled to count a period of membership before 1st April 1972, and
- (c) was not a member on 27th July 1989 or has not been a member continuously since that date,

may, by notice in writing given to the Committee, elect to make additional periodical payments in order to count all or part of her period of membership before 1st April 1972 as membership for the purposes of calculating a widower's pension in accordance with regulation F7(2)(b)(iii).

(2) A notice under paragraph (1) shall specify whether it relates to the whole or only a specified part of the woman's period of membership which is membership before 1st April 1972.

(3) A notice under paragraph (1) may not be given in respect of a period of less than one year unless—

- (a) the whole of the woman's period of membership before 1st April 1972, or
- (b) where she has previously given a notice in respect of part of that membership, the remainder of it,

amounts to less than one year.

(4) Notice under paragraph (1) may be given by a member on more than one occasion.

(5) For the purposes of paragraph (1)(c), the reference to a woman having been a member continuously includes a reference to a woman who, having ceased to be a member became or becomes a member again—

- (a) within one month of so ceasing, or
- (b) within one month of returning to work in accordance with Article 111 of the Employment Rights (Northern Ireland) Order 1996⁽¹⁵⁾ (which confers the right to return to work following pregnancy or confinement).

Amount of payments under regulation C13 and C14

C15.—(1) The amount to be paid by a member who has under regulation C13 or C14 elected to make additional periodical payments in respect of a period of membership specified in the notice of election is—

- (a) in the case of a male member, the appropriate percentage of his remuneration for the time being, multiplied by the length of that period;
- (b) in the case of a female member who made such an election as is mentioned in paragraph 2 of Schedule F1, the appropriate percentage of her remuneration for the time being, multiplied by four times the length of the period of membership before 1st April 1972 specified in her notice of election; and
- (c) in the case of a female member who has given notice under paragraph 1 of Schedule F1, the appropriate percentage of her remuneration for the time being, multiplied by three times the length of the period of membership specified in her notice of election which is membership before 1st April 1972.

(2) For the purposes of this regulation “the appropriate percentage” is—

⁽¹⁵⁾ S.I. 1996/1919 (N.I. 16)

- (a) in the case of a male member, the percentage specified in the relevant Table in Part III of Schedule C2 appropriate to his age on his next birthday after the date of the election and, in the case of paragraph (1)(a), to his specified birthday; and
- (b) in the case of a female member, the percentage specified in the relevant Table in that Part of that Schedule appropriate to her age on her next birthday after the date of the election and, in the case of the paragraph (1)(b) or (c), to her specified birthday;

and in this paragraph “specified birthday” means the birthday specified in accordance with regulation C16(1).

(3) For the purposes of this regulation the lengths of periods are to be expressed in complete years and any fraction of a year.

(4) References in paragraph (1)(c) to a period of membership before 1st April 1972 include references to a period treated for the purposes of paragraph 2(2) of Schedule D2 as being such a period.

Further provisions as to making of payments under regulations C13 and C14

C16.—(1) A member shall specify in a notice of election to make additional periodical payments under regulation C13 or C14 the birthday (“the specified birthday”) up to which additional payments are to be paid, which may be—

- (a) his 65th birthday, or
- (b) any earlier birthday which is or is after his NRD.

(2) Such additional periodical payments are to be paid, at such intervals as the Committee may determine, from the member’s next birthday after the date of the election.

No elections to make payments after 64

C17. A person may not make an election under regulation C9, C13 or C14 if he has attained the age of 64.

Incomplete payments and return of contributions

Notice to discontinue payments

C18. Payment in accordance with regulation C9(2) or C16(2) may be discontinued if the member notifies the Committee and the employing authority in writing that he wishes it to be discontinued.

Uncompleted periodical payments

C19.—(1) This regulation applies where—

- (a) a member has made an election under regulation C9(1), C13 or C14 to make additional periodical payments,
- (b) he has commenced payment,
- (c) before the presumed termination date a relevant event occurs, and
- (d) in the case of payments under regulation C9(1), any payment made to him under regulation C21 does not include the amount already paid by him under regulation C9(2).

(2) In paragraph (1) “presumed termination date” means—

- (a) in the case of an election under regulation C9(1), the member’s NRD, and

- (b) in the case of an election under regulation C13 or C14, the birthday specified under regulation C16(1).
- (3) For the purposes of this regulation the relevant events are—
 - (a) the discontinuance of payment under regulation C18, and
 - (b) where there has been no such discontinuance of payment—
 - (i) the member’s ceasing to hold his employment, and
 - (ii) the death of the member while in local government employment.
- (4) Where the relevant event is—
 - (a) the death of the member, or
 - (b) his ceasing to hold his employment by reason of ill-health or infirmity of mind or body, he is to be treated as having completed payment in accordance with regulation C9(2) or, as the case may be, C15 and C16.
- (5) Where—
 - (a) the relevant event is the member’s ceasing to hold his employment,
 - (b) condition (a) or (b) in regulation D6(2) is satisfied,
 - (c) his employment ends not less than 12 months after the date of receipt of his notice of election, and
 - (d) he gives notice in writing for the purpose to the Committee not later than the expiry of the period of three months beginning on the day after the last day of his employment,then, if he pays to the fund, within the period of one month beginning on the date on which he is notified by the Committee of the amount calculated by the fund’s actuary to represent the capital value of the additional periodical payments remaining to be paid, a sum equal to that amount, he shall be treated as having completed payment in accordance with regulation C9(2) or, as the case may be, C15 and C16.
- (6) The Committee may accept a notice given under paragraph (5)(d) notwithstanding that paragraph (5)(c) is not satisfied.
- (7) Subject to paragraph (9), where—
 - (a) the relevant event is discontinuance of payment under regulation C18, or
 - (b) the relevant event is the member’s ceasing to hold his employment and neither paragraph (4)(b) nor paragraph (5) applies,the period of membership in respect of which the election was made is to be treated as having been the appropriate proportion of the period in respect of which it was originally made.
- (8) In paragraph (7) “appropriate proportion” means the proportion which the length of the period during which additional payments have been paid bears to the length of the period during which they were to have been paid (each period being expressed in complete years and any fraction of a year).
- (9) Where, apart from this paragraph, paragraph (7)(b) would apply and the member, having elected to make additional payments under regulation C9(1), C13 or C14—
 - (a) has within 12 months after ceasing to hold his employment again entered local government employment, without having—
 - (i) become entitled in relation to the first employment to the payment of any benefit,
 - (ii) received any payment under regulation C21 which includes the amount already paid by him under regulation C9, C13 or, as the case may be, C14 or
 - (iii) made a request for earlier payment under regulation C21(6),

- (b) has not made an election for the purposes of regulation D12(1)(c) (retention of right to preserved benefits), and
- (c) within three months after his again entering local government employment pays to his new employing authority an amount equal to any additional periodical payments that would have been payable if he had not ceased to hold the first employment,

then, the election under regulation C9(1), C13 or, as the case may be, C14 continues to have effect as if the relevant event had not occurred.

Effect of opting out of membership on certain additional payments

C20.—(1) Where a member—

- (a) is making additional periodical payments by virtue of having made an election under regulation C9(1), C13 or C14; and
- (b) gives notification in accordance with regulation B11 (leaving the Scheme);

then—

- (i) no further additional periodical payments shall be payable from the day on which he ceases to be a member; and
- (ii) the benefits to which he is entitled in relation to those payments shall be calculated in accordance with regulation C19(7) and (8) as if the payments had been discontinued under regulation C18.

(2) Paragraph (1) shall not preclude a person who has elected under regulation B11 making a further election under regulation C9(1), C13 or C14 after again becoming a member.

Return of member's contributions in certain cases

C21.—(1) If a member who is entitled to count a total period of membership of less than 2 years—

- (a) ceases to be employed by a LGPS employer and on so ceasing does not become entitled to a retirement pension (or only does so by virtue of regulation D18); or
- (b) ceases to be a member by virtue of a notification under regulation B11,

and does not, within one month and one day after so ceasing, become a member again in the employment of that or any other LGPS employer (except one by which he is concurrently employed when he so ceases), then, subject to paragraphs (4) and (5), he is entitled to receive a payment under paragraph (2).

(2) 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 sub-paragraph (a), calculated, to the date on which he ceased to be employed, at the appropriate rate for the period, increased where appropriate as mentioned in regulation K19.

(3) For the purposes of paragraph (2), “the appropriate rate” means nine per cent. per annum with yearly rests on 31st March.

(4) Paragraph (1) does 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, but the employing authority may direct the payment out of the fund—

- (i) to him, or
- (ii) where sub-paragraph (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.

(5) No payment shall be made under this regulation to a person—

- (a) who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation D8, or under regulation E4 of the 1992 regulations or regulation 28A of the 1981(16) regulations, or
- (b) in relation to whom a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the fund.

(6) A payment to a person under paragraph (1) shall be made—

- (a) at the end of the period of 12 months following the termination of his employment, or
- (b) in accordance with any written request received by the Committee for earlier or later payment, (not being earlier than one month and two days after—
 - (i) the termination of the employment, or
 - (ii) in the case of a person referred to in paragraph (1)(b), the notification given under regulation B11).

(7) The Committee shall deduct from any payment under this regulation any tax to which it may become chargeable under section 598 of the Income and Corporation Taxes Act 1988(17) (charge to tax on repayment of employee's contributions) and returned contributions may be subject to reduction under paragraph 10 of Schedule C5.

Meaning of “aggregate amount of contributions” for purposes of regulation C21

C22.—(1) In regulation C21 references to the aggregate amount of a person's contributions to the fund include references to the contributions and amounts specified in paragraph (2) in so far as they—

- (a) have not been returned to the person or, if returned, have subsequently been repaid by him,
- (b) are attributable to a period of membership which might have counted under these regulations in relation to the employment he has ceased to hold, and
- (c) are not attributable to any earlier period of membership in respect of which a benefit has been paid under Part D, E, F or G of these regulations or the corresponding provisions of the 1992 regulations or the 1981 regulations.

(2) The contributions and amounts mentioned in paragraph (1) are—

- (a) any contributions or payments paid by him to the fund—
 - (i) under regulation C3, C5 or C6, or
 - (ii) under regulation C1 or C2 of the 1992 regulations, and
- (b) any amount paid by him—
 - (i) by way of additional contributory payments or added period payments, or
 - (ii) under regulation C7 or C13, or

(16) Regulation 28A was inserted by regulation 5 of [S.R. 1982 No. 58](#)

(17) [1988 c. 1](#); section 598 was amended by the Occupational Pensions Schemes (Rate of Tax) Order 1988 ([S.I. 1988/504](#)) and the Finance Act [1989 \(c. 26\)](#), section 75, Schedule 6, Part 1

(iii) under regulation C3, C6, C7 or C8 of the 1992 regulations.

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

C23. A person's right to a payment under regulation C21 is extinguished if—

- (a) after leaving local government employment with a right to such a payment he returns to such employment without having received the payment; and
- (b) he has not given written notice to the Committee—
 - (i) before the expiry of the period of three months beginning with the date on which he returns to such employment; or
 - (ii) within such longer period as the Committee may allow, that he wishes to receive an immediate payment.

AVCs

Additional voluntary contributions

C24.—(1) Subject to regulation C26, a member may at any time elect to pay contributions under this regulation in addition to those provided for by the previous regulations in this Part.

(2) Schedule C3 shall have effect—

- (a) in relation to such an election and in relation to contributions payable under this regulation; and
- (b) in relation to receipt of a transfer value in respect of an additional voluntary contributions provision or an additional voluntary contributions scheme (so far as permitted by regulation K14(2)(b)).

(3) In these regulations—

“additional voluntary contributions provision” means a provision of an occupational pension scheme approved by the Commissioners of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988⁽¹⁸⁾ (which provides for the payment by employees of voluntary contributions);

“additional voluntary contributions scheme” means a scheme approved by the Commissioners of Inland Revenue under that section, to which an employer is not a contributor and which provides benefits additional to those provided by an occupational pension scheme.

Deduction and recovery of contributions

Deduction and recovery of member's contributions

C25.—(1) An employing authority may deduct from the remuneration payable by it to a person—

- (a) contributions or payments payable by him under regulations C3, C5 and C6,
- (b) any amount payable by him under regulation C7,
- (c) any instalments or additional periodical payments payable by him to the fund, and
- (d) contributions payable by him under regulation C24.

(2) The former employer of a person—

⁽¹⁸⁾ 1988 c. 1; section 591 was amended by the Finance Act 1988 (c. 39), section 146, Schedule 13, Part 1, paragraphs 1, 6, and the Finance Act 1994 (c. 9), sections 107, 258, Schedule 26, Part V

(a) by whom sums are payable under regulation C8(2) or
(b) in respect of whom any sums are paid under paragraph 6(4) of Schedule C3,
may deduct those sums from any payment the employer makes to that person under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests)(Northern Ireland) Order 1953(19), so far as those sums are payable in respect of the period in respect of which that payment is made.

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

- (a) as a simple contract debt in any court of competent jurisdiction (but, in the case of a sum payable under regulation C8 or paid under paragraph 6(4) of Schedule C3, only if it is not paid within 12 months of the person ceasing to perform relevant service as defined in that regulation), or
- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under these regulations.

Limitations on payments

Limitation of payments

C26. Schedule C4 has effect for the limitation, in certain circumstances, of payments under this Part and benefits under other Parts of these regulations.

Provisions concerning continuing payments under old legislation

Provisions concerning outstanding payments due under previous regulations

C27. Schedule C5 shall have effect for the purpose of making provision concerning outstanding payments due under previous regulations.

Part D

Retirement Benefits

Preliminary definitions

“Pensionable remuneration”

D1.—(1) 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 count as a period of membership in relation to that employment.

(2) For the purposes of this regulation, the relevant period is—

- (a) the year ending with the day on which the person ceases to be a member; or
- (b) such other period as in accordance with Schedule D1 is to be regarded as the relevant period.

(3) Paragraph (1) has effect subject to the further provisions concerning pensionable remuneration in that Schedule and in Schedule C4 (limitations on contributions and benefits).

“Standard retirement pension” and “standard retirement grant”

D2.—(1) Subject to paragraphs (2) and (3), in relation to any person—

- (a) “standard retirement pension” means a pension payable at an annual rate equal to one eightieth of his pensionable remuneration, multiplied by the length in years of his total period of membership; and
- (b) “standard retirement grant” means a lump sum of an amount equal to three eightieths of his pensionable remuneration, multiplied by the length in years of his total period of membership.

(2) In the case of a person who—

- (a) is entitled under regulation B15 or C9 or paragraph 2(a) or 4 of Schedule C5 to count an additional period as a period of membership, and
- (b) had at the appropriate time (within the meaning of regulation C10(7)) attained the age of 45 years,

then—

- (i) the standard retirement pension is increased by one two hundred and fortieth of his pensionable remuneration, multiplied by the length in years of that additional period of membership, and
- (ii) that additional period of membership is excluded from his total period of membership for the purposes of calculating the standard retirement grant.

(3) Paragraphs (1) and (2) are subject to regulations D7(2), D13, D16(5), D18(1), paragraph 3 of Schedule B1 and Schedule C4 (limitations on contributions and benefits); and paragraph (1)(b) is subject to the provisions of Schedule D2 which relates to the reduction in retirement grants on account of contingent spouses' pensions.

“Statutory pension entitlement”

D3. For the purposes of these regulations, a person has a “statutory pension entitlement” if—

- (a) his total period of membership is not less than two years,
- (b) a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the fund in relation to him, or
- (c) neither paragraph (a) nor (b) applies and he—
 - (i) has attained state pensionable age; or
 - (ii) will attain state pensionable age before the following 6th April.

References to members leaving employment to include optants-out

D4. In this Part any reference to a member ceasing to hold a local government employment (except the reference in regulation D7) includes a reference to a person who was a member in such an employment but ceased to be so by virtue of a notification under regulation B11(2) (leaving the Scheme) and other references in these regulations shall be construed accordingly.

Entitlement to immediate payment of benefits on retirement

Retirement on or after NRD

D5. Subject to the following provisions of this Part, if a member who ceases to hold a local government employment—

(a) has a statutory pension entitlement, and
(b) has attained normal retirement age,
he is entitled—
(i) to a standard retirement pension, and
(ii) to a standard retirement grant,
which are payable immediately on his ceasing to hold that employment.

Early entitlement to retirement benefits: redundancy etc.

D6.—(1) Subject to the following provisions of this Part, if a member who ceases to hold a local government employment—

(a) has a statutory pension entitlement,
(b) has attained the age of 50, and
(c) satisfies one of the conditions mentioned in paragraph (2),
he is entitled—

(i) to a standard retirement pension, and
(ii) to a standard retirement grant,
which are payable immediately on his ceasing to hold that employment.

(2) The conditions mentioned in paragraph (1)(c) are—

- (a) that the employing authority certifies that he has ceased to hold the local government employment—
(i) by reason of redundancy; or
(ii) in the interests of the efficient exercise of its functions; or
(b) that he was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.

Early entitlement to retirement benefits: ill-health

D7.—(1) Subject to the following provisions of this Part, where a member—

(a) ceases to hold a local government employment by reason of being permanently incapable as defined in regulation J1(5) of discharging efficiently the duties of that employment by reason of ill-health or infirmity of mind or body, and
(b) has a statutory pension entitlement,
he is entitled—

(i) to a standard retirement pension, and
(ii) to a standard retirement grant,
which are payable immediately on his ceasing to hold that employment.

(2) Where the member's total period of membership is at least 5 years, he is to be treated for the purposes of this regulation as being entitled to count as a period of membership an additional period calculated in accordance with Schedule D3.

Ill-health retirement grants

D8.—(1) Where a member—

- (a) ceases to hold a local government employment by reason of being permanently incapable of discharging efficiently the duties of that employment by reason of ill-health or infirmity of mind or body,
 - (b) regulation D7 does not apply to him because he does not have a statutory pension entitlement, but
 - (c) his total period of membership is at least one year,
- then, subject to paragraph (3), he is entitled to be paid a lump sum (“an ill-health retirement grant”).
- (2) The amount of the ill-health retirement grant is the lesser of—
- (a) one twelfth of the member’s pensionable remuneration, multiplied by the length in years of his total period of membership, or
 - (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the total period of membership he would have been entitled to count if—
 - (i) he had continued as a member of the Scheme until the age of 65, and
 - (ii) any added period payments had been completed.
- (3) Paragraph (1) does not apply if—
- (a) the member ceased to hold his employment in consequence of any such offence or misconduct as are mentioned in regulation C21(4), or
 - (b) apart from this regulation, the member is entitled to any payment out of the fund, other than a return of contributions, or
 - (c) where the grant to which a member would be entitled under paragraph (1), calculated in accordance with paragraph (2), is no more than the net amount he would receive if a return of contributions were made to him (including an increase under regulation K19 where that regulation applies) he shall instead be entitled to such a return of contributions (so increased where appropriate).
- (4) Without prejudice to any subsequent decision under regulation J3 (decisions as to benefits), the Committee shall notify a person who falls within paragraph (1) (other than one to whom paragraph (3)(a) applies), in writing and as soon as is reasonably practicable, of the amount of the ill-health retirement grant to which he would be entitled if he were and remained a person to whom this regulation applies.

Retirement at or after 60 but before NRD

D9.—(1) Subject to the following provisions of this Part, if a member who ceases to hold a local government employment after attaining the age of 60 but before his NRD satisfies the relevant conditions, he is entitled—

- (a) to a standard retirement pension (reduced in accordance with regulation D13), and
- (b) to a standard retirement grant (so reduced),

which are payable immediately on his ceasing to hold that employment.

(2) The conditions referred to in paragraph (1) are—

- (a) that the member has a statutory pension entitlement;
- (b) that he duly makes an election for his retirement benefits to be payable immediately on his ceasing local government employment.

(3) An election under this regulation shall be made by notice in writing to the Committee given within the period of three months beginning with the day on which the member ceases to hold local government employment.

No double entitlement

D10.—(1) Where (apart from this regulation) any person would be entitled to a retirement pension or to a retirement grant under two or more regulations in respect of the same period of membership—

- (a) he may elect by notice in writing, given to the Committee before the expiry of the period of three months beginning with the day on which he becomes so entitled, under which provision he is to be paid those benefits; and
- (b) if he makes no such election, the Committee may notify him in writing of the provision.

(2) Paragraph (1) is without prejudice to regulations D16, D18 and D19 and section 9(6) of the Pension Schemes (Northern Ireland) Act 1993(20).

Entitlement to deferred benefits: (“preserved benefits”)

Entitlement to deferred retirement benefits (“preserved benefits”)

D11.—(1) If a member who ceases to hold a local government employment, is not entitled under regulation D5, D6, D7 or D9 to retirement benefits which are payable immediately on his ceasing to hold that employment, has a statutory pension entitlement, then, subject to regulation D13, he becomes entitled in relation to that employment to a standard retirement pension and a standard retirement grant payable from the appropriate date; and in these regulations benefits to which a person becomes entitled under this paragraph and which have not yet become payable are called “preserved benefits”.

(2) For the purposes of paragraph (1) “the appropriate date”, in relation to any person, is his 65th birthday or, if earlier, the earliest of the following—

- (a) his NRD;
- (b) any date on which he becomes permanently incapable, by reason of ill-health or infirmity of mind or body, of discharging efficiently the duties of the employment he has ceased to hold;
- (c) any date after he has attained the age of 50 years from which the employing authority, with the agreement of the Committee, determines on compassionate grounds that the benefits are to become payable;
- (d) in the case of a person who has attained the age of 60 years and has completed 10 years' membership provided that he was a contributory employee before 1st April 1972, that birthday; and
- (e) in the case of a person who has attained the age of 60 years, has ceased to be employed in local government employment and has duly elected to receive payment from the relevant date, that date.

(3) An election under paragraph (2)(e) shall be made by notice in writing to the Committee given within the period of three months beginning with the relevant date.

(4) In this regulation “relevant date”, in relation to any person, means—

- (a) the date on which he attains the age of 60; or
- (b) if later, the date of his ceasing to be employed in local government employment.

Further provisions about preserved benefits

D12.—(1) A person who is entitled to preserved benefits under regulation D11(1) ceases to be entitled to them—

- (a) if—
- (i) the whole of the aggregate amount of his contributions to the fund has been returned to him (with or without interest) under regulation C21 or regulation C15 of the 1992 regulations or regulation 16 of the 1981 regulations, and
 - (ii) after receiving the return of contributions, he has no further right to count any period of membership to which a transfer value accepted under regulation K14 or regulation J8 of the 1992 regulations or regulation 69 of the 1981 regulations relates,
- (b) if rights in respect of the period of membership he was entitled to count in relation to the employment he ceased to hold have been transferred to a non-local government scheme, a personal pension scheme, a self-employed pension arrangement, a retirement annuity contract or an appropriate policy by virtue of the payment of a transfer value,
- (c) if he re-enters local government employment (unless he elects to remain entitled to those benefits), or
- (d) if the body which employed him in the employment which he ceased to hold certifies under paragraph 4 of Schedule D1 that on ceasing to hold it he suffered a material reduction in remuneration.
- (2) An election by a person for the purposes of paragraph (1)(c) shall be made by giving notice in writing to the Committee—
- (a) before the expiry of the period of three months beginning with the date on which he re-enters local government employment, or
 - (b) such longer period as the Committee may allow.

Adjustments to standard benefits

Reduction of pensions payable early by virtue of elections etc.

D13.—(1) This regulation applies where benefits are payable to a person—

- (a) under regulation D9; or
- (b) under regulation D11 in a case where the appropriate date is determined under paragraph (2)(e) of that regulation.

(2) Where this regulation applies, then, subject to regulation D16, the standard retirement pension and standard retirement grant, calculated in accordance with regulation D2 and Schedule D2, are reduced by the appropriate percentage for the member's pension advancement period.

(3) In paragraph (2) “the member's pension advancement period”, in relation to a person, means the period remaining from the date from which the benefits became payable to his NRD.

(4) In paragraph (2) “the appropriate percentage” means the percentage shown in the appropriate column in the following Table.

Table

<i>Pension advancement period (years)</i>	<i>Percentage Reduction</i>		<i>Retirement grant</i>
	<i>Retirement pension</i>		
	<i>Male</i>	<i>Female</i>	<i>Both sexes</i>
0	0	0	0
1	8	7	2

<i>Pension advancement period (years)</i>	<i>Percentage Reduction Retirement pension</i>		<i>Retirement grant</i>
	<i>Male</i>	<i>Female</i>	
2	15	13	5
3	22	18	7
4	28	23	9
5	33	27	11

(5) Where the member's pension advancement period is not an exact number of years, the necessary interpolations shall be made in the Table.

Surrender of part of retirement pension in favour of spouse or dependant

D14.—(1) Subject to the following provisions of this regulation and to regulation D16, a person who—

- (a) has become entitled to receive payments in respect of a retirement pension, or
- (b) holds local government employment and has attained normal retirement age,

may surrender, as from the relevant date, in favour of his spouse or any dependant of his ("the beneficiary"), a part of the retirement pension which is or may become payable to him, and a person who has surrendered part of a retirement pension may surrender further parts of it.

(2) The part of the retirement pension surrendered on any occasion—

- (a) shall be an exact number of pounds, and
- (b) shall secure for the beneficiary a pension of at least £97·50 per annum.

(3) The surrendered part (together with any parts previously surrendered) shall not exceed—

- (a) the amount which would result in the reduction of the retirement pension to less than the rate of the pension which would become payable to the beneficiary, or
- (b) one third of the retirement pension.

(4) Where a person who has made a surrender under this regulation dies, 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.

(5) For the purposes of this regulation "the relevant date" means—

- (a) the date of becoming entitled to receive payments in respect of the retirement pension; or
- (b) in the case of a person who dies while still in local government employment, the day immediately before the date of his death.

(6) Where the person surrendering holds local government employment and has attained normal retirement age, references in paragraphs (2) and (3) to the retirement pension are references to the retirement pension which would become payable if he were to cease to hold his employment on the day on which the surrender takes effect.

(7) Schedule D4 shall have effect for the purpose of making further provision as respects the procedure for surrenders under this regulation.

Adjustments to retirement pensions and grants for certain re-employed pensioners

D15. Schedule D5 shall have effect for the purpose of making provision as to the retirement benefits in respect of certain pensioners who are re-employed by LGPS employers; and the provisions of this Part have effect subject to Part I of that Schedule (reduction of retirement pensions), Part II of that Schedule (combined benefits) and Part III of that Schedule (separate benefits).

Overriding provisions (contracting-out and Finance Act requirements, etc.)

Guaranteed minimum pensions for members in contracted-out employment, etc.

D16.—(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment; and
- (b) the member has a guaranteed minimum pension under section 10 of the Pension Schemes (Northern Ireland) Act 1993 in relation to benefits under these regulations,

then paragraphs (2) to (4) apply as respects the member's employment.

(2) The member who ceases to hold his local government employment is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum (unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate).

(3) If the member—

- (a) attains state pensionable age while in local government employment;
- (b) continues in the same employment for a further period of 5 years; and
- (c) does not then cease to hold it,

then he is entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum (unless he consents to a postponement of the entitlement).

(4) The guaranteed minimum referred to in paragraphs (2) and (3) shall, so far as it is attributable to earnings factors for the tax year 1988-89 or for subsequent tax years, be increased in accordance with the requirements of section 105 of the Pension Schemes (Northern Ireland) Act 1993.

(5) A person's retirement pension is not to be reduced under regulation D13 to less than the aggregate of—

- (a) any minimum rate of equivalent pension benefits applicable under the Insurance Act, and
- (b) the annual rate obtained by multiplying one eightieth of the person's pensionable remuneration by the length in years of the whole period of the person's membership in contracted-out employment during the period beginning with the relevant date and ending with 30th April 1995.

(6) In paragraph (5) "the relevant date" means—

- (a) in the case of a man, 17th May 1990; and
- (b) in the case of a woman, 6th April 1978.

(7) Where—

- (a) if these regulations had come into force on 17th May 1990, a man would have been entitled to make an election under regulation D9(3), and
- (b) he gives notice of such election within six months of the commencement date,

the election may be expressed to have the effect as if these regulations had commenced on 17th May 1990 and the notice had been given on the first day on which he would in that case have been entitled to give notice of the election.

(8) Where a person's local government employment is or was contracted-out employment, a surrender under regulation D14 (together with any previous surrenders) shall not result—

- (a) in the annual rate of the retirement pension being less than one eightieth of the pensionable remuneration, multiplied by the length in years of the whole period of his membership in contracted-out employment after 5th April 1978, or
- (b) (disregarding the effect of the preceding paragraphs) in the weekly rate of the retirement pension being less than his guaranteed minimum, if any.

(9) Where a person making a surrender under regulation D14—

- (a) is in local government employment,
- (b) has attained normal retirement age, and
- (c) has a statutory pension entitlement,

references in paragraph (8) to the retirement pension are references to the retirement pension which would become payable if he were to cease to hold his employment on the day on which the surrender takes effect.

(10) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—

- (a) regulation D15 and Part I of Schedule D5 (reduction of retirement pension in the case of certain re-employed pensioners);
- (b) regulation H4 (forfeiture of rights); and
- (c) regulation H5 (commutation of small pensions).

Revaluation of guaranteed minimum in certain cases

D17.—(1) This regulation applies where—

- (a) a person has ceased to be a member; and
- (b) the guaranteed minimum in relation to his pension is appropriately secured (within the meaning of section 15 of the Pension Schemes (Northern Ireland) Act 1993).

(2) The earnings factors of such a person shall be determined for the purposes of section 10(2) of that Act—

- (a) by reference to the last order under article 23 of the Social Security Pensions (Northern Ireland) Order 1975⁽²¹⁾ or section 130 of the Social Security Administration (Northern Ireland) Act 1992⁽²²⁾ to come into force before the end of the tax year in which he ceased to be a member, and
- (b) without reference to the last such order to come into force before the end of the final relevant year.

(3) In this regulation “final relevant year” has the meaning given in section 12(5) of the Pension Schemes (Northern Ireland) Act 1993.

Equivalent pension benefits

D18.—(1) If when a member ceased to hold a local government employment—

(21) [S.I. 1975/1503 \(N.I. 15\)](#); Article 23 was repealed by the Social Security (Consequential Provisions) (Northern Ireland) Act (1992 c. 9)

(22) [1992 c. 8](#)

- (a) he was not entitled in relation to that employment to a retirement pension under regulation D5, D6, D7, D9 or D11, and he receives a return of contributions;
- (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment;
- (c) a period of his service in a non-participating employment came to an end by reason—
 - (i) of the repeal of section 55(1) of the Insurance Act(23); or
 - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-Participation — Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(24) (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;

then he is entitled in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership in service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.

(2) A retirement pension to which a person has become entitled by virtue of paragraph (1) is payable from the first date on which he—

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

(3) For the purposes of these regulations a member to whom this regulation applies shall be treated as having ceased to hold the employment in respect of which he receives a return of contributions on the day before the date of receipt.

National insurance

D19.—(1) Subject to paragraph (2), where a pension is payable to a member who attains state pensionable age in respect of a period of service in a non-participating employment, which counts for the purpose of calculating any benefits payable to the member (other than excepted service), 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,

shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable in respect of that period of service under the Insurance Act.

(2) Paragraph (1) does not apply to any provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 56(1)(c) of the Insurance Act (equivalent pension benefits).

(3) For the purposes of paragraph (1) “excepted service”, in relation to any person, means any earlier period of such service as there mentioned, being 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 have already been assured to him.

(23) 1966 c. 6 (N.I.); section 55(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28
 (24) S.R. & O. (N.I.) 1960 No. 181

Limitations on benefits etc.

D20. The provisions of this Part are subject to Schedule C4 (limitations on contributions and benefits) and to the general provisions in Part H.

Part E

Death Grants

Death of a member

Death grant: members in service

E1.—(1) If at the time of his death a person was a member, there shall be paid a lump sum death grant in accordance with regulation E8.

(2) Where paragraph (1) applies the amount of the death grant is the greater of—

- (a) twice the deceased's pensionable remuneration, or
- (b) three eightieths of his pensionable remuneration multiplied by the length in years of his period of membership,

less, in a case where a surviving spouse's long-term pension is payable under Part F, the appropriate amount to be calculated under regulation E5.

Death of a deferred pensioner

Death grant: deferred pensioners

E2.—(1) If at the time of his death a person—

- (a) was in local government employment and had a statutory pension entitlement, but was not a member by virtue of a notification under regulation B11(2) (leaving the Scheme), or
- (b) was entitled to preserved benefits,

there shall be paid a lump sum death grant in accordance with regulation E8.

(2) Where paragraph (1) applies the amount of the death grant is three eightieths of the deceased's pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension, less, in a case where a surviving spouse's long-term pension is payable under Part F, the appropriate amount to be deducted under regulation E5.

Death of a pensioner

Death grant: pensioners with 10 years' or more membership

E3.—(1) If at the time of his death a person—

- (a) was entitled to receive payments in respect of a retirement pension calculated by reference to a period of membership of 10 years or more (other than a pension under regulation D16 or D18), or
- (b) would have been so entitled but for the operation of Schedule D5 (re-employed pensioners),

there shall be paid a lump sum death grant in accordance with regulation E8.

(2) Where the deceased became entitled to the retirement pension otherwise than by virtue of regulation D9 or D11, the amount of the death grant is the greater of—

- (a) the deceased's pensionable remuneration, and
- (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension,

reduced by the total of—

- (i) any retirement grant paid to him;
- (ii) any payments which were or, apart from any reduction under regulation H2 (national insurance) or Schedule D5 (re-employed pensioners) or partial surrender under regulation D14, would have been made to him in respect of retirement pension, and
- (iii) if a surviving spouse's long-term pension is payable under Part F, the appropriate amount to be deducted under regulation E5.

(3) Where the deceased became entitled to the retirement pension by virtue of regulation D9 or D11, the amount of the death grant is the greater of—

- (a) the amount mentioned in paragraph (2)(b) (less the relevant deductions), and
 - (b) such proportion of the amount of the deceased's pensionable remuneration (after subtracting the amount of the relevant deductions) as the length in years of the period of membership taken into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD.
- (4) In paragraph (3) "the relevant deductions" means the sum of—
- (a) the amount that would be the appropriate amount under regulation E5(2) or (3) if that regulation applied, and
 - (b) the total of any payments made to him in respect of retirement pension and retirement grant.

Death grant: pensioners with less than 10 years' membership

E4.—(1) If at the time of his death a person—

- (a) was entitled to receive payments in respect of a retirement pension calculated by reference to a period of membership of less than 10 years (excluding a pension to which he would not be entitled apart from regulation D16 or D18), or
- (b) would have been so entitled but for the operation of Schedule D5 (re-employed pensioners),

there shall be paid a lump sum death grant in accordance with regulation E8.

(2) The amount of the death grant payable under paragraph (1) in a case where—

- (a) the deceased became entitled to the retirement pension by virtue of regulation D9 or D11; and
- (b) the period of membership that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until his NRD is 10 years or more,

is the greater of—

- (i) three eightieths of his pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension (less the relevant deductions), and
- (ii) such proportion of the amount of the deceased's pensionable remuneration (after subtracting the amount of the relevant deductions) as the length in years of the period of membership taken

into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD;

and in this paragraph “the relevant deductions” has the same meaning as in regulation E3(4).

(3) The amount of the death grant payable under paragraph (1) in a case where the deceased became entitled to the retirement pension otherwise than by virtue of regulation D9 or D11 or of regulation E2(1)(e) of the 1992 regulations, is an amount equal to the total amount that would (or would but for Schedule D5 (re-employed pensioners) 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 Schedule D5 have become) entitled to receive payments in respect of the pension, reduced—

(a) by the total of any payments made to him in respect of retirement pension, or

(b) where the pension—

(i) was reduced under regulation D13 (early payment) or regulation H2 (national insurance) or Schedule D5 (re-employed pensioners), or

(ii) had been partially surrendered under regulation D14,

by the amount which would have been paid in respect of the pension but for the reduction or surrender.

(4) The amount of the death grant payable under paragraph (1) in a case where—

(a) the deceased became entitled to the retirement pension by virtue of regulation D9 or D11, and

(b) the period of membership that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until his NRD is less than 10 years;

is such proportion of the amount mentioned in paragraph (3) (less the total of any payments made to him in respect of retirement pension) as the length in years of the period of membership taken into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD.

General provisions relating to death benefits

Surviving spouse deductions from certain death grants

E5.—(1) A death grant is reduced under this regulation by the appropriate amount if—

(a) it is payable under regulation E1, E2 or E3(2), and

(b) a surviving spouse’s long-term pension is payable under Part F.

(2) Where—

(a) the deceased was a man, or

(b) the deceased was a woman who was treated as a man by virtue of paragraph 2 of Schedule F1,

the appropriate amount for the purposes of paragraph (1) is an amount equal to two eightieths of the deceased’s pensionable remuneration multiplied by the length in years of any period of membership before 1st April 1972 in respect of which the widow’s, or as the case may be, widower’s pension is payable under Part F.

(3) Where the deceased was a woman (other than one to whom paragraph (2)(b) applies), the appropriate amount for the purposes of paragraph (1) is an amount equal to three one hundred and sixtieths of the deceased’s pensionable remuneration, multiplied by the length in years of any period—

- (a) of which notice of which was given under paragraph 1(1) of Schedule F1,
- (b) which is treated for those purposes as a period of membership before 1st April 1972, and
- (c) in respect of which a widower's pension is payable under Part F.

(4) In calculating any reduction under this regulation, no account shall be taken of any period of membership in respect of which payment under regulation C13 has been or is to be treated as having been completed.

Adjustments to death grants for certain re-employed pensioners

E6. The provisions of this Part have effect subject to Part III of Schedule D5 (separate benefits of certain persons re-employed by LGPS employers) and Part IV of that Schedule (death in further employment of such employees).

Part-timers' pensionable remuneration for certain purposes of this Part

E7. Paragraph 7 of Schedule D1 (by virtue of which a member 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) does not apply to the application of regulation D1 and that Schedule in ascertaining the deceased's pensionable remuneration for the purposes of regulation E1(2)(a), E3(2)(a) or (3)(b) or E4(2)(ii).

Nomination of beneficiary of death grant

E8.—(1) Subject to paragraph (5), the Committee shall have power, at its discretion, to pay or apply the whole or any part of the lump sum death grant payable under regulation E1(1), E2(1), E3(1) or E4(1) to or for the benefit of all or any of the surviving spouse, children, dependants, relatives, personal representatives or nominated beneficiaries of the deceased member in such shares as the Committee shall in its absolute discretion decide.

(2) The Committee may, but without being in any way bound to do so, have regard to any nomination made by the member.

(3) A nomination shall be made by notice in writing to the Committee in such form as the Committee may from time to time require and shall be revocable.

(4) A nomination shall be revoked by any subsequent nomination which complies with the requirements referred to in paragraph (3).

(5) If or to the extent that the lump sum death grant has not been paid by the expiry of the period of two years following the death of the member, it shall be paid by the Committee to his personal representatives.

(6) For the purposes of this regulation—

- (a) “member” includes a former member who is a person referred to in regulation E2(1), E3(1) or E4(1),
- (b) “nominated beneficiary” means an individual or an unincorporated or incorporated body nominated by the member in any nomination made by him in respect of the lump sum death grant which was in force at the time of his death, and
- (c) “relative” means any living individual who is—
 - (i) a parent of the member or the spouse or surviving spouse of any such person, or
 - (ii) the child or remoter issue of such parent or the spouse or surviving spouse of any such person, or
 - (iii) a former spouse of the member.

Part F

Surviving Spouses' Pensions

Death of a member

Member's spouse's short-term pension

F1.—(1) Subject to regulation G8(3) if a member dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled, to a spouse's short-term pension—

- (a) if the spouse has one or more eligible children in his or her care, for six months after the member's death, or
- (b) otherwise for three months after the member's death.

(2) Where paragraph (1) applies then, subject to paragraph 21 of Schedule D5 (re-employed pensioners), the annual rate of the short-term pension is a rate equal to the deceased member's pensionable remuneration.

(3) Paragraph 7 of Schedule D1 (by virtue of which a member 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) does not apply to the application of regulation D1 and that Schedule to this regulation.

Member's spouse's long-term pension

F2.—(1) If a member who has a statutory pension entitlement dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled, at the end of the period in respect of which a short-term pension is payable under regulation F1, to a spouse's long-term pension.

(2) Where paragraph (1) applies then, subject to Part IV of Schedule D5 (re-employed pensioners), the annual rate of the long-term pension is—

- (a) if the member's total period of membership was not less than two years, half the annual rate of the retirement pension to which the spouse would have been entitled if on the date of death the spouse had become entitled under regulation D7 (ill-health, etc.), and
- (b) otherwise, one one hundred and sixtieth of the member's pensionable remuneration, multiplied by the length in years of the member's total period of membership.

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

- (a) any increase in the deceased's retirement pension by virtue of regulation D2(2)(i), and
- (b) any reduction in that pension under regulation H2, or by virtue of a surrender under regulation D14,

shall be disregarded.

Death of a deferred pensioner

Deferred pensioner's spouse's long-term pension

F3.—(1) If a person who is not a member dies leaving a surviving spouse or spouses and at the time of his death he—

- (a) was entitled to preserved benefits, or

(b) was in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time,
that spouse is entitled or, as the case may be, they are jointly entitled, to a spouse's long-term pension.

(2) Subject to regulation F6 (post retirement marriages), the annual rate of the long-term pension to which a spouse is entitled under paragraph (1) is half the annual rate of the retirement pension to which the deceased would have been entitled if on the date of death he had become entitled under regulation D5.

Death of a pensioner

Pensioner's spouse's short-term pension

F4.—(1) Subject to regulation G8(3), if a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension under regulation D18), or
- (b) would have been so entitled but for the operation of regulation H6 (commutation in exceptional circumstances of ill-health) or of Part I of Schedule D5 (re-employed pensioners),

dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled to a spouse's short-term pension—

- (i) if the spouse has one or more eligible children in his or her care, for six months after the deceased's death, or
- (ii) otherwise for three months after the deceased's death.

(2) Subject to regulation F6 (post retirement marriages), where paragraph (1) applies, the annual rate of the short-term pension is a rate equal to the spouse's retirement pension immediately before the date of death or the rate it would have been at that date apart from any payment under regulation H6 or the operation of Part I of Schedule D5.

Pensioner's spouse's long-term pension

F5.—(1) Where regulation F4(1) applies the surviving spouse is entitled or, as the case may be, the surviving spouses are jointly entitled, at the end of the period in respect of which a short-term pension is payable under that regulation, to a spouse's long-term pension.

(2) Subject to regulation F6 (post retirement marriages), where paragraph (1) applies and any new employment for the purposes of Part I of Schedule D5 (re-employed pensioners) was not a local government employment, the annual rate of the long-term pension is half the annual rate of the deceased's retirement pension immediately before the date of death.

(3) For the purposes of paragraph (2)—

- (a) any increase in the deceased's retirement pension by virtue of regulation D2(2)(i),
- (b) any reduction in that pension under regulation D13 or H2 or by virtue of a surrender under regulation D14, and
- (c) any extinguishment of that pension by virtue of the operation of regulation H6 or Part I of Schedule D5,

shall be disregarded.

General provisions relating to surviving spouses' pensions

Post retirement marriages

F6.—(1) Where a surviving spouse who was not married to the deceased at some time while the member was in local government employment after 31st March 1972 and before the date on which he became entitled to a retirement pension—

- (a) the long-term pension under regulation F3,
- (b) the short-term pension under regulation F4, and
- (c) the long-term pension under regulation F5,

shall be calculated in accordance with paragraph (2).

(2) Where paragraph (1) applies the references in regulations F3(2), F4(2) and F5(2) to the retirement pension are to be construed as references to the part of the pension which is attributable to the period of membership in contracted-out employment after 5th April 1978 in the case of a man and 5th April 1988 in the case of a woman.

Widowers: requirement for post 31st March 1972 membership and consequent adjustments to “retirement pension”

F7.—(1) For the purpose of determining entitlement to a widower’s pension under regulations F3(1), F4(1) and F5(1), in those regulations—

“retirement pension” means a retirement pension of which at least part is attributable to a period of membership after 31st March 1972;

“local government employment” means local government employment of which at least part was employment after that date; and

“preserved benefits” means preserved benefits of which at least part are attributable to a period of membership after that date.

(2) For the purposes of calculating a widower’s short-term pension under regulation F4(2) or long-term pension under regulation F2(2), F3(2) or F5(2), in those regulations “retirement pension” means a retirement pension calculated—

- (a) by reference to the length in years of the wife’s period of membership after that date, and
- (b) if the widower was his wife’s husband at some time while she was in local government employment after 31st March 1972, by reference also to—
 - (i) the length in years of any period treated under paragraph (3) as a period of membership after 31st March 1972, and
 - (ii) the length in years of any period of which notice is given in accordance with paragraph 1(1) of Schedule F1.
 - (iii) the length in years of any period of membership in respect of which payment under regulation C14 has been or is treated as having been completed.

(3) For the purposes of paragraph (2)(b)(i) the following periods are to be treated as periods of membership after 31st March 1972, namely—

- (a) membership which the deceased became entitled to count after that date by virtue of regulation D7(2),
- (b) membership which the deceased was entitled to count under regulation C9 or paragraph 5 of Schedule M2 (transitional provisions) or regulation D4, D5 or D9 of the 1992 regulations where the necessary payment was made or commenced after that date,

- (c) membership which the deceased was entitled to count by virtue of a resolution passed under regulation B15 or regulation D7 of the 1992 regulations after that date, and
- (d) membership which is treated as membership after that date by virtue of paragraph 7 of Schedule M2 (transitional provisions), or regulation D13(2) of the 1992 regulations.

Widowers: elections in respect of pre 1st April 1972 membership etc.

F8. Schedule F1 shall have effect for the purpose of making provision as to elections by women members affecting their widowers' pensions.

Adjustments to pensions of surviving spouses of certain re-employed pensioners

F9. The provisions of this Part have effect subject to Part IV of Schedule D5 (re-employed pensioners).

Contracting-out requirements: GMP rule

Surviving spouse's guaranteed minimum pension

F10.—(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment, and
- (b) the member has a guaranteed minimum under section 10 of the Pension Schemes (Northern Ireland) Act 1993(25) in relation to benefits under these regulations,

then, if the member dies at any time leaving a widow or widower, the widow or widower is entitled to a pension at a weekly rate equal to the widow's or, as the case may be, the widower's guaranteed minimum (within the meaning of section 13 of that Act (minimum pensions for widows and widowers)) during any period for which that section provides that a pension of not less than that amount is to be payable to the widow or, as the case may be, the widower (unless the widow or widower is entitled to a surviving spouse's pension at a higher rate).

(2) The guaranteed minimum referred to in paragraph (1) shall, so far as it is attributable to earnings factors for the tax year 1988-89 or for subsequent tax years, be increased in accordance with the requirements of section 105 of the Pension Schemes (Northern Ireland) Act 1993 and to the extent of any orders made thereunder (annual increase of guaranteed minimum pensions).

(3) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—

- (a) regulation H4 (forfeiture of rights), and
- (b) regulation H5 (commutation of small pensions).

Cessation of membership before the commencement date

Cessation of membership before the commencement date

F11. For the purposes of the award of a widower's pension, where a woman's membership ceased on or after 6th April 1988 but before the commencement date, her membership shall be deemed to have commenced not earlier than that date.

Part G

Children's Pensions

Preliminary

Meaning of “child”

For the purposes of these regulations “child” means a person who—

- (a) has not attained the age of 17 years,
- (b) has attained that age and has since been—
 - (i) receiving full-time education, or
 - (ii) undergoing a full-time course of training of not less than 2 years' duration for a trade, profession or vocation,
either continuously or continuously with the exception of a period which the Committee has in its discretion decided to disregard (on being satisfied that his education or training ought not to be regarded as completed), or
- (c) has attained that age and is incapacitated by reason of ill-health or infirmity of mind or body which arose either—
 - (i) before he attained that age, or
 - (ii) while receiving such full-time education or training, or
 - (iii) during a period which the Committee has decided to disregard under paragraph (b).

Meaning of “eligible child”

G2.—(1) For the purposes of these regulations a child is an eligible child of a deceased person who was in a local government employment when he died and was then a member or a former member, if he is—

- (a) the deceased's legitimate child born before the first anniversary of the member's or former member's death,
- (b) the deceased's adopted child,
- (c) the deceased's step-child or illegitimate child,
- (d) an adopted child of a person who has been married to the deceased, or
- (e) a child accepted by the deceased as a member of the family,

and, in the case of a child within paragraph (c), (d) or (e), is wholly or mainly dependent on the deceased at the time of his death.

(2) For the purposes of these regulations a child is an eligible child of a person who has died after becoming entitled to a retirement pension if—

- (a) he is a legitimate child of a marriage of the deceased which took place before the date on which he became entitled to the pension, and was born before the first anniversary of that date, or
- (b) he is a child adopted by the deceased before he became entitled to the pension, or
- (c) he is a child who was wholly or mainly dependent on the deceased both before he became entitled to the retirement pension and at the time of his death and is—
 - (i) the deceased's step-child or illegitimate child,

- (ii) an adopted child of a person who married the deceased before he became entitled to the pension, or
- (iii) a child accepted by the deceased as a member of the family.

Death of a member

Member's children's long-term pension

G3.—(1) Subject to paragraph (6), where a member dies leaving one or more eligible children, the eligible children are entitled until they cease to be children to or to the benefit of a children's long-term pension payable from the member's death.

(2) Subject to paragraph (5) and regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction of the deceased person's retirement pension.

(3) Subject to regulation G10, for the purposes of paragraph (2), "the appropriate fraction" means—

- (a) if there is one eligible child and a surviving spouse's pension under Part F is for the time being payable, one quarter;
- (b) if there is one eligible child and no such surviving spouse's pension is payable, one third;
- (c) if there are two or more eligible children and a surviving spouse's pension under Part F is for the time being payable, one half; and
- (d) if there are two or more eligible children and no such surviving spouse's pension is payable, two thirds;

but references in paragraphs (a) to (d) to a surviving spouse's pension do not include a short-term pension under regulation F1 in circumstances where no long-term pension is payable under regulation F2.

(4) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a member shall be taken to be the pension to which he would have become entitled if he had at the time of his death become entitled to a pension under regulation D7 (ill-health, etc.) and on the relevant assumptions.

(5) In sub-paragraph (4) "the relevant assumptions" means that there is—

- (a) no increase in the pension by virtue of regulation D2(2)(i), and
- (b) no reduction in the pension under regulation D13 (early payments), regulation H2 (national insurance), or Part I of Schedule D5 (re-employed pensioners), or by virtue of a surrender under regulation D14.

(6) Where a children's short-term pension—

- (a) is payable under regulation G4, or
- (b) would be so payable apart from regulation G8(2),

the children's long-term pension does not become payable until the expiry of the period in respect of which that pension is payable under regulation G4 or, as the case may be, would be so payable apart from regulation G8(2) (but subject to regulation G8(3) and (4)).

Member's children's short-term pension

G4.—(1) Subject to regulation G8, where a member dies leaving one or more eligible children, they are entitled to or to the benefit of a children's short-term pension for 6 months after the death or, if less, until they cease to be children.

(2) Subject to regulation G8, the annual rate of a children's short-term pension is the rate at which a surviving spouse's short-term pension would have been payable by virtue of regulation F1.

Death of a deferred pensioner

Deferred pensioner's children's long-term pension

G5.—(1) Where a person who is not a member dies leaving one or more eligible children and at the time of his death he—

- (a) was entitled to preserved benefits, or
- (b) was in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time,

those children are entitled to or to the benefit of a children's long-term pension until they cease to be children.

(2) Subject to regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the deceased person's retirement pension.

(3) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a person shall be taken to be the retirement pension to which he would have become entitled if at the time of his death he had become entitled under regulation D5 (retirement on or after NRD) and on the relevant assumptions (within the meaning of regulation G3(5)).

Death of a pensioner

Pensioner's children's long-term pension

G6.—(1) Subject to paragraph (4), where a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension sole entitlement to which is under regulation D16 or a pension under regulation D18), or
- (b) would have been so entitled but for the operation of regulation H6 (commutation in exceptional circumstances of ill-health) or Part I of Schedule D5 (re-employed pensioners),

dies leaving one or more eligible children, they are entitled until they cease to be children to or to the benefit of a children's long-term pension payable from the death.

(2) Subject to regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the deceased person's retirement pension.

(3) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a person who is entitled at the time of his death to receive payments in respect of a retirement pension (or would have been so entitled apart from regulation H6 or Part I of Schedule D5) shall be taken to be the retirement pension that would have been payable on the assumption that no payment under regulation H6 had been made and on the relevant assumptions (within the meaning of regulation G3(5)).

(4) In a case where a children's short-term pension is payable under regulation G7, the children's long-term pension does not become payable until the expiry of the period in respect of which that pension is payable under that regulation (or would be so payable if it were not for payment being suspended under regulation G8(2)).

Pensioner's children's short-term pension

G7.—(1) Subject to regulation G8(2), where a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension sole entitlement to which is under regulation D16 or a pension under regulation D18), or
- (b) would have been so entitled but for a payment under regulation H6 (commutation in exceptional circumstances of ill-health) or the operation of Part I of Schedule D5 (re-employed pensioners),

dies leaving one or more eligible children, they are entitled to or to the benefit of a children's short-term pension for 6 months after the death.

(2) Subject to regulation G8(1), the annual rate of a children's short-term pension is the rate at which a surviving spouse's short-term pension would have been payable by virtue of regulation F4 (but, in a case where there is a widower, disregarding regulation F7(2)).

General provisions relating to children's pensions

Limitations on entitlement to children's short-term pensions

G8.—(1) Where—

- (a) a widow's short-term pension is calculated in accordance with regulation F6(1) or a widower's short-term pension is payable by virtue of regulation F1(1) or F4(1), and
- (b) the child who is entitled to or to the benefit of a children's short-term pension is in the care of the widow or widower,

the rate of the child's short-term pension is reduced by the rate of the widow's or widower's pension.

(2) While—

- (a) a widow's short-term pension is payable under regulation F1(1) or F4(1);
- (b) a widower's short-term pension is payable under either of those regulations at a rate not less than that of the children's short-term pension; or
- (c) a widower's short-term pension is payable under regulation F1(1) in circumstances where no long-term pension is payable under regulation F2(1),

a children's short-term pension is not payable unless the child is not in the care of the widow or widower, and then for only three months after the death (or until he ceases to be a child, if sooner).

(3) Where—

- (a) (apart from paragraph (2), or this paragraph, or paragraph (4)) a children's short-term pension would be payable to or for the benefit of a child in the care of a parent to whom a surviving spouse's short-term pension would be payable; and
- (b) if a children's long-term pension and a surviving spouse's long-term pension were payable instead of those short-term pensions, that would result in a greater aggregate pension (having regard to paragraph (2)),

those long-term pensions shall be payable instead of those short-term pensions.

(4) Where—

- (a) apart from paragraph (3) and this paragraph, a children's short-term pension would be payable to or for the benefit of a child who is not in the care of a parent to whom a surviving spouse's short-term pension is payable, and
- (b) a children's long-term pension would be greater,

the long-term pension shall be payable instead of the short-term pension.

Long-term pensions: increase of period of membership in certain cases

G9. Unless the retirement pension determined under regulation G3(4), G5(3) or G6(3) would be greater, the retirement pension of a deceased person shall be taken to be that to which he would have been entitled if he were entitled to count the lesser of—

- (a) 10 years of membership; and
- (b) the period of membership which he would have been entitled to count if he had continued to be a member until his 65th birthday.

Children over 17 in paid training

G10.—(1) 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 vocation 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) if it results in a smaller reduction, the child is to be disregarded for the purpose of calculating the pension.

(2) In paragraph (1) "the indexed training rate" means the annual rate at which an official pension (within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971⁽²⁶⁾) would for the time being be payable if it had begun on 1st April 1994 and had then been payable at an annual rate of £1,450.

Discretions as to payment of children's pensions

G11.—(1) The Committee may apportion a children's pension among the eligible children in respect of whom it is for the time being payable in such shares as it thinks fit.

(2) The Committee may pay a children's pension or any part of it to a person other than an eligible child, to be applied for the benefit of any eligible child or eligible children in accordance with any directions the Committee may give.

Adjustments to children's pensions for certain re-employed pensioners etc.

G12. The provisions of this Part have effect subject to Part IV of Schedule D5 (re-employed pensioners) and to paragraph 3 of Schedule F1 (women dying before 1st April 1972).

Part H

General Provisions Concerning Benefits

Interest on late payment of certain benefits

H1.—(1) Where all or part of—

- (a) a pension payable under Part D, F or G (other than a pension payable to a surviving spouse under regulation F1 in a case where the surviving spouse is not entitled to a pension under regulation F2),
- (b) a retirement grant,
- (c) an ill-health retirement grant payable under regulation D8,
- (d) a death grant,

(26) 1971 c. 35 (N.I.)

- (e) a payment under regulation H6,
- (f) a return of contributions under regulation 16 of the 1981 regulations, regulation C15 of the 1992 regulations or regulation C21; or
- (g) a return of contributions which have been made in error,

is not paid within the relevant period after the due date, the Committee shall pay the person to whom the return of contributions, pension or grant is payable interest on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

(2) For the purposes of paragraph (1) the due date is—

- (a) in the case of a retirement pension which becomes payable by virtue of an election under regulation D9(2)(b) or D11(2)(d), one month after the date on which the notice of election is duly given;
- (b) in the case of part of a pension which becomes payable by virtue of payments or contributions (other than an increase in contributions made following a decision under regulation J1, J7, J9 or J10) made after the date on which the remainder of the pension became payable, one month after those payments or contributions were paid;
- (c) in the case of a pension or part of a pension which becomes payable by virtue of contributions made following such a decision, the date on which that pension or part of a pension would have become payable had those contributions been made on the first date which would otherwise have applied;
- (d) in the case of any other pension or part of a pension, the date on which it becomes payable;
- (e) in the case of a retirement grant or part of a retirement grant (other than one to which paragraph (3) applies), the date on which that grant or part becomes payable;
- (f) in the case of an ill-health retirement grant, the day after the person who is entitled to the grant ceased to hold his employment;
- (g) in the case of a death grant, the date on which the member dies;
- (h) in the case of a payment under regulation H6, the day after the person to whom the payment is made would otherwise become entitled to payment of his pension;
- (i) in the case of a return of contributions under regulation 16 of the 1981 regulations, regulation C15 of the 1992 regulations or regulation C20, the date when the return is due under the regulation in question; and
- (j) in the case of a return of contributions which have been made in error, one month after the date on which the contributions were made.

(3) Where—

- (a) a retirement grant becomes payable by virtue of an election under regulation D9(2)(b) or D11(2)(d) made by a notice given on or after the date on which the grant becomes payable, or
- (b) a part of a retirement grant becomes payable by virtue of payments or contributions made after the date on which the remainder of the grant became payable;

then, the due date is—

- (i) in the case mentioned in paragraph (a), one month after the notice was given, and
- (ii) in the case mentioned in paragraph (b)—
 - (I) where an increase in contributions is made following a decision under regulations J1, J7, J9 or J10 the date on which the grant or the part of the grant would have become payable had those contributions been made at the first opportunity which these regulations would otherwise have provided, and

(II) otherwise, one month after the increase in contributions was paid.

(4) For the purposes of paragraph (1) “the relevant period” means—

- (a) in the case of a pension within paragraph (a) or a return of contributions within paragraph (g) of that paragraph, one year,
- (b) in the case of a grant within paragraph (b), (c) or (d) of that paragraph or a payment within paragraph (e) of that paragraph, one month.
- (c) in the case of a return of contributions within paragraph (f), such period which, when added to the period beginning with the date when the person ceased to be a member of the Scheme and ending with the due date, equals twelve months.

National Insurance

H2. Where, but for the revocation of the 1981 regulations, the amount of a benefit would have fallen to be reduced under Part V of those regulations, the amount shall be reduced as if that Part had not been revoked.

Benefits not assignable

H3. Every benefit to which a person is entitled under these regulations—

- (a) is payable to or in trust for him, and
- (b) is not assignable or chargeable with that or any other person’s debts or other liabilities.

Forfeiture of pension rights after conviction of employment-related offences

H4.—(1) If—

- (a) a person has been convicted of an offence in connection with an employment as respects which he was a member;
- (b) he has (whether before or after the conviction) ceased to hold that employment in consequence of that offence;
- (c) his employing body, where it has suffered a financial loss as a direct result of the offence, has taken reasonable steps to recover such loss (including the exercise of its powers under regulations L8 and L9); and
- (d) on an application made within three months after the conviction by the body which was his employing authority in that employment, a Minister of the Crown has certified that the offence—
 - (i) was gravely injurious to the State, or
 - (ii) is liable to lead to serious loss of confidence in the public service,then the Committee may direct that all or any of the rights enjoyed by or in respect of him under these regulations as respects his previous membership shall, subject to paragraph (2), be forfeited.

(2) No direction may be given under paragraph (1) which would deprive a convicted person of his guaranteed minimum pension or would, in the event of his leaving a surviving spouse, deprive that spouse of any widow’s or widower’s guaranteed minimum pension, unless the convicted 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⁽²⁷⁾ 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.
- (3) If—
 - (a) a person has ceased to hold an employment as respects which he was a member in consequence of an offence in connection with his employment, and
 - (b) the body which was his employing authority has neither notified a decision under Part J on any question as to entitlement to a benefit nor given any direction under paragraph (1),
 the Committee shall, if so directed by that body, make interim payments of such amounts as may be specified in the direction to any person so specified who appears to the body to be a person who would be entitled to receive payment of a benefit under these regulations if no direction under paragraph (1) were given.
- (4) Directions under paragraph (3) shall not require any person to be paid more than it appears to the body giving the direction that he would for the time being be entitled to have been paid on the assumption that no direction under paragraph (1) will be given, but such directions do not constitute decisions under Part J as to any person's entitlement to a benefit.
- (5) Payments made to a person in accordance with directions under paragraph (3) shall be deemed to have been payments in respect of a benefit to which he was entitled, notwithstanding any direction given under paragraph (1) or any decision under Part J as to entitlement to the contrary.
- (6) A body applying for a certificate under paragraph (1)(d) in respect of a convicted person shall at the same time send copies of the application to him and to the Committee.

Commutation: small pensions

H5.—(1) Where the annual rate—

- (a) of a retirement pension (or pensions) to which any person has become entitled as a member or former member, or
- (b) of a long-term pension to which any surviving spouse has become entitled, or
- (c) of a long-term pension payable to or in respect of an eligible child or children,

amounts (or amount in aggregate) to not more than the relevant amount, the Committee may discharge its liability in respect of that pension (or those pensions) by payment to the member or former member or, in the case of a surviving spouse's pension, the spouse or, in the case of a child's pension, any person who appears to it to be appropriate, of a lump sum of such amount as represents the capital value of the relevant pension (or pensions), calculated in accordance with tables prepared by the Government Actuary.

(2) For the purposes of this regulation, "the relevant amount" is—

- (a) in the case of a retirement pension, £195;
- (b) in the case of a surviving spouse's long-term pension, £260;
- (c) in the case of a children's long-term pension, £260;

but, for the purposes of determining whether such pension or pensions exceed the relevant amount, the pension—

- (i) shall be taken to include any increase payable under the Pensions (Increase) Act (Northern Ireland) 1971 in respect of it, and

(27) 1911 c. 28; 1920 c. 75; 1939 c. 121; 1989 c. 6

(ii) shall be aggregated with any other such pension to which the member or, in the case of a surviving spouse's pension, that spouse or, in the case of a children's pension, any child or other person, has become entitled under the Scheme in respect of the member in question.

(3) This regulation only applies to a retirement pension where the member who has become entitled to the pension has attained state pensionable age, and a member shall not be treated as having become entitled to a retirement pension under regulation D11 until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(4) Where a payment is made to a person under paragraph (1) in respect of any retirement pension or pensions—

- (a) it shall include a payment of an amount representing the capital value (calculated as there mentioned) of any surviving spouse's long-term pension which, if the person died leaving a surviving spouse, would be payable to that spouse; and
- (b) the liability in respect of any such surviving spouse's long-term pension or pensions and in respect of any children's long-term pension which, if the person died leaving an eligible child or eligible children, would be payable to or for the benefit of that child or those children is also discharged by the payment.

Commutation : exceptional circumstances of ill-health

H6.—(1) Where at the time a retirement pension first becomes payable to a member or former member under Part D the Committee is satisfied, having considered the advice of a registered medical practitioner—

- (a) that the member or former member is exceptionally ill, and
- (b) that he has a life expectancy of less than one year,

it may discharge its liability in respect of—

- (i) so much of that pension as exceeds his guaranteed minimum, and
- (ii) any lump sum death grant which would otherwise be payable at his death under regulation E3 or E4,

by payment to him of a lump sum of an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to him exceeds the amount of his guaranteed minimum.

(2) The Committee shall deduct from any payment under this regulation any tax to which it may become chargeable under section 599 of the Income and Corporation Taxes Act 1988⁽²⁸⁾ (charge to tax: commutation of entire pension in special circumstances).

Payments due in respect of deceased persons

H7.—(1) 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⁽²⁹⁾ and applying in relation to his death, then the Committee may, without requiring the production of probate or letters of administration of his estate, pay the whole or any part of the amount due out of the fund—

⁽²⁸⁾ 1988 c. 1; section 599 was amended by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 11, 18

⁽²⁹⁾ 1967 c. 5 (N.I.)

- (i) to the personal representatives, or
 - (ii) 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.
- (2) Where a payment is made to any person under paragraph (1), the Committee ceases to be liable to account for the amount paid to him.

Part J

Decisions and Appeals

Initial decisions

J1.—(1) Any question concerning the rights or liabilities under these regulations of any person other than a LGPS employer shall be decided in the first instance by the relevant body.

(2) Where the body by which any such question falls to be decided is ascertainable by reference to regulation J2 or J3, for the purposes of this Part that body shall be the relevant body.

(3) Where the Committee is considering whether—

- (a) a person who has ceased to hold a local government employment is entitled to a benefit under regulation D7 or D8, or
- (b) for the purposes of regulation D11, the appropriate date in relation to a person is to be ascertained under paragraph (2)(b) of that regulation,

it shall refer for decision to an independent registered medical practitioner appointed by the Committee who is qualified in occupational health medicine, the following questions—

- (i) whether at the time that employment ceased, in the case of entitlement under regulation D7 or D8, or at the date in question, in the case of regulation D11, the person was, on the balance of probabilities, permanently incapable of discharging efficiently the duties of the local government employment he had ceased to hold and, if so,
- (ii) whether the permanent incapacity was by reason of ill-health or infirmity of mind or body.

(4) The decision of the independent registered medical practitioner on the questions referred to him under paragraph (3) shall be expressed in the form of a certificate.

(5) In paragraph (3)—

- (a) “permanently incapable” means incapable until, at the earliest, the member’s 65th birthday, and
- (b) “qualified in occupational health medicine” means holding a diploma in occupational medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State (which has the meaning given by the European Specialist Medical Qualifications Order 1995)(30) or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State.

Decisions as to status of employees

J2.—(1) A LGPS employer shall decide in relation to each of its employees who is a member—

- (a) whether he is an officer or a manual worker,
- (b) whether he is a whole-time, a variable-time or a part-time employee, and whether his employment is of a casual nature,

(30) S.I. 1995/3208 amended by S.I. 1997/292

- (c) which of his emoluments are remuneration on which contributions are payable, and
- (d) if he is a part-time employee—
 - (i) the proportion which his contractual minimum hours of employment in each week bear to those of a comparable whole-time employment, and
 - (ii) if paragraph (4)(iii) of regulation B3 applies to his contractual hours, the average number of those hours for the purposes of that paragraph.
- (2) In relation to any employment in which a person is a member, the Committee is to decide—
 - (a) what previous service or employment (if any) he is entitled to count as a period of membership or a period to which Part II of Schedule B1 applies,
 - (b) whether any, and if so what, periods of service as a part-time employee are included in such a period,
 - (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) what rate of contribution the employee is liable to pay to the fund,
 - (f) whether he is entitled to count as a period of membership—
 - (i) any, and if so how many, added years, or
 - (ii) any, and if so what, additional period, and
 - (g) whether for the purposes of Schedule C4 he is a Class A member, a Class B member or a Class C member (within the meaning of that Schedule).
- (3) The questions specified in paragraph (1) shall be decided as soon as is reasonably practicable after—
 - (a) the person becomes a member, or
 - (b) any change occurs in the number of the member's regular or usual hours of employment, or
 - (c) any other material change occurs in or in relation to the employment.
- (4) The questions specified in paragraph (2) shall be decided as soon as is reasonably practicable after the person becomes a member of the Scheme in respect of the relevant employment.

Decisions as to benefits

J3.—(1) Any question as to whether a person is entitled to a benefit under these regulations is to be decided by the Committee.

(2) Where a person is or may become entitled to a benefit payable out of the fund, the Committee shall decide the amount of the benefit.

(3) In this regulation “benefit” includes a return of contributions and a benefit specified in regulation F6(11) or (14) of the 1992 regulations.

(4) The decision under paragraph (1) shall be made as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee and that under paragraph (2) as soon as is reasonably practicable after the occurrence of the event by virtue of which the entitlement arises or may arise.

Notification of decisions

J4.—(1) A body which has decided any question under regulations J1 to J3 shall, as soon as is reasonably practicable after doing so, send a written notification of its decision to every person whose rights or liabilities are affected.

(2) The notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision,
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated,
- (c) in the case of a notification under (a) or (b) 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;
 - (ii) to his right under regulation J5 to make an application to an appointed person, the address at which he may be contacted and his job title; and
 - (iii) to his right under regulation J7 to apply to the Committee for a reconsideration of the matter within the time limit referred to in that regulation.
- (d) in the case of a decision by a LGPS employer made under regulation J2(1), a conspicuous statement directing the person's attention—
 - (i) to the address from which he may obtain further information about the decision, and
 - (ii) to his right of appeal to the county court under regulation J10.

Appointment of persons to resolve disputes

J5.—(1) The Committee shall appoint a panel of persons it considers to be suitably qualified for resolving disagreements in respect of which an application is made under regulation J6(1).

(2) The members of such a panel are the appointed persons for the purposes of this Part of the regulations.

(3) A disagreement in respect of which an application is made under regulation J6(1) may be decided by one or more appointed persons.

(4) An appointed person shall hold and vacate office under the terms of the instrument under which he is appointed by the Committee but may resign by notice in writing to the Committee.

(5) The Committee shall prescribe the procedure to be followed by the appointed persons in the exercise of their functions under these regulations and the manner in which their functions are to be exercised.

(6) An application under regulation J6 shall not be referred to an appointed person for a decision where the appointed person has previously been involved in the subject matter of the disagreement.

Application for a decision

J6.—(1) Where a complainant disagrees with a decision made under regulations J1(3), J2(2) and J3 in relation to the Scheme, the complainant may make a written application—

- (a) to the appropriate appointed person, or
- (b) to the Committee to refer to the appointed person to give a decision on such a disagreement.

(2) An application under this regulation may be made or continued on behalf of a complainant by a representative nominated by him.

(3) Where a complainant dies or is a minor or is otherwise incapable of acting for himself, an application may be made or continued on his behalf—

- (a) in the case of his death, by his personal representative, or
- (b) in any other case, by a member of his family or some other person suitable to represent him.

(4) An application for a decision shall set out particulars of the disagreement in respect of which a decision is sought.

(5) The particulars shall include—

- (a) where the complainant is a person described in either regulation J11(a)(i), (iii) or (iv) or a person claiming to be such under regulation J11(a)(v), the full name, address, date of birth, national insurance number (if applicable) of the complainant and the name of his employing authority;
- (b) where the complainant is a person described in regulation J11(a)(ii), or a person claiming to be such under regulation J11(a)(v), the full name, address and date of birth of the complainant, his relationship to the member and the full name, date of birth and national insurance number of the member and the name of his employing authority;
- (c) the full name and address of any representative acting on behalf of the complainant and whether such address is the address to be used for service on the complainant of any documents in connection with the disagreement;
- (d) a statement as to the nature of the disagreement with sufficient details to show why the complainant is aggrieved; and
- (e) a copy of any written notification issued under regulation J4(1).

(6) The application shall be signed by or on behalf of the complainant.

(7) An appointed person shall not consider an application unless it is received by him before the end of the period of six months beginning with the relevant date or such further period as the appointed person considers reasonable.

(8) Where the disagreement relates to a decision notified under regulation J4(1), the relevant date is the date of that notification.

(9) In any other case, the relevant date is the date of the act or omission complained of or, if there is more than one of them, the last of them.

(10) The appropriate appointed person in relation to a complainant is any appointed person appointed by the Committee.

Notice of a decision

J7.—(1) Subject to paragraph (3), a decision on the matters raised by an application under regulation J6 shall be issued by the appointed person to the complainant or where applicable, his representative by notice in writing within two months from the date on which the particulars specified in regulation J6(5) were received.

(2) The notice shall include—

- (a) a statement of the decision;
- (b) a reference to any legislation relied upon;
- (c) a reference to such parts of these regulations relied upon and, where a discretion has been exercised, a reference to such parts of these regulations by which such discretion is conferred;
- (d) a reference to the right of the complainant to refer the disagreement for reconsideration by the Committee within the time limit described in regulation J8(1); and

- (e) a statement that OPAS (the Pensions Advisory Service)(31) is available to assist members and beneficiaries of the Scheme in connection with any difficulty with the Scheme which remains unresolved and the address at which OPAS may be contacted.

(3) If, in any case, written notice of a decision under this regulation is not issued within two months from the date on which particulars of the disagreement were received, an interim reply must immediately be sent to the complainant or, where applicable, his representative, setting out the reasons for the delay and an expected date for issuing the decision.

Referral of disagreement to the Committee

J8.—(1) An application to the Committee to reconsider a disagreement in respect of which a decision referred to in regulation J6 has been made may be made by the complainant or a representative nominated by him within six months from the date of the notice of the decision and shall set out particulars of the grounds on which the application is made.

(2) The particulars shall include—

- (a) where the application is made by or on behalf of the complainant, the matters referred to in regulation J6(5);
- (b) a copy of the notice of the decision made under regulation J7;
- (c) a statement of the reasons why the complainant is dissatisfied with the decision made under regulation J7; and
- (d) a statement that the complainant wishes the disagreement to be reconsidered by the Committee.

(3) An application may also be made by a complainant or a representative appointed by him to the Committee to consider a disagreement and to make a decision where an application has been made to an appointed person under regulation J6 and that person has failed to issue—

- (a) a written notice of a decision or an interim reply within three months from the date on which the application was made; or
- (b) where an interim reply has been sent, a written notice of decision within one month from the expected date for issuing the decision stated in that reply.

(4) An application made under paragraph (3) shall set out particulars of the grounds on which the application is made which shall include—

- (a) the matters referred to in regulation J6(5); and
- (b) a statement that the complainant wishes the disagreement to be considered by the Committee.

(5) An application made under this regulation shall be signed by or on behalf of the complainant as appropriate.

Notice of decision from the Committee

J9.—(1) Subject to paragraph (3), the Committee shall issue to the complainant or, where applicable, his representative, a notice in writing of its decision on the matters raised under regulation J8 within two months from the date on which the particulars specified in regulation J8(2) or J8(4) are received by it.

(2) The notice shall include—

(31) OPAS Limited is a company limited by guarantee under the Companies Act 1985 (c. 6): registered number 2459671. The Occupational Pensions Advisory Service's address for correspondence is 11 Belgrave Road, London, SW1V 1RB

- (a) a statement of the decision and an explanation as to whether and, if so, to what extent that decision either confirms or replaces the decision made under regulation J7;
- (b) a reference to any legislation relied upon;
- (c) a reference to such parts of these regulations as were relied upon and, where a discretion has been exercised, a reference to such parts of these regulations by which such discretion is conferred;
- (d) a statement that OPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of the Scheme in connection with any difficulty with the Scheme which remains unresolved and the address at which OPAS may be contacted; and
- (e) a statement that the Pensions Ombudsman appointed under section 145(2) of the Pension Schemes Act 1993⁽³²⁾ may investigate and determine any complaint or dispute of fact or law in relation to the Scheme made or referred in accordance with that Act and the address at which he may be contacted.

(3) If, in any case, written notice of a decision under this regulation is not issued within two months from the date on which particulars of the disagreement were received under regulation J8, an interim reply must immediately be sent to the complainant or, where applicable, his representative setting out the reasons for the delay and an expected date for issuing the decision.

Referral of decisions under regulation J2(1) to the county court

J10. Where a LGPS employer has either decided or failed to decide any such question as is mentioned in regulation J2(1), that question shall be determined by the county court having jurisdiction in the county in which such member or person as is mentioned in regulation J2(1) is employed or was last employed or, where that member or person is employed in 2 or more counties, in one of those counties.

Definitions

J11. In this Part—

- (a) “complainant” means a person who is—
 - (i) an active member, deferred member or pensioner member of the Scheme;
 - (ii) a widow, widower or surviving dependant of a deceased member of the Scheme;
 - (iii) a prospective member of the Scheme;
 - (iv) a person who ceased to be within any of the categories of persons referred to in sub-paragraphs (i) to (iii) above within the six months immediately preceding the date of an application under regulation J6 of these regulations; and
 - (v) where there is a disagreement which relates to a question whether a person who claims to be such a person as is mentioned in sub-paragraphs (i) to (iv) is such a person, the person so claiming;
- (b) “active member”, “deferred member” and “pensioner member” have the meaning given in Article 121(1) of the Pensions Order⁽³³⁾ and in this Part of the regulations, a reference to “a member” shall, where the context permits, include a reference to a prospective member, a deferred member and a pensioner member as appropriate;
- (c) “prospective member” means any person who, under the terms of his contract of service or these regulations—
 - (i) is able, at his own option, to become a member of the Scheme,

⁽³²⁾ 1993 c. 48

⁽³³⁾ S.I. 1995/3213 (N.I. 22)

- (ii) will become so able if he continues in the same employment for a sufficiently long period,
 - (iii) will be admitted to the Scheme automatically unless he makes an election not to become a member, or
 - (iv) may be admitted to the Scheme subject to the consent of his employer, and
- in relation to a prospective member, the references to his employing authority, LGPS employer and the Committee shall be construed as references to the body that would be such under these regulations were he to become an active member of the Scheme.

Part K

Interchange Etc.

Preliminary

Interpretation

K1. In this Part—

- (a) “contributions equivalent premium” has the same meaning as in section 176 of the Pension Schemes (Northern Ireland) Act 1993⁽³⁴⁾;
- (b) “local Act scheme” has—
 - (i) in relation to any time before 25th March 1972, the same meaning as in the Act of 1937, and
 - (ii) in relation to any time on or after that date, the same meaning as in section 8 of the Act of 1972;
- (c) “pension” does not include an allowance, or grant;
- (d) “retirement annuity contract” means a contract approved by the Commissioners of Inland Revenue under either section 620 or 621 of the Income and Corporation Taxes Act 1988;
- (e) “service” means service or employment with any employer; and
- (f) “state scheme premium” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993.

Transfers out

Outwards transfers

K2.—(1) Subject to regulation K4, where a person has ceased to be a member by virtue of—

- (a) ceasing to be employed in local government employment, or
- (b) a notification under regulation B11 (leaving the Scheme),

and the conditions in paragraph (2) are satisfied, then the Committee shall pay a transfer value in respect of him to be used in accordance with section 91 of the Pension Schemes (Northern Ireland) Act 1993 (ways of taking right to cash equivalent) in one or more of the ways set out in sub-section (2) of that section, at his option.

- (2) The conditions are that—

- (a) he ceased to be a member as described in paragraph (1)—
 - (i) where the transfer value is to be paid to an occupational pension scheme, before his NRD, or
 - (ii) otherwise, at least one year before his NRD;
 - (b) he is a person who—
 - (i) has a statutory pension entitlement,
 - (ii) after ceasing to be a member as described in paragraph (1), has taken up non-local government employment in which he participates in an occupational pension scheme, or
 - (iii) after so ceasing, entered into a contract for a personal pension scheme or a self-employed pension arrangement or an appropriate policy;
 - (c) he has duly made an application in writing to the Committee for a transfer value to be paid and has not subsequently withdrawn it; and
 - (d) if he ceased to be employed in his local government employment before 31st March 1972, the Committee has consented to the payment of the transfer value.
- (3) For the purposes of paragraph (2)(c) an application is only duly made if—
- (a) in the case of a request for the transfer value to be paid to an occupational pension scheme, it is made before the applicant's NRD;
 - (b) in any other case, it is made—
 - (i) at least one year before the applicant's NRD, or
 - (ii) before the expiry of the period of six months beginning with the date on which he ceased to be a member,whichever is the later; and
 - (c) in the case of a person within paragraph (2)(b)(ii) or (iii), it is made within 12 months after the applicant took up the non-local government employment or, as the case may be, entered the contract (or such longer period as the Committee may in any particular case allow).
- (4) A person who has made an application under paragraph (2)(c) may withdraw it by giving notice in writing to the Committee, but such a notice is of no effect if, before receiving it, the Committee has entered into an agreement with a third party to use the whole or part of that person's transfer value in one or more of the ways specified in section 91(2) of the Pension Schemes (Northern Ireland) Act 1993.
- (5) A person who withdraws an application may make another.
- (6) Where a person is entitled to separate preserved benefits by virtue of regulation D12(1)(c)—
- (a) he may make an application under paragraph (2)(c) in respect of all or any of those separate entitlements, and
 - (b) where his application does not relate to all of them, he may make a further application in respect of all or any of the remainder.

Time for payment of transfer value under regulation K2

K3.—(1) Where an application is duly made to the Committee under regulation K2(2)(c) in respect of any person, it shall pay a transfer value not later than—

- (a) six months after the date on which it receives the application, or
- (b) if—
 - (i) his NRD is earlier,

(ii) he ceased to be a member as described in regulation K2(1) at least one year before his NRD, and

(iii) he made his application under regulation K2(2)(c) before the expiry of the period of six months beginning with the date on which he ceased to be a member, his NRD.

(2) Where—

- (a) proceedings before a court have been commenced against a person at any time before the expiry of the period of six months beginning with the date on which he ceased to be a member,
- (b) those proceedings (including any proceedings on appeal) have not been concluded at least three months before the date by which the Committee is required to pay the transfer value under paragraph (1), and
- (c) it appears to the Committee at that date that the proceedings may lead to all or any part of the benefits payable under these regulations to or in respect of that person being forfeited under regulation H4,

then the Committee need not pay a transfer value in relation to that person until the expiry of the period of three months beginning with the date on which those proceedings are concluded.

Cases where right to transfer value excluded

K4.—(1) 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,
- (b) who ceased to be employed in local government employment on or after 6th April 1978, having attained state pensionable age, and whose accrued rights for the purposes of regulation K5 relate wholly or partly to service before he attained that age;
- (c) 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
- (d) who, on becoming employed in approved non-local government employment became entitled to count service in his local government employment in relation to his approved non-local government employment, without any condition as to receipt of a transfer value.

(2) Subject to paragraph (3), in relation to a person who has received a return of contributions in respect of local government employment in which he has ceased to be employed, a transfer value may only be paid in relation to any period in respect of which he is entitled to preserved benefits.

(3) 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 five years' total membership; 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 membership in respect of which he is entitled to preserved benefits.

Amount of transfer value under regulation K2

K5.—(1) The amount of any transfer value payable under regulation K2 shall be calculated in accordance with the following provisions.

(2) Subject to the provisions of this Part, a transfer value to be paid in accordance with the provisions of regulation K2 in respect of a person shall be an amount equal to the capitalised value—

- (a) of the rights which have accrued in respect of him under these regulations at the material date, and
- (b) of any associated rights under the Pensions (Increase) Act (Northern Ireland) 1971⁽³⁵⁾ and the Pensions Increase Order (Northern Ireland) 1974⁽³⁶⁾,

less a sum in respect of any state scheme premium which is payable or has been paid and not recovered in respect of a period of membership taken into account in the valuation of those rights.

(3) Subject to regulation K9, where the transfer value is, without reasonable cause or excuse, not paid before the expiry of the period of six months beginning with the material date, the transfer value mentioned in paragraph (2) shall be increased by—

- (a) interest, calculated on a daily basis over the period from the material date to the date on which the transfer value is paid at the rate set out in regulation 10(2)(a) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽³⁷⁾, or
- (b) the amount by which the transfer value falls short of what it would have been if the material date had been the date on which the transfer value was paid,

whichever is the greater.

(4) The reference in paragraph (2)(a) to rights which have accrued at the material date is a reference—

- (a) in the case of such a person as is described in regulation K2(6), to those rights in respect of which his application under regulation K2(2)(c) was made; or
- (b) if the person does not have a statutory pension entitlement by virtue of satisfying paragraph (a) of regulation D3, to the rights which would have accrued under regulation D11,

and for the purpose of determining the accrued rights in respect of a widow's or widower's pension of a person who was unmarried on ceasing to be a member—

- (i) in the case of a man, if any part of his membership can be counted by virtue of regulation K15(1)(a) or regulation 70(1)(a) of the 1981 regulations; and
- (ii) in the case of a woman, if any part of her membership is treated as membership after 31st March 1972 by virtue of regulation K15(1)(a) and (2)(b),

all the person's membership shall be taken into account.

(5) In paragraph (2) “capitalised value” means the capitalised value at the material date as determined by the Committee, in such manner as may be approved by the Government Actuary, having regard to investment conditions and the contingencies on which benefits are, or are to be, payable under these regulations.

(6) In this regulation “the material date” means—

- (a) the date on which the person ceased to be employed in local government employment or to be a member as described in regulation K2(1), or
- (b) the date on which his application for payment of a transfer value is received by the Committee,

whichever is later.

Special provision as respects pre-6th April 1988 service

K6.—(1) Subject to regulation K9, where—

⁽³⁵⁾ 1971 c. 35 (N.I.)
⁽³⁶⁾ 1974/1267 (N.I. 2)
⁽³⁷⁾ S.R. 1996 No. 619

- (a) a transfer value is payable to the trustees or managers of an approved non-local government scheme,
- (b) the service to which it relates includes relevant former service, and
- (c) the amount of the transfer value payable in respect of the relevant former service would be greater if it were calculated in accordance with the 1981 regulations as they had effect immediately before 6th April 1988,

then the amount of the transfer value attributable to the relevant former service shall be calculated on the basis mentioned in paragraph (c).

(2) In paragraph (1) “relevant former service” means service which the person was entitled to count as reckonable service before 6th April 1988.

Reductions of the transfer value: unsecured GMPs, pre-1988 service and forfeiture

K7.—(1) There must be deducted from the transfer payment to be made in respect of any person the amount of any contributions equivalent premium payable pursuant to section 51 of the Pension Schemes (Northern Ireland) Act 1993.

(2) Where—

- (a) a person has ceased to be a member by virtue of a notification under regulation B11 (leaving the Scheme), and
- (b) his total period of membership before 6th April 1988 amounts to at least two years,

that person shall be entitled to a transfer value under regulation K2(1) in respect only of that part of his accrued rights which is attributable to his membership after 5th April 1988.

(3) Where—

- (a) a transfer value limited in accordance with paragraph (2) has been paid in respect of a person, and
- (b) that person has subsequently ceased to be employed in local government employment—
 - (i) before his NRD, or
 - (ii) where regulation K2(3)(b) applies, at least one year before his NRD,

a right to a transfer value in respect of any part of his accrued rights to which, but for the operation of paragraph (2), he would have been entitled on so ceasing, shall accrue to him on the date of cessation and shall be valued accordingly.

(4) In relation to any person to whom paragraph (3) applies—

- (a) regulation K2(3)(b)(ii) shall have effect as if there were substituted for the words “a member” the words “employed in local government employment”; and
- (b) the definition of “material date” in regulation K5(6) shall have effect as if the words “or to be a member, as described in regulation K2(1)” were omitted.

(5) For the purposes of paragraphs (2) to (4), where a person ceases to be employed in local government employment but enters again into local government employment, then if—

- (a) the interval between those two employments does not exceed one month; or
- (b) the second of the employments results from the exercise of a right to return to work under Article 111 of the Employment Rights (Northern Ireland) Order 1996⁽³⁸⁾ (right to return to work following pregnancy or confinement),

they shall be treated as a single employment unless the employee elected under regulation D12(1)(c).

(6) Where—

(38) S.I. 1996/1919 (N.I. 16)

- (a) under regulation H4, any corresponding provision of earlier legislation or a local Act scheme, the employing authority directs that all or any of the benefits payable under these regulations in respect of a person shall be forfeited, and
- (b) the direction is given before the last date on which the Committee is required to pay a transfer value in respect of those benefits under these regulations and no such payment has been made,

any transfer value payable in respect of that person shall be reduced in proportion to the reduction in the total value of the benefits or, as the case may be, shall be withheld.

Minimum transfer values

K8.—(1) Subject to regulations K9 and K10, a transfer value paid by the Committee in respect of a person shall be at least equal to the aggregate of the contributions, transfer values and sums mentioned in paragraph (2) less any contributions equivalent premium paid or payable by the Committee.

(2) The contributions, transfer values and sums referred to in paragraph (1) are—

- (a) any contributions made by that person under Part C (other than contributions under regulation C24), and
- (b) any transfer values paid to the Committee under this Part in respect of that person,

in so far as those contributions, transfer values or sums relate to the accrued rights in respect of which the transfer value is paid.

(3) A transfer value paid under this Part shall be at least equal in amount to the cash equivalent, if any, to which a person would otherwise be entitled under Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993 (including any contributions equivalent premium which is paid or payable).

Modifications where transfer is to club scheme

K9.—(1) Regulations K5(3), K6, and K8(1) do not apply where the transfer value is to be paid to the trustees or managers of a club scheme.

(2) In this Part “club scheme” means an occupational pension scheme which—

- (a) provides benefits calculated by reference to the remuneration of the participant;
- (b) (except where it is established and maintained in the Channel Islands or the Isle of Man) is approved by the Commissioners of Inland Revenue under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988⁽³⁹⁾;
- (c) is open to new participants, or is a closed scheme the trustees or managers of which also provide an open scheme which is a club scheme for new employees of the same employer and of the same grade or level of post as the participants in the closed scheme; and
- (d) complies with reciprocal arrangements for the payment and receipt of transfer values with the statutory schemes and schemes made under Article 9 of the Order of 1972.

Modification in connection with persons to whom regulation K17 applies

K10. Regulation K8(1) does not apply where the transfer value is in respect of a person to whom regulation K17 applies and in respect of whom a transfer value had previously been accepted by the Committee applying paragraphs (3) and (4) of that regulation.

(39) 1988 c. 1

General provisions about payment of transfer values

K11.—(1) The transfer value under regulation K2 shall be paid to the scheme managers by the Committee out of the fund.

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

(3) A notice provided under paragraph (2) shall include a statement of the kind required by regulation J4(2)(c).

Termination of right to payment out of the fund

K12.—(1) Where a transfer value is to be or has been paid under regulation K2, no other payment or transfer of assets shall be made out of the fund on account of the service to which the transfer value relates, except as provided in regulation K13.

(2) Paragraph (1) has effect notwithstanding anything to the contrary in the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme, the 1981 regulations, the 1992 regulations (except regulations J3 and J6) or any other provision of these regulations.

Revival of rights for certain Community scheme transferees

K13.—(1) Schedule K1 shall have effect for the purpose of making provision as respects persons—

- (a) in respect of whom transfer values are paid under regulation K2 on their transfer to the Communities' scheme, and
- (b) who subsequently leave that scheme without rights to either an immediate or prospective pension.

(2) In this regulation and that Schedule “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.

Transfers in

Inward transfers

K14.—(1) Where a person who becomes a member has accrued rights to benefit under—

- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract approved by the Commissioners of Inland Revenue under section 620 or 621 of the Income and Corporation Taxes Act 1988, or
- (d) a self-employed pension arrangement,

he may within 12 months of becoming a member (or such longer period as the Committee may allow) give written notice to the Committee that he wishes it to accept a transfer value in respect of some or all of those accrued rights from the relevant transferor.

(2) In paragraph (1) the reference to accrued rights to benefit—

- (a) includes rights to preserved benefits and rights appropriately secured under section 15 of the Pension Schemes (Northern Ireland) Act 1993, but

- (b) excludes rights to benefits arising out of an additional voluntary contributions provision or an additional voluntary contributions scheme (except where the payments securing such rights began before 8th April 1987).
- (3) In paragraph (1) “the relevant transferor”, in relation to a member, means—
 - (a) the trustees or managers of the scheme, contract or arrangement under which his accrued rights arise, or
 - (b) in the case of such rights as mentioned in paragraph (2)(a), the trustees or managers of the scheme, contract or arrangement, or the insurance company, to which a payment in respect of his accrued rights has been made.
- (4) Subject to paragraphs (5) and (6), where notice is given in accordance with paragraph (1), the transfer value shall be accepted by the Committee and be credited to the fund.
- (5) Paragraph (4) only applies if—
 - (a) the transfer value is offered on conditions which are consistent with the provisions of these regulations;
 - (b) in the case of a person who—
 - (i) became employed in his local government employment before 26th August 1977, or
 - (ii) ceased to be employed in his non-local government employment before 31st March 1972,the Committee has consented to the transfer value being accepted; and
 - (c) 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.
- (6) Subject to regulation K18, the Committee only needs to accept a transfer value if it exceeds the annual amount of the guaranteed minimum pension to which the person would have become entitled under these regulations at the request date as a result of the transfer value being accepted, multiplied by the appropriate factor.
- (7) In paragraph (6)—
 - “the request date” means the date when the Committee is requested to accept the transfer value; and
 - “the appropriate factor”, in relation to a person, means—
 - (a) in the case of a person under 30 on the request date, 8;
 - (b) in the case of a person at least 30 but under 40 on that date, 9;
 - (c) in the case of a person at least 40 but under 50 on that date, 10; and
 - (d) otherwise, 12.

Right to count service

K15.—(1) Where a transfer value has been accepted under regulation K14 in relation to a person, he shall be entitled—

- (a) subject to regulation K19(4), (5) and (6), to count a period calculated as mentioned in regulation K16 or, as the case may be, regulation K17, or regulation K18 as a period of membership for all purposes of these regulations (except that of determining whether there is any entitlement to benefit (other than any benefit under regulation D18)), and
- (b) to count as a period to which Part II of Schedule B1 applies all the service in respect of which he has accrued rights to benefits under his previous occupational pension scheme or appropriate policy, as certified by the trustees or managers of that scheme or issuers of that policy, whether the transfer value relates to some or all of those accrued rights.

(2) For the purposes of making any calculation under these regulations a period of membership which may be counted under paragraph (1)(a) shall be treated—

- (a) where the person is a man, as a period after 5th April 1978, and
- (b) subject to regulation K17(6) where the person is a woman, as a period after 31st March 1972.

(3) A period which may be counted 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 membership which he is entitled to count under paragraph (1)(a) and (b).

(5) A notice under paragraph (4) shall contain a statement of the kind required by regulation J4(2)(c).

Calculation of period of membership allowed under regulation K15(1)(a): non-club schemes

K16.—(1) Subject to regulation K18—

- (a) the period mentioned in regulation K15(1)(a) shall be calculated in a manner consistent with the methods adopted and assumptions made by the Committee in determining the amount of transfer values to be paid to occupational pension schemes (other than club schemes) under regulations K5, K7 and K8; and
- (b) due allowance shall be given for the expected increase in the pensionable remuneration of a local government employee between—
 - (i) the appropriate date, and
 - (ii) the NRD of the person in respect of whom the transfer value was paid.

(2) In paragraph (1)(b)(i) “the appropriate date” means—

- (a) the date on which the person in respect of whom the transfer value is paid became a member, or
- (b) if more than twelve months later, the date on which the transfer value is received.

Mis-sold pensions

K17.—(1) This regulation applies to a person who, during any period—

- (a) was eligible to be a member of the Scheme;
- (b) opted out of, or chose not to become a member of, the Scheme and instead was a member of a personal pension scheme or made contributions to a personal pension arrangement; and
- (c) has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986⁽⁴⁰⁾ (actions for damages in respect of contravention of rules etc. made under the Act).

(2) Where, at any time after 8th April 1997, a person to whom this regulation applies—

- (a) dies when still a member, or
- (b) becomes entitled to benefits under Part D,

before the transfer payment referred to in paragraph (3) has been paid to the fund in respect of him, paragraphs (3) and (4) shall continue to apply in the case of that person.

(3) Paragraph (4) shall apply where—

⁽⁴⁰⁾ 1986 c. 60

- (a) a transfer value in relation to a person to whom this regulation applies has been calculated in a manner consistent with the methods adopted and assumptions made by the Committee in determining a restitution payment; and
- (b) the Committee is satisfied that—
 - (i) the transfer value is adequate to restore the position in relation to that person to what it would have been if the person had been a member of the Scheme throughout the relevant period, or
 - (ii) the transfer value represents an amount which will provide such period of service as the Committee may approve in respect of the relevant period.
- (4) Where this paragraph applies in relation to a person—
 - (a) the period mentioned in regulation K15(1)(a) shall be equal to the period which the person would have been entitled to count as his period of membership if he had been a member of the Scheme throughout the relevant period or such shorter period as the Committee may approve; and
 - (b) the person shall be entitled to count the whole of the relevant period as a period to which Part II of Schedule B1 applies (total period of membership to include former and related membership for some purposes of entitlement etc.).
- (5) In the case of a member to whom this regulation applies who has been credited with an additional period of membership calculated as specified in regulation K16 (calculation of period of membership allowed under regulation K15(1)(a): non club schemes), the Committee may adjust the amount of the period of membership or period of total membership referred to in paragraph (4)(a) and (b) on account of the transfer value payment by reference to which that additional period of membership was credited.
- (6) Where a transfer payment has been accepted in relation to a woman to whom this regulation applies and in respect of whom a transfer value had been paid previously by the Committee to a personal pension scheme or a personal pension arrangement any part of which transfer value was attributable to membership before 1st April 1972, then the period of membership which may be counted under regulation K15(1) shall be apportioned as membership in the same proportions as it would have been had the woman become or remained a member of the Scheme throughout the relevant period.
- (7) In this regulation—
 - “opted out period” means any period throughout which the person was eligible to be a member of the Scheme but instead was a member of a personal pension scheme or made contributions to a personal pension arrangement,
 - “personal pension arrangement” means a contract or arrangement referred to in regulation K14(1)(c) or (d),
 - “relevant period” means the total of the opted out period and, if applicable, any period of transferred out service,
 - “restitution payment” has the same meaning as in regulation K20(5), and
 - “transferred out service” means service which the person transferred out of the Scheme to a personal pension scheme by exercising a right to a cash equivalent under regulation K2.

Special provision where transfer is from a club scheme

K18.—(1) Regulation K14(6) does not apply where the transfer value is offered by the trustees or managers of a club scheme.

- (2) Where the transfer value—
 - (a) is paid by the trustees or managers of a club scheme,

- (b) represents all the rights relating to the person in that scheme,
- (c) has been calculated in a manner consistent with the methods adopted and assumptions made by the Committee in determining the amount of transfer values to be paid to club schemes, and
- (d) is paid following an application made to the Committee before the expiry of the period of twelve months beginning with the date on which the person becomes a member,

regulation K16 does not apply and the period mentioned in regulation K15(1)(a) shall be equal to the period which, if used to calculate a transfer value to be paid to a club scheme, would produce an amount equal to the transfer value received by the Committee.

(3) In making the calculation referred to in paragraph (2), regard shall be had—

- (a) to the person's age,
- (b) to the rate of remuneration used by the trustees or managers of the scheme making the payment in determining its amount,
- (c) to his normal retirement age,
- (d) to his marital status, and
- (e) to any other factor notified to the Committee by the trustees or managers of the scheme making the payment as having been taken into account in determining its amount.

Increase in return of contributions

K19.—(1) Where—

- (a) a person to whom regulation K15 applies ceases to be employed in employment in which he is a member in circumstances in which a return of contributions is payable to him under regulation C21(1),
- (b) if a transfer value had not been payable, he would have been entitled on the termination of his non-local government employment to a return of contributions under his non-local government scheme in respect of service to which the transfer value accepted under regulation K14 relates, and
- (c) no previous increase has been made under this regulation in relation to that service,

the sum due to him under regulation C21(1) 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 sub-paragraph (b), if it had been paid when the transfer value was received by the Committee.

(2) Where compound interest is payable on the contributions due to be so returned, compound 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 with the date on which he ceased to be employed in the employment in which he was a member.

(3) Nothing in paragraphs (1) and (2) confers 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) a sum due under regulation C21(1) 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
- (b) that is the only service to which the transfer value relates,

his right to count a period of membership under regulation K15(1)(a) on account of the transfer value shall be extinguished when the increased payment is made.

(5) Where—

- (a) a sum due under regulation C21(1) is increased under paragraph (1), and
- (b) paragraph (4) does not apply,

then, when the increased payment is made, the period of membership the person is entitled to count under regulation K15(1)(a) on account of the transfer value is reduced to the appropriate fraction of the period of membership which he was entitled so to count before the payment was made.

(6) In paragraph (5) “the appropriate fraction” means the fraction of which—

- (a) the numerator is the period he is entitled to count under regulation K15(1)(b) (“the K15(1)(b) period”) reduced by the period of service on account of which the increase under paragraph (1) is made, and
- (b) the denominator is the K15(1)(b) period.

(7) For the purpose of calculating the reduction under paragraph (5)—

- (a) the period of service mentioned in paragraph (6)(a) shall count at its actual length; and
- (b) all periods are to be expressed in years and fractions of a year.

Provision of information, charging and prescribed persons

K20.—(1) For the purposes of Article 164(1) of the Pensions Order (prescribed circumstances in which information may be provided) (“the prescribed circumstances”) the prescribed circumstances are that the individual to whom the information relates, or, where he has died, his personal representatives, has requested or consented in writing to the provision of the information.

(2) For the purposes of Article 164(1) of the Pensions Order (persons to whom information may be provided and the imposition of reasonable fees in respect of expenses incurred in providing that information) the prescribed persons are those persons described in paragraph 1 of Schedule K2.

(3) For the purposes of Article 164(2) of the Pensions Order (persons on whom fees may be imposed in respect of administrative expenses incurred in connection with admission, readmission or payment) the prescribed persons are the persons referred to in paragraph 2 of Schedule K2.

(4) For the purposes of Article 164(4) of the Pensions Order (person prescribed in place of the Department in the case of an occupational pension scheme under Article 9 of the Order of 1972) the Committee is a prescribed person.

(5) Where—

- (a) information is requested by a prescribed person in the prescribed circumstances in relation to an individual to whom regulation K17 applies for the purpose of establishing what payment would need to be made to the Scheme in respect of the individual to restore the position to what it would have been if the individual had been an active member of the Scheme throughout the period in question (“the restitution payment”), or
- (b) an individual to whom regulation K17 applies, applies to become a member of the Scheme or applies to have a restitution payment accepted having become a member of the Scheme after the period in question

the Committee shall calculate the restitution payment in accordance with the provisions of paragraphs 3 to 5 of Schedule K2.

Transfers of certain members who are eligible to join approved non-local government schemes

Certain members who become subject to other pension schemes in the same employment

K21.—(1) This regulation applies to a person if—

- (a) he is a member by virtue of being an employee to whom an admission agreement applies;
- (b) the body employing him in that employment (“the relevant employment”) can make other provision for his superannuation under an approved non-local government scheme;
- (c) he gives written notice to that body (and to the Committee, if different) that he wishes this regulation to apply to him and it consents to its doing so.

(2) When a person to whom this regulation applies becomes subject in the relevant employment to an approved non-local government scheme (“the new scheme”), he shall be treated for the purposes of these regulations (except regulations C23 (return of contributions) and K2 to K13) as having ceased to hold the relevant employment.

(3) Unless a person to whom this regulation applies has given notice under regulation K22(3)(b), he may, on the actual termination of the relevant employment (but not before), request the payment of a transfer value under regulation K2.

(4) If a transfer value is requested as mentioned in paragraph (3)—

- (a) regulations K2 to K13 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, and
- (b) regulations K5, K7 and K8 apply as if his local government employment had ended on the day before he became subject to the new scheme.

Requests for transfer payments: regulation K21 employees and employees of ineligible employers

K22.—(1) This paragraph applies—

- (a) to a person who ceases to be a member because—
 - (i) the undertaking in which he is employed is transferred to a body which is not a LGPS employer nor a body which has entered into an admission agreement; or
 - (ii) the body by which he is employed ceases to be a LGPS employer or a body which is party to an admission agreement,
 and in respect of which the body employing him after the transfer date can make other provision under an approved non-local government scheme; and
- (b) to a person to whom regulation K21 applies;

and in this regulation “the transfer date” means—

- (i) in the case of a person within paragraph (a)(i), the date of the undertaking,
- (ii) in the case of a person within paragraph (a)(ii), the date his employer ceases to be such an employer as there mentioned, and
- (iii) in the case of a person within paragraph (b), the date on which he becomes subject to an approved non-local government scheme.

(2) A person within paragraph (1)(a) shall be treated for the purposes of these regulations as having ceased to hold his employment on the transfer date.

(3) Where—

- (a) a person to whom paragraph (1) applies has not attained state pensionable age on the transfer date; and
 - (b) before that date or, with the consent of his employing authority, the Committee and the scheme managers of the transferee scheme, before the expiry of the period of twelve months or such longer period as is agreed by those persons beginning with that date—
 - (i) he gives written notice to the Committee (and to his employing authority) that he wishes to transfer his pension rights under these regulations to the transferee scheme, and
 - (ii) the scheme managers of the transferee scheme, the Committee (and his employing authority) have each consented,then, subject to paragraph (6), the Committee shall set aside the appropriate part of the fund (“the transfer payment”), whether in cash or in assets or both, and pay or transfer it to the scheme managers of the transferee scheme for the benefit of the relevant beneficiaries.
- (4) For the purposes of paragraph (3), the appropriate part of the fund is the amount determined by the Scheme’s actuary (on the basis of actuarial assumptions specified by him) to be equal to the value at the transfer date of the actual and potential liabilities of the fund which have then accrued in respect of the relevant beneficiaries, after making such adjustments as he thinks fit as respects—
- (a) any period between the transfer date and the date of actual payment of the transfer value; and
 - (b) such other matters as he thinks fit;
- and in paragraph (3) and this paragraph “relevant beneficiaries” means the member or members in respect of whom the transfer payment is made and those persons who under these regulations are or may become entitled to benefit through him or them.
- (5) The employing authority shall bear the costs of determining the appropriate part of the fund and apportioning the fund or, if there is more than one employing authority involved, each shall bear such part of the costs as the Scheme’s actuary determines.
- (6) Where a transfer payment in respect of a person is made under paragraph (3)—
- (a) if the transferee scheme is contracted-out and the scheme managers undertake to accept liability for that person’s guaranteed minimum pension, no deduction shall be made for that pension from the transfer payment;
 - (b) otherwise, there shall be deducted from it the amount of any contributions equivalent premium payable pursuant to section 51(2) of the Pension Schemes (Northern Ireland) Act 1993,
- and such amount shall be used either in paying such a premium or, if the Committee thinks fit, in preserving the liability for the guaranteed minimum in the fund; and
- (c) the Committee—
 - (i) shall certify to the scheme managers of the transferee scheme the amount included in the transfer payment which represents the person’s contributions and interest on them, and
 - (ii) may require them to undertake to treat only those amounts as employee’s contributions in the transferee scheme.
- (7) The Committee—
- (a) shall provide the person transferring his pension rights with sufficient information in writing to check that the pension rights he will acquire under the new scheme are at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers of the transferee scheme under regulation K2; and

(b) shall not consent under paragraph (3)(b)(ii) unless it is satisfied of that fact.

(8) Where a transfer payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made out of the fund on account of service or employment to which the transfer payment under this regulation relates.

(9) Paragraph (8) applies notwithstanding anything in the former regulations and these regulations.

(10) In this regulation “undertaking” has the same meaning as in the Transfer of Undertakings (Protection of Employment) Regulations 1981(41).

Part L

Pension Fund and Payments by Employers

The pension fund

Continuation of existing superannuation fund

L1. The superannuation fund maintained immediately before the commencement date under the 1992 regulations shall continue to be maintained for the purposes of these regulations by the Committee.

Accounts audit and annual report

Accounts audit and annual report

L2.—(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 three 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 two 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;

(41) [S.I. 1981/1794](#); regulation 2(1) was partially repealed by the Trade Union Reform and Employment Rights Act 1993 (c. 19), sections 33(1), (2), 51, Schedule 10

- (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 its proceedings during the preceding year, and the Department shall lay a copy of such report before the Assembly.

Valuations and rates of contributions and adjustments

Valuations of fund

- L3.**—(1) The Committee—
- (a) shall obtain an actuarial valuation of the assets and liabilities of the fund as at 31st March in the year 2001 and in every third year afterwards, together with a report by the actuary; and
 - (b) shall for that purpose provide the actuary with the consolidated revenue account of the fund and such other information as he may require.
- (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) Immediately the Committee receives any such valuation and report it shall—
- (a) send copies of them—
 - (i) to the Department,
 - (ii) to each body whose employees contribute to the fund, and
 - (iii) to any other body which is or may become liable to make payments to the fund in respect of pensions; and
 - (b) send to the Department—
 - (i) a copy of the consolidated revenue account with which the actuary was provided, and
 - (ii) a summary of the assets of the fund at the date as at which the valuation was made (unless such summary is contained in the report).
- (4) Where an admission agreement ceases to have effect, the Committee shall obtain an actuarial valuation as at the date of the cessation of the agreement of the liabilities of the employing body as respects the fund and shall send copies of it to that body and to the Department.

Actuary's certificates

- L4.**—(1) The Committee shall, as soon as is reasonably practicable after obtaining a valuation from an actuary under regulation L3(1) or (4), obtain from him a certificate specifying—
- (a) the common rate of employer's contribution, and
 - (b) any individual adjustments,
- for each year of the period of three years beginning with 1st April in the following year.
- (2) For the purposes of paragraph (1), the common rate of employer's contribution is the percentage of the remuneration of its employees who are members which should in the actuary's opinion be paid to the fund by all bodies whose employees contribute to it so as to ensure its solvency, having regard—
- (a) to the existing and prospective liabilities of the fund arising from circumstances common to all those bodies, and

(b) to the desirability of maintaining as nearly constant a rate as possible.

(3) An individual adjustment is any percentage or amount by which in the actuary's opinion contributions at the common rate should in the case of a particular body be increased or reduced, having regard to existing or prospective liabilities of, or of benefits accruing to, the fund arising from circumstances peculiar to that body.

(4) Immediately the Committee receives a certificate under this regulation it shall send a copy of it—

- (a) to the Department,
- (b) to each body whose employees contribute to the fund, and
- (c) to any other body which is or may become liable to make payments to the fund in respect of pensions.

Employers' liability to make payments

Employer's contributions

L5.—(1) An employing authority shall contribute to the fund in each year of any period of three years for which a certificate is required under regulation L4(1), a sum equal to the presumed contribution 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 L4(1)(b).

(2) The employing authority 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 L7, on account of the sum required by paragraph (1) to be paid in that year, a sum equal to the presumed contribution for that interval, 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 L4(1)(b).

(3) For the purposes of paragraphs (1) and (2), the presumed contribution for any period for an employer is a sum equal to the common percentage for the year in question of the remuneration on which contributions have during that period been paid to the fund under regulation C3, C5 or C6 by its employees who are members; and in this paragraph “the common percentage” means the common rate of employer's contribution specified under regulation L4, expressed as a percentage.

(4) Where a standard retirement pension and standard retirement grant are payable under regulation D6, 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 grant before the member has attained normal retirement age.

(5) If all or part of any sum due under paragraph (2) or (4) 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 on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the due date of payment to the date of payment, and compounded with three-monthly rests.

Employer's further payments

L6.—(1) Where immediately before the commencement date any payments remained to be made by an employee and his employer under regulation 43 (added years) of the 1981 regulations his employing authority shall, so long as he remains in its employment, pay to the fund—

- (a) contributions equal to the amounts payable by the employee in respect of his obligations under that regulation by virtue of Schedule C5 or Schedule M2, and
- (b) any payments equal to those payments determined under regulation 43(6) of the 1981 regulations,
- (c) where the amounts payable by the employee—
 - (i) were reduced under proviso (ii) to regulation 43(3) of the 1981 regulations or the corresponding proviso of the former regulations, or
 - (ii) were or are reduced by virtue of the payment of a lump sum under regulation 43(4) of 1981 regulations or Schedule 7 to the 1992 regulations or paragraph 4 of Schedule C4 to these regulations,

contributions equal to the amounts that would have been payable by the employee but for the reduction.

(2) Where—

- (a) on the employee's ceasing to hold his employment the employing authority agrees to pay a sum under paragraph 4A(5)(42) of Schedule 10 to the 1981 regulations (as deemed by virtue of paragraph 9 of Schedule C5 to have continued to have effect); and
- (b) 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 on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the day after the end of the period to the date of payment, and compounded with three-monthly rests.

(4) Any extra charge on the fund resulting from a resolution under regulation D7 (increase of reckonable service) of the 1992 regulations or regulation B15 of these regulations (increase of membership) shall be repaid to the fund by the employing authority concerned.

Payments by employing authorities to the Committee

L7.—(1) Every employing authority other than the Committee shall pay to the Committee, at such intervals of not more than 12 months as the Committee may determine (but in the case of the amounts mentioned in sub-paragraph (a) not later than the time required under Article 49(8) of the Pensions Order—

- (a) all amounts from time to time deducted from the remuneration of its members under these regulations;
- (b) any amount received by it under regulation C7, by deduction from remuneration or otherwise, during the interval; and
- (c) any extra charge payable under regulation L6(1) to (3), the amount of which has been notified to it by the Committee during the interval.

(2) Subject to paragraph (3), every payment under paragraph (1)(a) is to be accompanied by a statement showing—

- (a) the name and remuneration of each of the members in relation to whom the payment is made;

(42) Paragraph 4A(5) was inserted by regulation 13 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1986 (S.R. 1986 No. 294)

- (b) which of those members are paying additional voluntary contributions under regulation C24 or continuing to pay instalments under regulation C7 of the 1992 regulations (as continued in effect by paragraph 1 of Schedule C5);
- (c) the amounts comprised in the payment which represent deductions from the remuneration of each of those members and the periods in respect of which the deductions were made;
- (d) which of those amounts are amounts representing deductions in respect of such contributions or instalments as are mentioned in paragraph (b);
- (e) the amount of the remuneration of those members from or in respect of whom deductions have not been made; and
- (f) the names of any members from whose remuneration no deductions have been made.

(3) The Committee may direct that, instead of complying with paragraph (2), the employing authorities making payments to it under paragraph (1)(a) are to provide it with the information mentioned in paragraph (2) in such form, and at such intervals of not more than 12 months, as may be specified in the direction.

(4) If all or part of any sum due under 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 employing authority concerned to pay interest, calculated and compounded as mentioned in regulation L5(5).

(5) Payments made in pursuance of paragraph (1) shall be carried to the fund.

Transfers, recovery and retention from the fund in misconduct cases

Transfer of sums from the fund to compensate for former member's misconduct

L8.—(1) This regulation applies where—

- (a) a person (“the former employee”) has ceased to hold an employment in which he was a member in consequence of—
 - (i) an offence of a fraudulent character, or
 - (ii) grave misconduct,
 in connection with that employment;
- (b) the body which was his employing authority in that employment (“the former employing authority”) has suffered direct financial loss by reason of the offence or misconduct, and
- (c) the former employee—
 - (i) became entitled to benefits under Part D and a direction has been given under regulation H4(1), or
 - (ii) he did not become so entitled and his total period of membership is less than two years.

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

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

(4) For the purposes of paragraphs (2) and (3), an appropriate amount is an amount which does not exceed—

- (a) the amount of the direct financial loss, or
- (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 C21(4).

(5) Where a payment in lieu of contributions is due or has been made 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 is required to pay a transfer value in respect of the former employee, the former employing authority shall repay the Committee the amount of that payment if requested to do so.

Recovery or retention where former member has misconduct obligation

L9.—(1) This regulation applies where a person (“the former employee”)—

- (a) has ceased to hold an employment, in respect of which he was or had at some time been a member, 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 which was his employing authority in that employment (“the former employing authority”); and
- (c) is entitled to benefits under Part D.

(2) Where this regulation applies the former employing authority may recover or retain out of the fund the amount of the monetary obligation, or if less, 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 membership (other than rights enjoyed by virtue of the receipt of a transfer value from the scheme managers of a non-local government scheme or the trustees or managers of a personal pension scheme, a self-employed pension arrangement, a retirement annuity contract or an appropriate policy).

(3) The power under paragraph (2) may not be so exercised as to deprive a person of his guaranteed minimum pension or, in the event of his leaving a surviving spouse, deprive that spouse of any widow’s or widower’s guaranteed minimum pension, 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⁽⁴³⁾ 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.

(4) The former employing authority shall give the former employee—

- (a) not less than three months’ notice of the amount to be recovered or retained under paragraph (2); and
- (b) a certificate provided by the Committee showing the amount so recovered or retained, the manner in which it is calculated, and the effect of the recovery or retention on his benefits or prospective benefits.

(5) If there is any dispute as to the amount of the monetary obligation mentioned in paragraph (1) (b), the former employing authority may not recover or retain any amount under paragraph (2) until the obligation has become enforceable under an order of a competent court or the award of an arbitrator.

(43) 1911 c. 28; 1920 c. 75; 1939 c. 21; 1989 c. 6.

Certain statutory payments to be met out of the fund

Pension increases and cash equivalents under the Pension Schemes (Northern Ireland) Act 1993

L10.—(1) Any increase in a pension which is required by virtue of Chapter III of Part IV of the Pension Schemes (Northern Ireland) Act 1993⁽⁴⁴⁾ (protection of increases in guaranteed minimum pensions: anti-franking) shall be paid out of the fund.

(2) Any payment which the Committee is required to make as a result of a person's taking a right to a cash equivalent under Chapter IV of that Part shall be made out of the fund.

Pension increases under the Pensions (Increase) Act (Northern Ireland) 1971 and the Pensions Increase (Northern Ireland) Order 1974

L11.—(1) Where a pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971⁽⁴⁵⁾ ("the Act of 1971") has become payable under these regulations out of the fund any increase of the pension under the Act of 1971 or the Pensions Increase (Northern Ireland) Order 1974⁽⁴⁶⁾ shall be paid out of the fund.

Contributions equivalent premium

L12.—(1) Where a LGPS employer pays a contributions equivalent premium under section 51 of the Pension Schemes (Northern Ireland) Act 1993 in respect of any member, it is entitled to recover, or if it is the Committee to retain, out of the fund a sum not exceeding the amount of that premium, less the amount (if any) which it could recover or retain under section 57 of that Act in respect of the premium.

(2) Where a contributions equivalent premium is refunded under regulation 23(3)(c) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985⁽⁴⁷⁾, the Committee shall credit to the fund a sum equal to the amount of the premium.

Constitution and powers of the Committee

Administration and Management

L13.—(1) For the purposes of these regulations the Committee shall be constituted in accordance with Part I of Schedule L1.

(2) The Committee shall have the powers specified in Part II of Schedule L1.

(3) The expenses and allowances payable by the Committee shall be in accordance with Part III of Schedule L1.

⁽⁴⁴⁾ 1993 c. 49

⁽⁴⁵⁾ 1971 c. 35 (N.I.)

⁽⁴⁶⁾ S.I. 1974/1267 (N.I. 2)

⁽⁴⁷⁾ S.R. 1985 No. 259

Part M

Miscellaneous and General Provisions

Modification in special cases

Modifications of regulations in special cases

M1. Schedule M1 has effect for the purposes of modifying these regulations in their application in the cases there mentioned.

Information and records

Information to be supplied by certain employees

M2.—(1) Subject to paragraph (4)—

- (a) within 3 months after a person becomes a member of the Scheme, and
- (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 LGPS employer in relation to which he is a member of the Scheme,

the LGPS employer shall request the person in writing to provide it with the documents specified in paragraph (2).

(2) The documents mentioned in paragraph (1) are—

- (a) a statement in writing of all the person's previous periods of employment whether by a LGPS employer or by any other employer; and
- (b) copies of all notifications previously given to him under these regulations, or the former regulations.

(3) A request under paragraph (1) shall include a conspicuous statement—

- (a) directing the member's attention to the importance of his providing full and accurate information, and
- (b) warning him that any omission or inaccuracy may prejudice the ascertainment of his rights under these regulations.

(4) Paragraph (1) does not apply if the LGPS employer is satisfied that it, or the Committee, already has 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 employing authorities and the Committee

M3.—(1) A LGPS employer is to keep, in such form as it thinks fit, a record of—

- (a) the name of, and
- (b) all its decisions under regulation J2(1) in relation to,

each of its employees who is a member, or a prospective member.

(2) The Committee is to keep, in such form as it thinks fit, a record of—

- (a) the name of, and
- (b) all its decisions under regulation J2(2) in relation to,

every member.

(3) In this Part, “prospective member” has the same meaning as in regulation J11.

Transmission of documents and information

M4.—(1) A LGPS employer other than the Committee is to send to the Committee, as soon as is reasonably practicable—

- (a) copies of all documents provided under regulation M2,
- (b) copies of all notifications of decisions made under regulation J2(1), and
- (c) such other documents and information as the Committee may reasonably require for the purpose of discharging its functions under these regulations.

(2) A LGPS employer other than the Committee—

- (a) on receiving from a member or former member notice of his intended retirement, or
- (b) on giving an employee who is a member or former member 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 the fund,

shall, as soon as is reasonably practicable—

- (i) inform the Committee of the notice or, as the case may be, other circumstances,
- (ii) send it particulars of the member’s or former member’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
- (iii) send it a copy of any relevant medical or death certificate and of any certificate issued by the body under paragraph 4 of Schedule D1 (reduction in remuneration).

(3) When the Committee notifies a person who is not in its employment of a decision under regulation J2(2), it shall send a copy of the notification to the body, if any, which is the employing authority in relation to that person.

Supplementary provisions

Right to opt out

M5.—(1) Where—

- (a) apart from this regulation, any provision of these regulations, which re-enacts with any modification any provision revoked by these regulations, would place any person to whom a relevant benefit is or may become payable in a worse position in relation to that benefit than that he would have been in if that modification had not been made, and
- (b) that person so elects, by notice in writing given to the Committee within the period of six months beginning with the commencement date,

then, subject to paragraph (3), these regulations shall have effect, in relation to him and to that benefit, as if these regulations had re-enacted the revoked provision without modification.

(2) In this regulation—

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—

- (a) ceased to hold an employment in respect of which he was a member (whether or not he has subsequently become a member again); or

- (b) died while in such employment; and
 - “benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.
 - (3) If an election under paragraph (1) is made in relation to a benefit in respect of a person who is a member, or subsequently becomes a member again—
 - (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—
 - (i) of periods of membership before the cessation referred to in paragraph (2)(a) (or, if there has been more than one such cessation, the last of them before the commencement date); or
 - (ii) of contributions paid in respect of such periods of membership; and
 - (b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become a member again at any time after the cessation referred to in paragraph (2)(a) (but without prejudice to the application of this paragraph);
- and these regulations shall have effect accordingly.

Transitional and transitory provisions

M6. Schedule M2 has effect for the purpose of making transitional provision and savings consequential on the making of these regulations.

Revocations

M7. The subordinate legislation specified in Schedule M3 is revoked to the extent specified in the third column (but subject to the provisions in Schedule C5 and the savings in Schedule M2).

Consequential amendments

M8. The subordinate legislation specified in Schedule M4 has effect subject to the amendments there specified (which are consequential on the making of these regulations).

Sealed with the Official Seal of the Department of the Environment on 19th May 2000.

L.S.

John McConnell
A senior officer of the
Department of the Environment